

ARTICLE II
Definitions and Word Usage

Section 200 Word Usage; Administrative Agencies Defined

For the purpose of this Ordinance, certain words and terms used herein shall be defined as follows:

A. Word Usage

1. All words used in the present tense include the future tense.
2. All words in the plural number include the singular number and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.
3. The word “person” includes an association, partnership or corporation.
4. Unless otherwise specified, all distances shall be measured horizontally.
5. The word “building” includes the word “structure.”
6. “Lot” includes the words “plot,” “parcel” or “tract.”
7. The word “premises” includes a lot and all buildings or structures thereon.
8. To “erect,” “to construct” and “to build” a building or structure each have the same meaning and also include “to excavate” for a building and “to relocate” a building by moving it from one location to another.
9. “Used” shall be deemed also to include “designated, intended or arranged to be used or occupied.”
10. “Shall” is mandatory and not discretionary; “may” is permissive.

B. Administrative Agencies Defined

1. BOARD OF APPEALS - The Zoning Board of Appeals of the Town of Warsaw.
2. COUNTY PLANNING BOARD - The Planning Board of the County of Wyoming.
3. DEPARTMENT OF HEALTH - The Wyoming County Department of Health and any other health board or department established pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the

- public health of the Town.
4. ENFORCEMENT OFFICER - The public official appointed by the Wyoming County Board of Supervisors to enforce the New York State Uniform Fire Protection and Building Code in Wyoming County.
 5. PLANNING BOARD - The Planning Board of the Town of Warsaw.
 6. TOWN BOARD - The Town Board of the Town of Warsaw.
 7. ZONING OFFICER - The official designated by the Town Board of the Town of Warsaw to enforce the provisions of this Ordinance.

Section 201 Definitions

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

1. ACCESSORY - The term applied to a building or use which:
 - a. is customarily incidental and subordinate to and serves a principal building or principal use;
 - b. is subordinate in area, extent or purpose to the principal building or principal use served;
 - c. contributes to the comfort, convenience or necessity of occupants of the principal building or principal use; and,
 - d. is located on the same zoning lot as the principal building or principal use.
2. AGRICULTURAL OR FARMING ACTIVITIES - The use of the land for agricultural purposes including farming, dairying, pasturage, truck farms or nurseries, agriculture, horticulture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storage; provided, however, that the operation of any such accessory use shall be incidental to that of the principal agricultural activities.
3. AIRSTRIP - Any area of land designed for private non-commercial use of airborne craft, including hangars, taxi-ways and landing strips.
4. ALTERATIONS - As applied to a building or structure, the change or rearrangement in the supporting members of a building or structure such as bearing walls, columns, beams or girders or in the exit facilities; an enlargement of a building or structure, whether by extending on a side or by increasing in height; the moving from one location or position to another; any alteration whereby a structure is adapted to another or different use.

5. ANIMAL WASTE MANAGEMENT SYSTEM - A planned system ~~approved by the Wyoming County Soil and Water Conservation District or accredited Agency or Corporation~~ [1998] designed in accordance with NRCS (National Resource Conservation Service), or a like or successor agency, procedures and specifications in which all necessary components are installed for managing animal wastes and/or on-farm wastes both liquid and solid, including run-off from concentrated waste areas, [1998] in a manner that does not degrade air, soil or water resources.
- 5A. ANSI: American National Standards Institute**
6. APARTMENT BUILDING - A building arranged, intended or designed to be occupied by three (3) or more families living independently of each other, but having common hallways and entrances.
7. AREA OF SPECIAL FLOOD HAZARD - Land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year.
- 7A. APPLICANT- The person or entity submitting an application and seeking an approval under this Section; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy System of a proposed Solar Energy System project; any person acting on behalf of an Applicant, Solar Energy System or proposed Solar Energy System. Whenever the term “applicant” or “owner” or operator” are used in this Section, said term shall include any person acting as an applicant, owner or operator.**
8. BASE FLOOD - The flood having a one (1) percent chance of being equaled or exceeded in any one given year.
- 8A. BATTERY(IES): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.**
- 8B. BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.**
- 8C. BATTERY ENERGY STORAGE SYSTEM: One or more devices,**

assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

9. BOARDING HOUSE (ROOMING HOUSE) - A dwelling other than a hotel, motel or lodging house, where more than two (2) persons are housed or lodged for hire with or without meals.
10. BOOK STORE/ADULT - An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on the premises, by use of motion picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material, which excludes minors by virtue of age.

