

**ARTICLE II**  
**Terminology**

**§ 310-2.1. Word usage.**

- A. Unless otherwise listed below, the numbers, abbreviations, terms and words used herein shall have the meanings of common usage as set forth in the latest edition of Merriam-Webster's Collegiate Dictionary. Terms of law shall have the meanings as set forth in the latest edition of Black's Law Dictionary.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular include the plural; words used in the plural include the singular; the word "herein" means in this law; the word "requirements" means the minimum requirements necessary for the purposes set forth in Article I; and the words "this law" shall mean this chapter and the schedules and maps included herein as enacted or subsequently amended.
- C. The word "person," as used in this law, shall be defined to include, but not be limited to, an individual, a partnership, a joint venture, a corporation, an unincorporated association, a firm or any other form or entity, contractors, subcontractors, or journeymen.
- D. The word "lot" includes the word "plot."
- E. The term "occupied" or "used," as applied to any land or building, shall be construed to include the words "intended," "arranged," or "designed to be occupied or used."
- F. "Shall" is always mandatory.

**§ 310-2.2. Definitions.**

As used in this law, the following terms shall have the meanings indicated:

**ACCESS** — Entranceway for vehicles to leave or enter a property or lot from a public highway or private road.

**ACCESSORY USE** — The term applied to a building, structure or use which is clearly incidental or subordinate to, and customarily in connection with, the principal building, structure or use and which is located on the same lot with the principal building, structure or use. Any accessory building or structure attached to a principal building or structure is deemed to be part of such principal building or structure in applying the bulk requirements to such building or structure. No use shall be considered accessory where such use requires a greater area of a lot or larger setbacks or yards or for which greater restrictions than for the principal use on the lot are imposed by this chapter.

**ADULT-CARE FACILITY** — A family-type home for adults, a shelter for adults, a residence for adults or an adult home, which provides temporary or long-term residential care and services to adults who, though not requiring continual medical or nursing care as provided by facilities licensed or operated pursuant to Article 28 of the Public Health Law or Articles 19, 29 and 31 of the Mental Hygiene Law, are, by reason of physical or other limitations associated with age, physical or mental disabilities or other factors, unable or substantially unable to live independently [18 NYCRR 485.2(a)].

**ADULT HOME, SKILLED NURSING FACILITY or NURSING HOME** — An adult-care facility established and operated for the purpose of providing long-term residential care, room, board, housekeeping, personal care and supervision to five or more adults unrelated to the operator [18 NYCRR 485.2 (b)]. A facility which is overseen and regulated by the Centers for Medicare and Medicaid Services (CMS) which is a federal agency that operates within the United States Department of Health and Human Services. The New York State Department of Health works in cooperation with CMS to oversee nursing home administration licensed by the state. The nursing home shall by law have administrators that are licensed by the Department of Health through the Board of Examiners of Nursing Home Administrators. The nursing home shall be staffed by registered nurses, board-certified physicians, social workers, dieticians and volunteers that coordinate various services for the residents.

**AGRIBUSINESS** — Any commercial business dealing with agricultural produce and services required in agricultural operations, such as farm machinery sales, or the processing, production, and distribution of agricultural products, except nothing herein shall be construed to permit agricultural industry as defined herein or to permit any prohibited use set forth in § 310-5.20 or which does not meet the performance standards set forth in § 310-5.19.

**AGRICULTURAL INDUSTRY** — The raising, breeding, or maintenance of livestock or poultry primarily in structures and with animal population densities exceeding one pound per 10 square feet of lot area in such use. Notwithstanding the density indicated, any cage-type poultry operation or processing of animal products raised on the premises exceeding 1,000 carcasses annually for fowl, and 100 carcasses annually of livestock shall be deemed an agricultural industry. Processing of animals is deemed to be a slaughterhouse.

**AGRICULTURAL OPERATION, CLASS I** — The cultivation of soil for food products or other useful or valuable products in the field or garden. Class I operations shall not be deemed to include the raising of commercial livestock or poultry.

**AGRICULTURAL OPERATION, CLASS II** — The commercial raising and breeding of livestock or poultry, or raising of cattle for milk or meat production, excluding those operations specifically identified as a state-regulated "concentrated animal feeding operation (CAFO)" as defined in 6 NYCRR 750-1.2(a)(21), and which are prohibited in the Town of Fallsburg outside of any state-designated agricultural districts, established pursuant to Article 25AA of the Agriculture and Markets Law. See definition of "CAFO" below.

**ALTERATION** — A change or rearrangement in the structural parts of a building or an enlargement, whether by extending to a side or by increasing the height or moving from one location or position to another.

**ANIMAL UNIT** — One thousand pounds of animal weight.

**APPLICANT** — The person(s), corporation, agency, or other legal entity responsible for submitting applications for review by the Planning Board, Zoning Board of Appeals, Town Board, and CEO.

**ARCHITECTURAL FEATURES** — The exterior architectural characteristics of a building or structure, including building form, facade design and roof design, color, texture, material, inclusion or exclusion of architectural elements and the shape of the building footprint.

**AUDITORIUM** — Any premises used for spectator presentations, such as concerts, theatrical performances, lectures, and similar cultural events, containing seats permanently affixed to the floor.

**BASEMENT** — That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

**BED-AND-BREAKFAST** — An owner-occupied, one-family dwelling used for providing overnight accommodations that may include a morning meal to not more than 15 transient lodgers, containing at least three but not more than eight bedrooms for such lodgers.

