

describe any changes in conditions which it believes make the amendment desirable and shall state whether such amendment is in harmony with a comprehensive plan of land use for the city.

§ 103-20. Definitions and rules of construction.

A. Rules of construction of language.

- (1) Words used in the present tense include the future tense.
- (2) Words used in the singular include the plural, and words used in the plural include the singular.
- (3) The word "lot" includes the words "plot" or "parcel."
- (4) The word "person" includes an individual, firm or corporation.
- (5) The word "shall" is always mandatory.
- (6) The words "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."
- (7) Any reference to an R1 District shall be interpreted to mean R1-1 and R1-2 Districts.
- (8) Any reference to an R District shall be interpreted to mean R1-1, R1-2, R-2 and R-C Districts.
- (9) Any reference to a C District shall be interpreted to mean C-1 and C-2 Districts.
- (10) Any reference to an M District shall be interpreted to mean M-1 and M-2 Districts.

B. Definitions. For the purpose of this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

ACCESSORY BUILDING OR STRUCTURE — A building or structure, the use of which is incidental to that of the main building and which is located on the same premises.

ACCESSORY USE — A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

AGRICULTURAL OPERATION — The raising of agricultural products for gain. Plant nurseries and commercial greenhouses shall be construed to be an "agricultural operation."

ALTERATION — Any change, rearrangement or addition to or any relocation of a building or structure; any modification in construction or equipment.

BOATYARD — A facility for servicing all types of watercraft as well as providing supplies, storage and fueling facilities and with facilities for the retail sale, rental or charter of boats, motors and marine equipment.
[Added 2-12-1988]

BUILDING — A combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals or property. The word "building" shall be construed, when used herein, as though followed by the words "or part or parts thereof," unless the context clearly requires a different meaning.

BUILDING HEIGHT — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the declivity of mansard (a roof with a double pitch on all sides) roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUSINESS OR PROFESSIONAL OFFICE — The office or studio of a physician, surgeon, dentist or other person licensed by the State of New York to practice a healing art, lawyer, architect, artist, engineer, real estate broker or

salesman, insurance broker or agent, teacher and persons employed in similar executive or administrative occupations. **[Added 2-12-1988]**

CONDOMINIUM — A building or groups of buildings in which units are owned individually and the structure, common areas and facilities are owned by all the owners of individual units on a proportional undivided basis. Condominiums are a form of ownership of units which may be built in residential districts or nonresidential units which may be built in the C and M Zoning Districts. Condominiums are governed under Article 9-B of the Real Property Law, also known as the "Condominium Act" of the State of New York. **[Added 3-21-1989]**

DWELLING — A building used as the living quarters for one or more families.

- (1) **DWELLING UNIT** — One or more rooms designed for occupancy by one family for cooking, living and sleeping purposes.
- (2) **SINGLE-FAMILY DWELLING** — A building containing one dwelling unit and designed or used exclusively for occupancy by one family.
- (3) **TWO-FAMILY DWELLING** — A building containing two dwelling units and designed or used exclusively for occupancy by two families living independently of each other; or two one-family dwellings having a party wall in common.
- (4) **MULTIFAMILY DWELLING** — A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.

DWELLING GROUP — A group of two or more dwellings located on the same lot and having any yard or open space in common.

FAMILY — One or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed by this ordinance as an accessory use.

GARAGE, PRIVATE — An accessory building or portion of a main building used for the storage of self-propelled vehicles used by the occupants of the premises, including space for not more than one passenger vehicle used by others.

GASOLINE STATION — Any area of land, including structures thereon, that is used for the sale of gasoline, other motor vehicle fuel, oil or other lubricating substances and motor vehicle accessories and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles; but not including the painting thereof or the storage of vehicles for any purpose other than servicing with fuel, lubricants, antifreeze, tire repair and other emergency repairs of a temporary nature.

HOME OCCUPATION — An occupation for gain or support conducted within a dwelling by the residents thereof which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof, provided that:

- (1) There is no exterior evidence of such "home occupation" other than a permitted nameplate.
- (2) No article is sold or offered for sale except such as may be produced by members of the immediate family.
- (3) Any use first permitted in Use Groups 3, 4, 5, 6 or 7 shall not be interpreted to be a "home occupation."

HOTEL — A building with sleeping rooms for seven or more persons, where separate family cooking facilities are absent and where a general kitchen and public dining

room may be provided within the building or in a building accessory thereto. (See "residential hotel.")

JUNKYARD — A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, sorted, stored, baled, packed, disassembled, handled or abandoned; but not including pawnshops or establishments for the sale, purchase or storage of used furniture, household equipment, clothing, used motor vehicles capable of being registered or machinery to be reused for the purpose for which originally manufactured.

KENNEL — The keeping of more than three dogs that are more than six months old.

LIGHT INDUSTRY — The following manufacturing uses: **[Added 2-12-1988]**

- (1) Laboratories engaged in research, testing and experimental work, including any process normal to laboratory practice and technique.
- (2) The manufacture, compounding, assembling and/or treatment of articles or merchandise from previously prepared materials, provided that no chemical process is involved in the manufacturing process.
- (3) The manufacture and/or assembly of electronic devices and electrical appliances, provided that all necessary and approved safeguards are employed to prevent hazard and annoyance to the community.
- (4) The manufacture and/or assembly of musical instruments, novelties, toys or related products, business machines, custom-built boats and grinding wheels.
- (5) The manufacture, compounding, processing and storage of candy and confections, frozen foods, cosmetics, pharmaceutical products, toiletries and food products.