Specified sexual activities are defined for the purpose of this ordinance as:

- a. Human genitals in a state of sexual stimulation or arousal;
- b. Acts of human masturbation, sexual intercourse or sodomy; or
- c. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

Specified anatomical areas are defined as follows:

- a. Less than completely and opaquely covered (a) human genitals, pubic region, (b) buttocks and (c) female breast below a point immediately above the areola; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered. [1998]

11. BUFFER AREA - A continuous strip of land area covered with grass, vegetation, trees, fencing, embankments or berms not less than ten (10) feet in depth and not less than six (6) feet in height densely planted and designed to provide a physical buffer preventing visual access from one use to another and to reduce the escape and/or intrusion of litter, fumes, dust, smoke, noise, or other noxious or

objectionable elements.

12. BUILDING - Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, property or business activity.
13. BUILDING AREA - The aggregate of the areas of all enclosed and roofed spaces of the principal building and all accessory buildings. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.
14. BUILDING HEIGHT - The vertical dimension measured from the average elevation of the finished grade level at the front of the building to the highest point of the structure.
- 14A. **BUILDING-INTEGRATED SOLAR ENERGY SYSTEM-** A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other façade material, semitransparent sky light systems, roofing materials, and shading over windows.
15. BUILDING LINE - A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or a projected roof or porch, the vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves less than two (2) feet in width. All yard and setback requirements are measured to the building lines.
- 15A. **BUILDING-MOUNTED SOLAR ENERGY SYTEMS-** Any Solar Energy System that is affixed to the side(s) or rear of a Building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building.
16. BUILDING PRINCIPAL - A building in which is conducted the main or principal use of the lot on which said building is situated.
17. CAMPING GROUND - A parcel of land used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor homes, and the motor vehicles propelling or carrying the same, but excluding mobile homes designed for year-round occupancy or as a place of residence.
- 17A. **CELL:** The basic electrochemical unit, characterized by an anode and a

cathode, used to receive, store, and deliver electrical energy.

18. ~~CERTIFICATE OF OCCUPANCY USE~~ [1998] - A certificate issued by the Enforcement Officer upon completion of construction or alteration of a building. Said certificate shall not [1998] acknowledge compliance with all of the requirements of the Uniform Code.
 - a. The Zoning Officer may issue a Certificate of ~~Ocupaney~~ Use [1998] for the change in use of an existing building or for the use or change in use of a parcel of land with no buildings.

20. CLUB - An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

21. CLUSTER DEVELOPMENT - A development of residential lots, each containing less area than the minimum lot area required for the zone within which such development occurs, while maintaining the density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

- 21A. **COMMISSIONING: A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.**

22. ~~COMMUNICATIONS TOWERS - Any structure or fixture greater in height or radius than six feet, used for receipt and/or sending of signals including, but not limited to radio, television, or two-way communications.~~ [1998] COMMERCIAL COMMUNICATION TOWER - A structure, including one (1) or more antennas, that is intended for transmitting and/or receiving radio, television, telephone or microwave communications but excluding those used either for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen=s bands, amateur radio and other similar communications. [2006]

- 22A. **DEDICATED-USE BUILDING: A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the International Building Code, and complies with the following:**
 - 1) **The building’s only use is battery energy storage, energy generation, and**

other electrical grid-related operations.