**BEER** — As defined by the New York State Alcoholic Beverage Control Law, means and includes any fermented beverages of any name or description manufactured from malt, wholly or in part, or from any substitute therefor.

**BILLBOARD** — See "sign, billboard."

**BLOCK** — The length of a street between two street intersections. Where street intersections are at intervals greater than 1,200 feet, 1,200 feet shall be considered the length of the block for purposes of this law.

**BREWERY** — As defined by the New York State Alcoholic Beverage Control Law, "brewery" means and includes any place or premises where beer is manufactured for sale; and all offices, granaries, mashrooms, cooling-rooms, vaults, yards, and storerooms connected therewith or where any part of the process of manufacture of beer is carried on, or where any apparatus connected with such manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept, shall be deemed to be included in and to form part of the brewery to which they are attached or are appurtenant.

**BUILDING** — Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, or materials of any kind. See also definition of "structure."

**BUILDING ELEVATION** — A fully dimensioned drawing of the front, rear, or side of a building showing features such as windows, doors and relationship of grade to floor level.

**BUILDING FACE OR FAÇADE** — The outer surface of a building which is visible from any private or public street or highway.

**BUILDING, HEIGHT** — The vertical distance measured from the grade plane to the average height of the highest roof surface, as defined by the International Building Code adopted by New York State, latest adopted edition as of the reading of this Code, or as amended. "Grade plane" is defined as a reference plane representing the average of the finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

**BUILDING, PRINCIPAL** — A building or buildings where the principal permitted use is conducted.

**BUNGALOW, COLONY** — A group of structures on a single premises which may include a rental office, swimming pool, handball court, casino or other recreational facilities, together with three or more bungalow units not more than one of which is used for the purpose of all-year-round residence. Two or more manufactured home units on a single premises shall not be deemed a bungalow colony.

**CABIN** — A building with no more than 600 square feet of floor area on the main floor and being a maximum of 25 feet in height to the peak of the roof from the ground floor and intended to be occupied as an overnight sleeping accommodation for no more than 30 consecutive days within any calendar year for recreation and/or leisure use, which can be commercial or residential. See "cabin, hunting and fishing," and "campground."

**CABIN, HUNTING AND FISHING** — A residential building with no more than 600 square feet of floor area on the main floor and being a maximum of 25 feet in height to the peak of the roof from the ground floor and intended to be occupied as a dwelling for no more than 30 consecutive days within any calendar year for recreation and/or leisure use; and not to be used for commercial purposes.

**CAMP, DAY** — One or more buildings and structures, that may include a cafeteria and recreational facilities together with the lot or tract of land appertaining thereto, established or maintained for temporary, summer seasonal occupancy during the period or part of the period from June 1 to September 15 in any year for the daytime supervision of children. The principal use shall be for the daily occupancy of children between the ages of 4 and 18. Day camps do not provide overnight accommodations.

**CAMPGROUND, VACATION** — A tract of land that may include rental cabins or sites for the temporary parking of recreational vehicles or the erection of tents or other portable sleeping accommodations.

**CAMP, SLEEP-AWAY** — A site with a group of buildings and structures that may include a cafeteria, and recreational facilities in order to provide for the supervision of children along with overnight accommodations within bunk houses or cabins during the summer period or part of the period from June 1 to September 15 in any year.

**CAR WASH** — A building, portion of a building, and/or area arranged, intended or designed to be used for the washing, spraying, waxing, polishing or drying of motor vehicles, and/or the vacuuming or dry-cleaning of same, on a commercial basis.

**CELLAR** — That space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

**CEMETERY** — A place used for burials, whether in the ground or in mausoleums. This includes both human and pet cemeteries.

**CENTER LINE OF STREET OR ROAD** — A line midway between and parallel to two street or road property lines or as otherwise defined by the Town Board.

**CHANGE IN USE** — Any change as to kind or size within the zones affected, including all cases where a changed use requires any change in parking standards.

**CHILDREN'S COMPREHENSIVE CARE CENTER** — An establishment engaged in providing services for human health maintenance or other temporary or permanent care, primarily to children, including a nursing home or skilled nursing facility, and medical clinics and offices. A facility licensed or eligible to be licensed as a skilled nursing facility (SNF) by the New York State Department of Health, which provides general long-term nursing care to those who are chronically ill or unable to handle their own necessary daily living needs, and as an integral part of the institution, may have a component of the structure licensed as a nonpublic school by the New York State Department of Education, for the residents of the facility.

**CIDER** — As defined by the New York State Alcoholic Beverage Control Law, the partially or fully fermented juice of fresh, whole apples or other pome fruits, containing more than three and two-tenths per centum but not more than eight and one-half per centum alcohol by volume:

- A. To which nothing has been added to increase the alcoholic content produced by natural fermentation; and
- B. With the usual cellar treatments and necessary additions to correct defects due to climate, saccharine levels and seasonal conditions.

**CIDERY** — As defined by the New York State Alcoholic Beverage Control Law, means and includes any place or premises wherein cider is manufactured for sale.

**CLEAR-CUTTING** — A method of tree removal where all or substantially all trees two inches diameter at breast height and over on a site are removed.

**CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)** — Commercial agricultural operations that fit the definition of a "concentrated animal feeding operation" or "CAFO" as defined in 6 NYCRR 750-1.2(a)(21). CAFOs are prohibited in the Town of Fallsburg, outside of any state-designated Agricultural District established pursuant to Article 25AA of the Agriculture and Markets Law.