- (6) Wholesale business and storage for the following types of commodities: clothing, drugs, dry goods, packaged foods, furniture, hardware and beverages.
- (7) Wood and lumber, bulk processing and woodworking, including planing mills, excelsior, sawdust and wood preserving treatment.
- (8) The manufacture of paper and paper products not involving the reduction and processing of wood pulp and fiber.
- (9) The manufacture of precision tools.
- (10) The treatment and processing of metal products.
- (11) Other light industrial uses which, in the opinion of the Board of Appeals, are similar in nature and scale to those identified herein.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) — The local program to implement the New York State Coastal Management Program within the City of North Tonawanda as approved by the Common Council and the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981 (Article 42 of the Executive Law of New York State). **[Added 2-12-1988]**

LOT — A parcel of land occupied or capable of being occupied by one building or a group of buildings and the accessory buildings or uses customarily incident to such building or buildings, including such open spaces as are required by this ordinance.

LOT DEPTH — The mean horizontal distance between the front and rear lot lines.

LOT LINES — The property lines bounding the lot. In the case of a lot abutting on more than one street, the owner may elect any street lot line as the front lot line.

LOT WIDTH — The least horizontal distance across the lot between side lot lines, measured at the front of a main building erected or to be erected on such lot or at a distance from the front lot line equal to the required depth of the front yard.

MARINA — A facility for the berthing and fueling of five or more recreational watercrafts. **[Added 2-12-1988]**

MOTEL — A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" includes buildings designated as "tourist courts," "motor lodges," "auto courts" and similar appellations.

NONCONFORMING USE — Any lawful use of land, premises, building or structure which does not conform to the use regulations of this ordinance for the district in which such use is located either at the effective date of this ordinance or as a result of subsequent amendments thereto.

NURSERY SCHOOL — A school designed to provide daytime care or instruction for two or more children from two to five years of age, inclusive, and operated on a regular basis.

NURSING OR CONVALESCENT HOME — Any building where persons are housed or lodged and furnished with meals and nursing care for hire.

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

REPAIR — Replacement or renewal, excluding additions, of any part of a building, structure, device or equipment

with like or similar materials or parts for the purpose of maintenance of such building, structure, device or equipment.

RESIDENTIAL HOTEL — A building arranged, intended or designed for or containing both dwelling units and individual guest rooms or suites of rooms, not primarily for transients.

SETBACK — The horizontal distance from any building or from a specified building to the nearest point in an indicated lot line or street line.

SIGN — Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any structure or surface, but not including signs placed or erected by the City of North Tonawanda, Niagara County, the State of New York or the United States of America for public purposes.

SITE PLAN — A plan for the proposed development of a site showing the arrangement, layout, location, design of buildings, open spaces, parking areas and access, utilities, landscaping and natural site features, signage and other pertinent information to permit a decision by the Planning Commission. **[Added 3-21-1989]**

STORY — That portion of a building between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between any floor and the ceiling next above it. A basement shall be counted as a "story," for purposes of height measurement, if the ceiling of more than five feet above the average adjoining ground level or if used for business or dwelling purposes. A "half-story" is a story under a sloping roof having a ceiling height of seven feet or more for an area not exceeding 1/2 the floor area of the uppermost full story in the building.

STREET — Any right-of-way for a public street or an approved private right-of-way.

STREET LINE — A line separating a lot from a street.

STRUCTURAL ALTERATIONS — Any change in the supporting members of a building or other structure, such as bearing walls, columns, beams or girders.

STRUCTURE — Anything constructed or erected which requires permanent location on the ground or attachment to something having such location.

TOURIST HOME — A dwelling in which at least three but not more than eight transient roomers are accommodated.

TOWNHOUSE CLUSTERS — A building, or group of buildings, with each building containing not more than eight townhouse dwelling units connected by common party walls. **[Added 3-21-1989]**

TOWNHOUSE DEVELOPMENT — A development of independent single-family dwelling units with a common party wall between adjacent units and each having a private outside entrance. **[Added 2-12-1988]**

TRAILER (MOBILE HOME) — A vehicle used for living or sleeping purposes and standing on wheels or on rigid supports.

TRAILER PARK — Any area or tract of land where space is used, rented or held out for use or rent for the parking of trailers, but not including areas used for trailer sales.

USE — The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

WATER-DEPENDENT INDUSTRY — Any manufacturing use having one or more of the following characteristics: [Added 2-12-1988]

- (1) Uses requiring large quantities of water for processing and cooling purposes (e.g., fish processing plants or pumped storage processing plants).
- (2) Uses that rely heavily on the waterbound transportation of raw materials or products which are difficult to transport on land, thereby making it critical that a site near shipping facilities be obtained.
- (3) Uses that operate under such severe time constraints that proximity to shipping facilities becomes critical (e.g., farms processing perishable foods).

YARD —

- (1) FRONT — An open space extending the full width of the lot between a main building and the front lot line, unoccupied and unobstructed by buildings, the depth of which shall be the least distance between the front lot line and any portion of a main building.
- (2) REAR — An open space extending the full width of a lot between the rearmost main building and the rear lot line, unoccupied and unobstructed by buildings except as hereinbefore specified, the depth of which shall be the least distance between the rear lot line and the rear of such main building.
- (3) SIDE — An open space extending from the front yard to the rear yard between a main building and the side lot line, unoccupied and unobstructed by buildings. The required width of a "side yard" shall be measured horizontally from the nearest point of the side lot line to the nearest part of the main building.