- 2) **No other occupancy types are permitted in the building.**
- 3) **Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.**
- 4) **Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:**
 - a. **The areas do not occupy more than 10 percent of the building area of the story in which they are located.**
 - b. **A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.**
23. DRIVEWAY - A roadway providing a means of access from a street to a property or off-street parking area. An access way may also be deemed a driveway.
24. DWELLING - A building designed or used for one (1) or more families. The term dwelling shall not be deemed to include a motel, hotel, boarding house, bed and breakfast, or travel trailer.
25. DWELLING, MANUFACTURED HOME - Any manufactured housing unit designed for transportation after fabrication, on streets or highways, on its own wheels or on flatbeds or trailers, and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like, and originally bearing a seal issued by the United States Department of Housing and Urban Development, and/or are certified by a licensed structural engineer as to structural integrity, by a licensed electrical underwriter for electrical wiring, by a qualified heating contractor for heating, and a qualified plumber for plumbing. This definition specifically does not include so-called “modular homes” where the chassis upon which the unit or part of a unit is transported is not a part of the structure of the unit itself. The definition specifically does include both so-called “single-wide” and “double-wide” units. [1998]
26. DWELLING, MODULAR - Modular homes are classified as factory-built housing with proper certifications for local and/or state building codes. Modular

homes are also transported via a trailer assembly which is removable. Modular homes are not self-contained and many require plumbing and/or electrical hook-up after being placed on proper foundation. Modular homes have serial numbers which are preceded by the letters DHCR. [1998]

27. DWELLING, MULTIPLE FAMILY - A residential building designed for or occupied by three (3) or more families living independently of each other with the number of families in residence not exceeding the number of dwelling units provided.
28. DWELLING, MULTIPLE FAMILY COMPLEX - A series of multiple family dwellings, designed and built as an integrated development with a common architectural style.
29. DWELLING, SINGLE FAMILY - A detached residential dwelling unit other than a mobile home designed for and occupied exclusively by one (1) or more persons living as a single non-profit housekeeping unit.
30. DWELLING, TWO-FAMILY - A detached residential building, containing two dwelling units, designed for occupancy and used exclusively by two (2) families living independently of each other.
31. DWELLING UNIT - A building or portion thereof providing housekeeping facilities for a single family.
32. EARTH SHELTERED HOUSING - A residential structure which has not less than fifty percent (50%) of its exterior envelope covered by earth in order to moderate temperature extremes and to serve as a passive means of lowering the dependence of the residence on artificial climate control derived from fossil fuel energy. The term shall include underground houses, earth contact homes, terratectural designs and geo-built homes.
- 32.i. ELECTROMAGNETIC INTERFERENCE (EMI) - The interference to communication systems created by scattering of electromagnetic signals. [2006]
- 32.ii. **ENERGY CODE: The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.**
33. ENTERTAINMENT CABARET/ADULT - A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dancers, strippers, male or female impersonators or similar entertainers, which excludes minors by virtue of age. [1998]

34. ESSENTIAL SERVICES - The erection, construction, alteration or maintenance by public utilities or any governmental department or commission of underground or overhead gas, electrical, telecommunications or water transmission and/or distribution systems, including poles, wires, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies, or for the public health, safety or general welfare. This definition expressly excludes power generator facilities or sites for the disposal of waste materials associated with the provision of such services.
35. EXCAVATION - The process of the removal or displacement of sand, gravel, soil (including topsoil) or other natural deposits by stripping, digging or other means. The normal agricultural practice of scrapping barnyards is not deemed to be excavation. [1998]
36. EXCAVATION SITE - A parcel of land used for the purpose of extracting stone, sand, gravel or topsoil for sale as an industrial or commercial operation.
37. FAMILY - One (1) or more persons, related by birth, marriage or other domestic bond, occupying a dwelling unit and living as a single non-profit housekeeping unit. ~~In order to distinguish a family from a fraternity club or boarding house, not more than two (2) members of the household shall be other than blood relatives, adopted or foster children.~~ [1998]
38. FARM - Any parcel containing at least ten (10) acres of land which is worked for gain in the growing of agricultural products or the raising of animals. It includes necessary farm structures within the prescribed limitations and the storage of equipment used. It excludes riding academies, livery or boarding stables and kennels. ~~Farm activities may be permitted on parcels of land of less than ten (10) acres, however, the raising of fur bearing animals, swine and poultry on smaller parcels of land in residential districts may only be permitted with a special permit.~~ [1998]
39. FARM BUILDING - Any building used for the housing of agricultural equipment, produce, livestock or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operation of the farm as defined by this Article. The term farm building shall not include “farm dwelling.”
40. FARM DWELLING - A dwelling located on a farm and occupied by a family