**CLUBHOUSE or LODGE** — A building, structure, lot or land area used as a private club or social organization with annual membership dues, not conducted for profit, and which is not an adjunct to or operated by or in connection with a public tavern, cafe, or other public place.

**CLUSTER DEVELOPMENT** — A subdivision plat, approved pursuant to Article XIV of this Zoning Chapter, in which the applicable bulk requirements of the zoning district in which the plat is located are modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, infrastructure, parks, and landscaping, in order to preserve the natural, agricultural and scenic qualities of open lands.

**COMMERCIAL RECREATION** — A parcel of land which may include facilities for recreation purposes, utilized by the public for a fee. Activities include, but are not limited to, bowling alleys, ski slopes, tennis courts, golf courses, swimming pools, movie houses, drive-in theaters, health clubs, reducing salons, tanning parlors, and cooperative hunting preserves requiring a fee to hunt.

**CONDOMINIUM** — A mode of ownership wherein each unit of enclosed space may be owned in fee simple individually and separately from all others, but where all such owners have an indivisible interest in the common areas. Thus, they share ownership and attendant responsibilities for the provision, maintenance and/or repair of common internal facilities, utilities, services, exterior building surfaces, land, landscaping, parking, lighting and other outdoor facilities.

**CONFERENCE CENTER** — A building or buildings designed for classes, conferences, seminars, meetings, and similar activities and related accessory uses principally for conference center patrons, such as restaurants, drinking facilities, and recreation facilities. A conference center with overnight accommodations shall be deemed to be a resort.

**COURT** — An unoccupied open space other than a yard. An outer court is one that extends to the street or to the front or rear yard. An inner court is any other court.

**CUSTOMARY ACCESSORY USES** — Any use which is clearly incidental and subordinate to the principal use which it serves. Examples of accessory uses include parking facilities, garden house, playhouse, tool house, greenhouse, swimming pool, satellite dish antennas and private garage; the keeping of domestic animals as pets; the raising of field and garden crops, vineyards, and orchard farming on a residential lot, provided such crops or produce are for the sole and exclusive use of the occupant or owner of the premises, and not for resale.

**DAY-CARE CENTER** — A facility that provides supervision and daytime care or instruction for more than five children from infancy to five years of age, inclusive, and operated on a regular basis.

**DAY-CARE HOME** — A private residence where five or fewer children receive care and supervision for periods of less than 24 hours per day.

**DECK** — An unroofed platform, either freestanding or attached to a building that is supported by pillars or posts.

**DENSITY** -- Density refers to the maximum number of dwelling units permitted on a lot.

**DETENTION POND** — A surface facility intended to provide for the temporary storage of stormwater runoff to reduce downstream water quantity impacts.

**DEVELOPMENT YIELD** -- A method of calculating the number of allowed units in a residential development which subtracts land which is unsuitable for development or which provides important natural protective functions.

**DISTILLERY** — As defined by the New York State Alcoholic Beverage Control Law, means and includes any place or premises wherein any liquors are manufactured for sale.

**DISTURBED AREA** — For purposes of this law, any area that is proposed to be graded, filled, or cleared, other than associated with minor landscaping activities of less than 1/2 acre in size.

**DOMESTIC ANIMAL** — Any animal considered domestic, excluding exotics such as the large cats, dangerous or poisonous animals.

**DOMESTIC FARM ANIMALS** — Any of various animals, including livestock and/or poultry domesticated so as to live and breed in a tame condition, excluding exotics such as large cats and dangerous or poisonous animals, and which animals are kept on the same property as a one-family dwelling.

**DORMITORY OR FRATERNITY AND SORORITY HOUSE** — A residential building or part of a building, in which are rooms used as sleeping quarters for administrative staff, faculty or students along with communal or individual bathroom, dining, cooking, laundry, lounge and recreation facilities, as required. Dormitory rooms shall not contain separate cooking, dining, or housekeeping facilities, except that one dwelling unit with complete housekeeping facilities may be provided for use of a superintendent or supervising staff for every 50 dormitory beds. No more than one communal dining room shall be provided in any building or structure used for dormitory purposes. One-family, two-family and/or other multifamily residential facilities other than that described above are not to be considered as dormitories.

**DUPLEX BUILDING** — A building containing two one-family dwelling units totally separated from each other by an unpierced wall extending from the basement or slab to the roof.

**DUPLEX DEVELOPMENT** — Three or more duplex buildings (with two one-family dwelling units per building) proposed under a common plan, project or scheme, regardless of ownership, to include two-family dwellings. See also definition of "dwelling, two-family."

**DUSTLESS SURFACE** — Adequately covered with screenings, stone, gravel, concrete or bituminous products, or adequately treated with oil or similar dust-inhibiting substances, and maintained in a good dustless condition at all times.

**DWELLING, FARM** — A one-family dwelling that serves as a principal residence on a farm.

**DWELLING, MULTIFAMILY** — A group of dwellings in one building or on one plot containing separate living units for three or more families, but which may have joint services or facilities or both.

**DWELLING, ONE-FAMILY OR SINGLE-FAMILY** — A single detached building on an individual lot, designed or occupied exclusively by one family and erected on a permanent foundation, with/without basement, and equipped for year-round occupancy.[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV)]

**DWELLING, ROW OR TOWNHOUSE** — A one-family dwelling in a row of at least three such units in which each has its own front and rear access to the outside, is set on its own lot, is separated from adjoining units by one or more vertical common firewalls, and in which no unit is located over another.

**DWELLING, TWO-FAMILY** — A building containing two dwelling units on an individual lot, which may be arranged side by side or up and down within the building. See also definition of "duplex building."

**DWELLING UNIT** — One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

**FAMILY** — One or more persons living together as a single housekeeping unit and maintaining a common household.

**FAMILY AND GROUP CARE FACILITY** — A use providing room and board, recreational, counseling, or other rehabilitative services or facilities to individuals who by reason of mental or physical disability, addiction to drugs or alcohol, or family and school adjustment problems require specialized attention and care in order to achieve personal independence. Individuals participating in a work release, or similar program from a state institution, or under the supervision of a court, state or local agency shall be included within this definition. Such uses include halfway houses, group homes, and shelters.

**FARM PRODUCE STAND** — A building, whether fully or partially enclosed, or structure on wheels that is intended for the display and sale of locally raised agricultural produce and products.

**FLOOR AREA** — The sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, excluding cellar and basement areas used only for storage or for the operation and maintenance of the building.

**FLOOR AREA, LIVABLE** — All spaces within the exterior walls of a dwelling unit exclusive of garages, breezeways, unheated porches, cellars, heater rooms and basements having a window area of less than 8% of the square foot area of the room. Livable floor area shall include all spaces not otherwise excluded above, such as, principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any rooms within the dwelling unit and all attic space having a

clear height of six feet from finished floor level to pitch of roof rafter with a clear height of seven feet, six inches from finished floor level to ceiling level over 50% of the area of such attic space.

**FORESTRY, COMMERCIAL** — The cutting or removal, or both, of timber or other forest products for commercial purposes together with all the work incidental thereto, such as road building, firebreak construction and fire hazard abatements, whether or not such operations are preparatory to the development of land for other uses, except that clearing of land for agricultural use shall not be deemed to be commercial forestry, provided such clearing shall be conducted under the supervision of the Natural Resources Conservation Service and appropriate measures instituted to preclude erosion of soils, and shall be conducted on areas with an average land slope not exceeding 8%.

**GARAGE, PRIVATE** — An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein.

**GARAGE, REPAIR** — Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, or equipping of automobiles or other motor vehicles.

**GASOLINE/SERVICE STATION** — A building or other structure or a tract of land used or heretofore used for the servicing of motor vehicles. It shall signify a retail place of business engaged in the sale of motor fuels, and also in supplying goods and services generally required in the operation and maintenance of motor vehicles, to include sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication services and the performance of routine automotive maintenance and repairs. Sale of other retail products from the premises shall not be deemed to affect the use of the facility as a gasoline service facility.

**GRADING** — Any stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.

**GREENHOUSE** — An enclosed structure of a permanent or temporary nature within which is conducted a commercial agricultural operation, generally the propagation of one or more horticultural species from seeds or cuttings to a stage fit for transplanting elsewhere or sale, including retail as well as wholesale operations.

**GUEST UNIT** — A guest unit is a lodging unit, motel unit, hotel unit, or similar tourist accommodation unit which is attached to a similar unit by a party wall, designed and maintained for transient occupancy only. Dwelling units restricted to time-shared use shall also be included. The Planning Board shall have the authority to impose conditions to ensure that guest units maintain their transient nature, including conditions on the design of the guest units (e.g., limitations on use of kitchens and kitchenettes, washers and dryers, limitations on the duration of visitor stays, maintenance of visitor guest books, the filing of covenants and restrictions, and similar conditions).

**HAZARDOUS MATERIAL** — Any material defined by the United States Environmental Protection Agency (EPA) or the New York State Department of Environmental Conservation as

hazardous or toxic due to its characteristics, including but not limited to direct or indirect toxicity, radioactivity, explosivity, and flammability, or other characteristics as the EPA or its successors may revise from time to time.

**HOME OCCUPATION** — A profession or vocation, full-time or part-time, conducted entirely within a dwelling by the inhabitants thereof, or within a building or other structure accessory to the dwelling, which use is accessory to the use of the dwelling for dwelling purposes and does not change the character thereof.

**HOSPITAL or MEDICAL DIAGNOSTIC CENTER** — An establishment primarily engaged in providing health services and medical or surgical care of sick or injured persons, including diagnostic centers and medical clinics and including as an integral part of the institution such related facilities and staff offices.

**HOTEL** — A facility offering transient lodging accommodations to the general public based upon a daily service fee and which may include additional facilities and services such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

**HOTEL, EXTENDED STAY** — A facility with rooms of at least 425 square feet with refrigerators, cooktops, microwave ovens, dishes, utensils, along with washers and dryers on premises that accommodate transients staying five or more days but not exceeding 14 days.

**HOTEL, RESORT** — One or more buildings in which there are rental rooms for vacation and recreational purposes, with common dining rooms, and facilities such as indoor and outdoor recreation, supporting retail shops and services, staff housing, and maintenance facilities.

**HOUSEHOLD PET** — Any animal traditionally considered a household pet including dogs, cats, tropical birds, and fish, but excluding exotics, including large cats, and dangerous or poisonous animals.

**HOUSE OF WORSHIP** — A building or structure used exclusively for the conducting of organized religious services, such as a church, synagogue, temple or mosque.

**IMPERVIOUS SURFACE** — Those man-made surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, patios, etc.). Calculation of the percentage of total impervious surface area on a site shall be based upon the gross lot area in the case of one-family dwelling sites, not subject to Planning Board review. The calculation of the percentage of total impervious surface area on a site shall be based upon the net developable area on a site, pursuant to § 310-5.4, for subdivisions, duplex developments, manufactured home developments, PUD and PRD developments, townhouse developments, multiple residences, multifamily residential uses, or nonresidential uses requiring site plan or special use permit approval.