engaged in agricultural activities.

41. FENCE - A structure of wood, masonry, wire mesh or other material which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property.
42. FINISHED GRADE LEVEL - The level where the finished grade of the ground intersects the foundation walls. Height measurements shall be based from the finished grade level.
- 42A. **FIRE CODE: The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.**
43. FLOOD INSURANCE RATE MAP (FIRM) - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the town.
44. FLOOD INSURANCE STUDY - The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary - Floodway Map and the water surface elevation of the base flood.
45. FLOODWAY - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation of the base flood.
46. FLOOR AREA, GROSS - The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the inside faces of exterior walls or from the center line of walls separating two uses. For the purpose of applying the requirements for off-street parking and loading in the case of offices, merchandising or service types of uses, gross floor area shall not include areas used principally for non-public purposes such as storage, restrooms, fitting or alteration rooms or general maintenance, or enclosed pedestrian malls or corridors.
47. FLOOR AREA, HABITABLE - The horizontal area of any floor of a building designed and intended for living purposes, which includes working, sleeping, eating, cooking or recreation or combination thereof. A floor used only for storage purposes is not a "habitable floor." All dimensions shall be measured from the interior faces of exterior walls or from the center line of the base of walls separating two dwelling units.
48. GARAGE, PRIVATE - An accessory building which provides for the storage of

motor vehicles or household items by the occupants on the lot upon which it is erected, with no provision for repairing or servicing such vehicles for profit.

- 49. GARAGES, PUBLIC OR REPAIR - Any garage other than a private garage operated for gain, available to the public, which is used for the storage, repair, servicing or rental of motor vehicles.
- 50. **GLARE-** The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibly in any material respects.
- 50. ~~HOME OCCUPATION—Any occupation customarily conducted entirely within a dwelling or a building accessory to the dwelling-[1998] by the inhabitants thereof, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. A home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants, musical and dancing instruction to groups exceeding four (4) pupils, convalescent homes, mortuary establishments, garages or shops for the repair of motor vehicles, retail businesses and trades, bed and breakfast [1998], and service establishments. [2004]~~
- 50A. **GROUND-MOUNTED SOLAR ENERGY SYSTEM-** Any Solar Energy System that is affixed to the ground either directly or by support structures or other mounting devices where such structure and mounting exists solely to support the Solar Energy System.
- 51. HOME-BASED BUSINESSES - A business, profession, occupation or trade conducted for gain or support, other than a Home Occupations Minor or Home Occupations Major as defined herein, conducted within or on the same lot as an occupied single-family dwelling by the inhabitants thereof. Home-Based Businesses may involve the provision of services or the manufacture and/or sale of goods on the premises, except that the following types of businesses shall not be considered to be Home-Based Businesses:
 - a. Motor vehicle repair;
 - b. Motor vehicle, boat and manufactured home sales and rentals;
 - c. Fuel outlets (including gas stations and mini-marts);
 - d. Drive-in businesses;
 - e. Scrap and salvage material storage and sales (including junkyards);
 - f. Laundries and dry-cleaning establishments;
 - g. Recreation, entertainment, or amusement enterprises;
 - h. Restaurants and tearooms;
 - i. Tourist homes and bed and breakfast establishments;