**INSTITUTIONAL USE** — Public and private educational institutions and also organizations which promote a cause.

**JUNKYARD** — Any area of land, including buildings thereon, which is used primarily for the collecting, storage and/or sale of wastepaper, rags, scrap metal or recyclable material; or for the

collecting, compacting, dismantling, storage or salvaging of machinery or vehicles not in running condition and for the sale of parts thereof. More than two motor vehicles stored outside without current license plates and inspection stickers for a period of 30 days shall constitute a junkyard.

**KENNEL** — A commercial place or establishment for the care and/or breeding of four or more dogs.

**LIGHT INDUSTRIAL PARK** — A highly restricted type of planned industrial development in which special emphasis and attention are given to aesthetics and community compatibility and the property is developed according to a comprehensive plan which includes provisions for streets and all utilities as well as serviced sites for a community of industrial and industry-oriented uses.

**LIGHT INDUSTRY** — A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

**LIQUOR** — As defined by the New York State Alcoholic Beverage Control Law, means and includes any and all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

**LOT** — Any parcel of land which is occupied or which is to be occupied by a building and its accessory buildings, if any, or by a group of buildings, if any, together with the required open spaces, appurtenant to such building or group of buildings.

**LOT AREA** — The total area of land included within lot lines, expressed in acres or square feet, except that no part of the area within a public right-of-way or a user road may be included in the computation of the area..

**LOT, CORNER** — A lot which has an interior angle of less than 135° at the intersection of two street lot lines. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at its points beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than 135°.

**LOT COVERAGE** — The proportion of a lot area that is covered by impervious surface, including buildings and off-street parking areas.

**LOT DEPTH** — The minimum distance from the street line of a lot to the rear lot line of such lot.

**LOT LINE** — Any boundary of a lot other than a street line.

**LOT LINE, REAR** — The lot line generally opposite to the street line; if the rear lot line is less than 10 feet in length, or if the lot comes to a point in the rear, the rear lot line shall be deemed to be a line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line.

**LOT OF RECORD** — Any lot which has been established as such by plat, survey, record, or deed prior to the date of enactment of this chapter as shown on the records in the Sullivan County Clerk's office.

**LOT, THROUGH** — A lot, other than a corner lot, having frontage on two streets.

**LOT WIDTH** — The average distance between side lot lines from the front yard or building line and measured at right angles to the side lot lines or along a line parallel to the street, to a line set back the required rear yard distance from the rear lot line.

**MANUFACTURED HOME** — A structure, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. A manufactured home was built on or after June 15, 1976, and bears a seal signifying conformance to the design and construction requirements of the Department of Housing and Urban Development, Manufactured Home Construction and Safety Standards, and regulated in New York State by Article 21-B Manufactured Homes and Part 1210 Manufactured Home Regulations.

**MANUFACTURED HOME DEVELOPMENT** — A use of land designed for installation and support of two or more manufactured homes on a tract of unsubdivided land, whether or not sites are to be rented or leased, with privately owned and maintained drives for access to individual manufactured home sites, whether or not such homes or sites are individually assessed.

**MANUFACTURING** — Any process whereby the nature, size, or shape of articles of raw materials is changed, or where articles are assembled or packaged in quantity.

**MANUFACTURING, LIGHT** — Any process whereby the nature, size, or shape of articles or raw materials is changed, or where articles are assembled such that no chemical or compressive processes are required and whose finished size does not exceed 40 cubic feet or weigh in excess of 2,000 pounds per unit.

**MEDICAL AND DENTAL CLINICS** — Any facility in which two or more physicians and/or dentists practice cooperatively for the diagnosis and treatment of patients.

**MOTEL** — Any establishment consisting of a building or group of buildings providing living and/or sleeping accommodations with individual bathrooms, and designed for use by transient automobile travelers, and provided with accessory off-street parking areas. The term "motel" includes buildings designated as tourist courts, overnight cabins, and other similar appellations, but shall not be construed to include manufactured homes or immobile trailers.

**MULTIPLE-RESIDENCE DEVELOPMENT** — Any residential development that contains a building or buildings which contain more than one dwelling unit on an individual lot or parcel of land.

**NONCONFORMING BUILDING** — A building which contains a use permitted in the district in which it is located, but which does not conform to the district regulations for lot area, width, or depth; front, side or rear yards; maximum height; lot coverage; minimum habitable area per dwelling unit; off-street parking or loading; or landscaping, screening, fencing, or other requirements.

**NONCONFORMING USE** — Any use, whether of a building, tract of land, lot, or property, existing on the effective date of the amendment of this chapter, which does not conform to the use regulations of the district in which it is located.

**NONPROFIT ORGANIZATION** — A club or social organization formed under the New York Not-for-Profit Corporation Law or similar law, the purpose of which is exclusively for charitable, educational, scientific, literary, or cultural purpose or purposes, and not for pecuniary profit or financial gain, and not adjunct to or operated by or in connection with a commercial tavern, cafe or other commercial and public place and not engaged in therapeutic activities either with or without professional advice.

**NURSERY** — A place where trees, shrubs, vines and/or flower and vegetable plants are propagated or grown for a period of at least six months and/or where flowers and vegetables of an annual variety are germinated before being offered for sale and transplanting.

**NURSING HOME** — A facility operated for the purpose of providing therein lodging, board, and nursing care to sick, invalid, infirm, disabled, or convalescent persons for compensation.

**OFFICE, BUSINESS AND PROFESSIONAL** — A place or establishment used for the organizational or administrative aspects of a trade, or used in the conduct of a profession or business. This may include, but is not limited to, sales representatives, architects, engineers, physicians, dentists, attorneys, insurance brokers, real estate brokers and persons with similar occupations.

**OFF-STREET PARKING** — Area provided for parking that is not located on any public or private road.

**OUTDOOR CAFE** — Exterior seating adjacent to and part of an establishment selling food and/or drink, located on a sidewalk and subject to the provisions of § 310-5.18.

**OUTDOOR FURNACE** — Any equipment which is designed to be installed outdoors for the primary purpose of combustion of wood to produce heat or energy used as a component of a heating system providing heat for any interior space.

**PERMITTED USE** — For the purpose of this law, any use which is allowed by right in a zoning district.

**PERSONAL SERVICE SHOPS** — Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

**PLANNED RESORT DEVELOPMENT (PRD)** — A development project within a designated Planned Resort District, to be planned, developed, operated and maintained as a single entity, and containing one or more structures, developed as a mix of resort-related uses, which shall include at least one hotel or lodging structure, and may also include a variety of other dwelling types for the purpose of transient lodging, including hotels, condo-hotels, motels, lodging, bed-and-breakfasts, country inns, and may also include other related resort elements, including golf courses, edutainment centers, outdoor recreational facilities, wineries, movie theaters, convention/conference centers, together with retail business customarily incidental to the primary use and

incorporated into a hotel or lodging structure, riding stables, and associated accessory or support facilities.

**PLANNED UNIT DEVELOPMENT** — A development that is planned, developed, operated and maintained as a single entity and containing one or more residential clusters, which may include appropriate commercial, public, or quasi-public uses primarily for the benefit of the residential development.

**PORCH** — Roofed, open areas, which may be screened, attached to or part of a building, and with direct access to and from it.

**PRINCIPAL USE** — The main use of a lot, building or structure.

**PRIVATE SEWER** — Any sewer system for more than one user which is not a public sewer.

**PRIVATE WATER** — Any water supply for more than one user which is not a public water system.

**PUBLIC SEWER** — Any sewer system for more than one user owned or controlled by a governmental agency, such as the Town of Fallsburg consolidated sewer district, or public utility.

**PUBLIC UTILITY FACILITIES** — Buildings, structure, and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures relating to the furnishing of utility services, such as electric, gas, telephone, water, sewer, and public transit, to the public.

**PUBLIC WATER** — Any water supply system for more than one user owned or controlled by a governmental agency, such as the Town of Fallsburg, or public utility.

**QUARRY, EXCAVATION OPERATIONS** — Any place where stone, sand, gravel, minerals or other natural material, except topsoil, is removed for the purpose of sale or any other commercial purpose other than such as may be incidental to excavating or regrading in connection with a building development or landscaping on the site.

**RECREATIONAL VEHICLES AND EQUIPMENT** — Includes boats and boat trailers, pickup campers or coaches (designed to be mounted on automotive or truck vehicles), motorized dwellings, travel trailers, and the like.

**RELIGIOUS CAMP** — A site with a group of buildings and structures that may include a cafeteria, and recreational facilities operated by a religious group or organization in order to provide for the religious services, religious education, religious training, prayer, and supervision of children along with overnight accommodations within bunk houses, cabins, or dormitories.

**RELIGIOUS USE** -- Refers to any activity or purpose that is conducted by or for a religious group or organization, including services, prayer, education, meetings, and other activities with a religious purpose. A RELIGIOUS USE does not include uses separately defined (which are religious in nature), including "HOUSE OF WORSHIP", "RELIGIOUS CAMP", "RELIGIOUS RETREAT", or "SCHOOL, RELIGIOUS".

**RESEARCH LABORATORIES AND RELATED OFFICES** — A building for experimentation in pure or applied research, design, development and production of prototype machines or of new products, and uses accessory thereto, wherein products are not manufactured for wholesale or retail sale, wherein commercial servicing or repair of commercial products is not performed, and wherein there is no outside display of any materials or products.

**RESERVOIRS AND WATER IMPOUNDMENTS** — Artificial lakes where water is collected and kept for use.

**RESORT** — A parcel of land providing for temporary lodging, recreation or entertainment primarily to vacationers. A primary place of residence, a medical or other rehabilitative facility or a single-room occupancy residential project shall not be considered a resort.

**RESTAURANT** — An establishment where food and drink are prepared, served, and consumed on premises to patrons seated at tables and served by a waiter or waitress or where food is taken out by patrons for home consumption.

**RETAIL STORE** — Stores and shops where goods are sold primarily at retail. Such sales are primarily made directly to the consumer and include, but are not limited to, goods such as food and beverages; florists; shoes and clothing; hardware, paint and wallpaper; carpeting; hobby and crafts; books; furniture; antiques; art supplies; music; pharmacies; jewelry; photographic supplies; pets; gifts; stationery; sporting goods; fabrics; optical goods; laundromat, and appliances; but excluding lumber yards and restaurants.

**RETENTION BASIN** — A basin that holds water in a pool. The only outlet is through an emergency spillway that allows the basin to overflow in a controlled manner should it become too full. The retention basin loses water through infiltration and evaporation but is designed with capacity to hold the runoff from average storm events.