- j. Biological or medical testing laboratories, clinics, hospitals and convalescent homes;
- k. Funeral homes;
- l. Kennels, stables, animal hospitals and veterinarian offices;
- m. Building supply and farm equipment stores;

Examples of Home-Based Businesses:

- i. Lumber Drying, Milling
- ii. Tree Trimming
- iii. Logging
- iv. Construction of Dwellings, Storage Buildings
- v. Construction of Driveways, Ponds, Building Site

Yard sales, garage sales and any similar type of sales exceeding four (4) calendar weeks shall be considered to be a home based business and subject to the provisions therefore. [2004]

52. HOME OCCUPATIONS MINOR - Home Occupations Minor is a business, profession, occupation or trade conducted for gain or support entirely within a residential building, or a structure accessory thereto, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building. The Home Occupations Minor shall be owned and operated by the occupant of their residential structure and only by the person or persons maintaining their primary residence in said dwelling unit. For purposes of this section, primary residence is defined as the location of an individual's residence for more than six (6) months of the year. Home Occupations Minor should not involve daily customer traffic to and from the property. The following types of businesses shall not be considered to be Home Occupations Minor:

- a. Motor vehicle repair;
- b. Motor vehicle, boat and manufactured home sales and rentals;
- c. Fuel outlets (including gas stations and mini-marts);
- d. Drive-in businesses;
- e. Scrap and salvage material storage and sales (including junkyards);
- f. Laundries and dry-cleaning establishments;
- g. Recreation, entertainment, or amusement enterprises;
- h. Restaurants and tearooms;
- i. Tourist homes and bed and breakfast establishments;
- j. Biological or medical testing laboratories, clinics, hospitals and convalescent homes;
- k. Funeral homes;
- l. Kennels, stables, animal hospitals and veterinarian offices;

- m. Building supply and farm equipment stores.

Examples of Home Occupations Minor:

- i. Computer Design
- ii. Music Arrangement
- iii. Transcription of Medical Records
- iv. Computer/Telephone Sales [2004]

53. HOME OCCUPATIONS MAJOR - Home Occupations Major is a business, profession, occupation or trade conducted for gain or support conducted within a residential building, or a structure accessory thereto, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building. Home Occupations Major shall be owned and operated by the occupant of the residential structure and only by the person or persons maintaining their primary residence in said dwelling unit. For the purposes of this section, primary residence is defined as the location of an individual's residence for more than six (6) months of the year. The following types of businesses shall not be considered to be Home Occupations Major:

- a. Motor vehicle repair;
- b. Motor vehicle, boat, and manufactured home sales and rental;
- c. Fuel outlets (including gas stations and mini-marts);
- d. Drive-in businesses;
- e. Scrap and salvage material storage and sales (including junkyards);
- f. Laundries and dry-cleaning establishments;
- g. Recreation, entertainment, or amusement enterprises;
- h. Restaurant and tearooms;
- i. Tourist homes and bed and breakfast establishments;
- j. Biological and medical testing laboratories;
- k. Clinics, hospitals and convalescent homes;
- l. Funeral homes;
- m. Kennels, stables, animal hospital and veterinarian offices;
- n. Building supply and farm equipment stores.

Examples of Home Occupations Major:

- i. Hair Dresser
- ii. Bookkeeping
- iii. Accounting
- iv. Seamstress [2004]

54. ~~HOME PROFESSIONAL OCCUPATION - The office of a member of a licensed~~

~~profession when conducted within a dwelling or a building accessory thereto. [1998] Such occupations shall include, but not be limited to, those of doctors, lawyers, architects, engineers, ministers and other licensed professionals. [2004]~~