**RETREAT** -- A facility owned in its entirety by one property owner or one organization and not held in condominium, cooperative ownership, or any ownership wherein individuals hold shares of ownership, for the purpose of the gathering of individuals to educate, train, counsel and recreate together in a rural setting. A retreat may include a retreat house, educational facilities, housing accommodations for participants in programs/retreats and staff, sanitary and eating facilities, administrative offices, public assembly areas, storage and maintenance facilities

**RELIGIOUS RETREAT** — A facility owned in its entirety by one property owner or one organization and not held in condominium, cooperative ownership, or any ownership wherein individuals hold shares of ownership, for the purpose of religious activity, worship, contemplation, education, personal or spiritual growth, and related activities, both within buildings and on facility grounds, and its accessory buildings and uses. A religious retreat may include the following uses, but is not limited to a house of worship, seminary, retreat house, and monastery buildings, educational facilities, housing accommodations for participants in programs/retreats and staff, sanitary and eating facilities, administrative offices, public assembly areas, storage and maintenance facilities.

**ROOM, HABITABLE** — A room separated from other rooms by walls and doorways, but not including kitchens, bathrooms, or similar utility spaces, porches, decks, foyers or halls.

**SATELLITE DISHES** — Any concave, circular, or dish-shaped device less than four meters in diameter designed for receiving communication or television signals from space, but does not include conventional television, radio, and amateur radio antennas.

**SCHOOL OF SPECIAL INSTRUCTION** — Any school not a public elementary or high school conducting a regularly scheduled curriculum of special or vocational study.

**SCHOOL, PRIVATE** — An educational institution, other than a public school, offering courses of an academic nature leading to a recognized degree or education level of the New York State Board of Regents, or offering a specialized course leading to professional licensing by the New York State Education Department, but specifically not including schools of a trade, commercial or vocational nature, whether or not such institution is operated for profit and which is in operation for the majority of the calendar year.

**SCHOOL, RELIGIOUS** — A school supported, controlled and operated by a religious organization, offering courses in religious instruction, authorized to perform its corporate function and registered with the State of New York.

**SCREENING** — A method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

**SEASONAL OCCUPANCY** — Occupancy from March 1 to November 1 in any calendar year or any part thereof.[Amended 9-13-2021 by L.L. No. 18-2021 ]

**SELF-STORAGE FACILITY** — A public facility for storage of personal, household or business property which is serviced by the owner of the stored property or an agent of the owner for periods of at least 60 days or greater. The term "self-storage facility" includes all similar uses and terms but shall not be construed to mean warehouse.

**SETBACK FRONT** — The required minimum distance from the building or use to the front lot line. When the property extends to the center line of a road, the required setback shall be measured 25 feet from the center line of the road.

**SETBACK, REAR** — The required minimum distance from the building or use to the rear lot line.

**SETBACK, SIDE** — The required minimum distance from the building or use to any lot line other than to the front or rear lot lines.

**SEWER** — A pipe or conduit that carries wastewater or drainage water.

**SHOPPING CENTER** — Two or more commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, and provisions for goods delivery separated from customer access.

**SIGN** — Any structure which is in the nature of an announcement, direction, advertisement or any other similar message either freestanding or printed on a building or structure. Any sign message in the Town of Fallsburg shall be labeled in the Modern English Alphabet for 9-1-1 and postal purposes, in addition to any other language which may appear thereon.

**SIGN, ACCESSORY** — Any sign related to a business or profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.

**SIGN AREA** — Includes all faces of a sign measured as follows:

- A. When such sign is on a plate or framed or outlined, all of the area of such plate or the area enclosed by such frame or outline shall be included;
- B. When such sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, the total area of such sign shall be deemed the area within which all of the matter of which such sign consists may be inscribed.

**SIGN, BILLBOARD** — A commercial sign that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

**SIGN, COMMERCIAL DIRECTIONAL** — An off-premises sign, identifying a commercial enterprise by name, without other advertising matter, intended as a guide for the general public in finding the location of the commercial enterprise.

**SIGN, GROUND** — A freestanding sign, other than a pole sign, in which the entire bottom is in contact with or close to the ground.

**SIGN, ILLUMINATED** — Any sign illuminated by electricity, gas or other artificial light, including reflected or phosphorescent light.

**SIGN, POLE** — A sign which is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

**SIGN, PROJECTING** — Any sign which projects from the exterior of any building.

**SIGN, WALL AREA** — The area of a building wall fronting on a street not including doors and windows.

**SITE PLAN** — A plan of a lot on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information as provided for under this Zoning Chapter.

**SOLAR ENERGY EQUIPMENT** — Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

**SOLAR ENERGY SYSTEM** — An electrical generating system composed of a combination of both solar panels and solar energy equipment.

**SOLAR ENERGY SYSTEM, GROUND-MOUNTED** — A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for on-site consumption.

**SOLAR ENERGY SYSTEM, LARGE-SCALE** — A solar energy system that is ground-mounted and produces energy primarily for the purpose of off-site sale or consumption.

**SOLAR ENERGY SYSTEM, ROOF-MOUNTED** — A solar energy system located on the roof of any legally permitted building or structure for the purpose of producing electricity for on-site or off-site consumption. Can be mounted on flat and pitched roofs.

**SOLAR ENERGY SYSTEM, SMALL-SCALE** — A solar energy system that is ground-mounted and produces energy primarily for the purpose of on-site consumption. Energy production is not to exceed more than 110% of the on-site consumption needs.

**SOLAR PANEL** — A photovoltaic device capable of collecting and converting solar energy into electrical energy.

**SOLID WASTE** — Residue material with insufficient liquid content to be free flowing.

- A. Agricultural: solid waste that results from the raising and slaughtering of animals, and the processing of animal products and orchard and field crops;
- B. Commercial: waste generated by stores, offices and other activities that do not actually turn out a product;
- C. Industrial: wastes that result from industrial processes and manufacturing;
- D. Institutional: waste originating from educational, health care and research facilities;
- E. Municipal: residential and commercial solid waste generated within a community;
- F. Pesticide: the residue from the manufacturing, handling or use of chemicals intended for killing plant and animal pests;
- G. Residential: waste that normally originates in a residential environment; sometimes called domestic solid waste.

**SPECIAL PERMIT USE** — A use which, because of unique characteristics, requires a special permit in accordance with this Zoning Chapter.

**STABLES, RIDING ACADEMY** — Any establishment where horses are kept for riding, driving or stabling for compensation, or incidental to the operation of any club, association, ranch or similar establishment.

**STORY** — That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one finished floor and the level of the next higher finished floor, or if there be

no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

**STREET** — A road shown on the official map of the Town of Fallsburg, or an existing Town, county, state highway or street shown on an approved subdivision plat, or a street shown on a plat filed with the County Clerk prior to the Planning Board's authorization to review subdivision.

**STREET LINE** — The dividing line between a lot and a street right-of-way.

**STRUCTURAL ALTERATION** — Any change in the supporting members of a building, such as beams, columns, or girders.

**STRUCTURE** — A combination of materials to form a building or other construction that is safe and stable and includes, among other things, stadiums, radio towers, sheds, storage bins, billboards and display signs.

**SUBSTANTIAL CONSTRUCTION** — Following the issuance of site plan approval and all necessary building permits, substantial construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Substantial construction does not include land preparation (including clearing, excavation, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations or the erection of temporary forms or the installation of accessory buildings such as garages or sheds.[Added 6-8-2020 by L.L. No. 3-2020 ; 7-13-2020 by L.L. No. 6-2020 ]

**SWIMMING POOL** — Any body of water (excluding natural bodies of water fed by rivers, streams or brooks) or receptacles for water having a depth at any point greater than six inches used or intended to be used for swimming or bathing, and constructed, installed or maintained above or below ground outside of any building.

**TAVERN** — An establishment in which alcoholic beverages are served, primarily by the drink, and where food or packaged liquors may also be served or sold.

**TEMPORARY STRUCTURE** — A structure that is erected without any foundation or footings and is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

**THEATER** — A building or part of a building used to show motion pictures or for drama, dance, musical or other live performances.

**TOPOGRAPHICAL ALTERATION** — Any change in the configuration of a surface area, including its relief, relative elevations and position of natural or man-made features, excepting those changes incident to or normally part of agricultural operations or home gardening.

**TOWNHOUSE** — See "dwelling, townhouse."

**USABLE OPEN SPACE** — An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind.

**USE** — The specific purpose for which land or a building is used or occupied or maintained.

**USER ROAD** — Any road used by the public and maintained by the Town wherein property owners own the land underneath the road. A user road shall be presumed to have a right-of-way width of 50 feet, measured 25 feet on either side of the center line of the road.[Amended 7-13-2020 by L.L. No. 4-2020 ]

**VARIANCE, AREA** — The authorization by the Zoning Board of Appeals for the use of the land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

**VARIANCE, USE** — The authorization by the Zoning Board of Appeals for the use of the land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

**VESTED RIGHTS** — When a landowner has received approval on a project and has undertaken substantial construction and made substantial expenditures in reliance on that approval. The landowner's right to develop has vested and cannot be taken away by a zoning change by the legislature.

**VETERINARY HOSPITAL** — A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to hospital use.

**VINEYARD** — A plantation of grape-bearing vines, grown mainly for winemaking, but also raisins, table grapes and nonalcoholic grape juice.

**WAREHOUSE** — A building, or part of a building, for storing of goods, wares, and merchandise, whether for the owner or for others, and whether it is a public or private warehouse.

**WINE** — As defined by the New York State Alcoholic Beverage Control Law, the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, or other fruits or plants with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-four per centum by volume.

**WINERY** — As defined by the New York State Alcoholic Beverage Control Law, means and includes any place or premises wherein wines are manufactured from any fruit or brandies distilled as the by-product of wine or other fruit or cordials compounded, and also includes a winery for the manufacture of wine in any state other than New York State and which has and maintains a branch factory, office or storeroom within the State of New York and receives wine in this state consigned to a United States government bonded winery, warehouse or storeroom located within the state.

**YARD** — A required open space unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitation and requirements limiting obstruction of visibility.

**YARD, FRONT** — An open space extending across the entire width of the lot between the building line or front main wall of a building and the front property line (street or road right-of-way line) and into which space there shall be no extension of building parts other than steps, porches, eaves, cornices and similar fixtures.

**YARD, REAR** — An open space extending across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory buildings and open porches which in the aggregate shall occupy not more than 35% of the area.

**YARD, SIDE** — An open unobstructed space on the same lot with a principal building between the principal building and the side line of the lot and extending through from the front yard to the rear yard, into which space there shall be no extension of building parts other than the eaves with an overhang of not more than two feet, rain water leaders, and other such fixtures and open steps for a distance not exceeding four feet.