55. ~~JUNKYARD— A lot, land or structure, or part thereof, where junk , waste, discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, including: automobiles or other vehicle or machinery, wrecking or dismantling yards; house wrecking yards; used lumber yards; places or yards for storage of salvaged house wrecking and structural steel materials and equipment; or where any unregistered motor vehicle is held outside of a completely enclosed building, whether for the purpose of resale or sale of used parts therefrom, for the purpose of reclaiming for use some or all the materials therein, or for the purpose of storage or disposing of the same for any other purpose. The term junkyard shall not include pawn shops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing, or for processing of used, discarded or salvaged materials as part of manufacturing operations.~~

~~Exceptions:~~

- ~~a. — New, and/or used motor vehicles, which are operable, qualify for a current New York State Motor Vehicle inspection sticker under Article 5 of the New York Motor Vehicle and Traffic Law, and are offered for sale to the public, may be stored on premises on which new or used car sales may be conducted in accordance with the provisions of these regulations.~~
- ~~b. — The storage of vehicles subject to seasonal use such as travel trailers and snowmobiles even though such vehicles may be unlicensed during the part of the year they are not in use.~~
- ~~c. — The storage of agricultural equipment, machinery and vehicles in an Agricultural District which are being used in farm operation. [2004]~~

56. JUNK - Non operating, non-serviceable equipment, dismantled, wrecked or abandoned appliance, vehicle, lawn mower, motorized yard equipment, waste paper, rags, scrap, machinery or materials, manufactured homes, farm equipment or machinery except for cases where reuse by the farm operation is feasible, or parts of any sort or other property which has no value other than nominal salvage value, if any, and which has been left unprotected from the elements.

Junk shall include, but is not limited to, the following:

- a. JUNK APPLIANCE - Any stove, refrigerator, washing machine, dryer, freezer, television set, radio or other household device or equipment which has been placed outside for a period of at least one (1) month and been exposed to the elements.
- b. JUNK MOTOR VEHICLES - Any motor vehicle which is wrecked or

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dismantled which is not intended or in any condition for legal use upon the public highway, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been apart, or intended to be a part, or any motor vehicle, the sum of which shall be equal in bulk to a junk vehicle. [2004]

57. JUNKYARD - A lot, land or structure, or part thereof, used for the collection, storage, dismantling, disassembly, parking, sorting, salvage, buying, selling or exchange of junk. The presence of any junk motor vehicle or an equivalent amount of smaller junk items allowed to remain unhoused on a premise for a period of more than thirty (30) days shall constitute a junkyard. Junkyards as defined in Highway Law, Section 89, and Automobile Junkyards as defined in General Municipal Law, Section 136, shall be included within this definition. Junkyards are prohibited in the Town of Warsaw. [2004]
58. KENNEL - Any premises on which more than four (4) ~~or more~~ dogs, six (6) months old or older are kept, bred and/or boarded. [2012]
59. LOADING SPACE, OFF-STREET - Space logically and conveniently located for public pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles. Required off-street loading space is not to be included as off-street parking space in the computation of required off-street parking area.
60. LODGING ROOM - A room rented as sleeping and living quarters, but without cooking facilities with or without an individual bathroom.
61. LOT - A parcel of land considered as a unit, devoted to a certain use and occupied, or capable of being occupied, by a building or group of buildings that are united by common interest or use, and the customary accessory uses and open spaces belonging to same.
62. LOT AREA - The square footage or acreage contained within the boundaries of a lot. Any portion of a lot included in a public road, street or highway right-of-way shall not be included in calculating lot area.
63. LOT, CORNER - A parcel of land at the junction of, and fronting on, two or more intersecting streets.
64. LOT COVERAGE - That percentage of the lot area which is devoted to building area.
65. LOT FRONTAGE - The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and

through lots, all sides of a lot adjacent to streets shall be considered front yards.

- 66. LOT LINES - The property lines bounding the lot:
 - a. Lot Line, Front: The line separating the lot from a street right-of-way.
 - b. Lot Line, Rear: The lot line opposite and most distant from the front lot line, except for corner lots wherein it shall be the lot line behind the principal structure.
 - c. Lot Line, Side: Any lot line other than a front or rear lot line.
- 67. LOT OF RECORD - A lot which is part of an approved subdivision recorded in the Office of the County Clerk or a lot described by metes and bounds, the description of which has been so recorded.
- 68. LOT WIDTH - The distance between the side lot lines measured, parallel to the street line at the front building line.
- 69. LOT, ZONING - A parcel of land occupied, or to be occupied, by a principal use or uses, together with permitted accessory uses, yards and open spaces, having frontage on an officially accepted street and having not less than the minimum area required by these regulations for a lot in the zoning district within which said parcel of land is located. A lot of record may or may not be a “zoning lot”.
- 70. MANUFACTURED ~~MOBILE~~ [1998] HOME - See DWELLING, MANUFACTURED ~~MOBILE~~ [1998] HOME
- 71. MANUFACTURED ~~MOBILE~~ HOME LOT - A parcel of land within a manufactured ~~mobile~~ home park reserved for placement of a manufactured ~~mobile~~ home, including accessory buildings, for the exclusive use of its occupants.[1998]
- 72. MANUFACTURED ~~MOBILE~~ HOME PARK - A parcel of land under single ownership on which two (2) or more manufactured ~~mobile~~ homes are occupied as residences or which is planned and improved for the placement of two (2) or more manufactured ~~mobile~~ homes for nontransient residential use, or for the sale or rental of two (2) or more manufactured home lots.[1998]
- 73. MANUFACTURED ~~MOBILE~~ HOME STAND - That part of a manufactured ~~mobile~~ home lot which has been reserved for the placement of a manufactured ~~mobile~~ home. The manufactured ~~mobile~~-home stand is derived from the area of a manufactured ~~mobile~~ home lot which remains after all setbacks are met. [1998]
- 74. MANUFACTURED ~~MOBILE~~ HOME SUBDIVISION - A parcel of land under single ownership in which a single lot or lots are developed and eventually sold

by the landowner to persons for the placement of a manufactured ~~mobile~~ home.[1998]

75. MINI-MOTION PICTURE THEATER/ADULT - An enclosed building with a capacity of less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein, when such establishment is customarily not open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age. [1998]
76. MOBILE HOME - See DWELLING, MANUFACTURED HOME.
77. MOTEL - A building or buildings containing sleeping units for transient guests and providing accessory off-street parking facilities; and which may include restaurant facilities, and a dwelling unit for a bona fide caretaker or operator. The term motel includes: hotels, auto courts, tourist courts, motor lodges, bed and breakfast, and similar terms. Each sleeping unit shall contain not less than two hundred forty (240) square feet of living space.[1998]
78. MOTION PICTURE THEATER - An enclosed building, with a capacity of fifty (50) or more persons, used regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein, when such establishment is customarily not open to the public generally, but only one (1) or more classes of the public, excluding any minor by reason of age. [1998]
79. MOTOR VEHICLE SERVICE STATION - Any building, structure or land used to dispense, sell or offer automotive fuels, oils or accessories, including lubrication, washing, polishing or cleaning and the replacement or installation of minor parts and accessories to passenger automobiles or trucks not exceeding 1 2 tons rated capacity, but not including any major mechanical repair, rebuilding or reconditioning of engines, motor vehicles or trailers or collision service, body repair, frame straightening, painting, undercoating, vehicle steam cleaning or upholstering.
- 79A. NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.**

- 79B. NEC: National Electric Code.**
- 79C. NFPA: National Fire Protection Association.**
- 80. NON-CONFORMING BUILDING OR STRUCTURE - Any lawful building or structure existing at the date of enactment of this Law which in its design or location upon a lot does not conform to the regulations of this Law for the district in which it is located.
- 81. NON-CONFORMING LOT - A lot of record existing at the date of the enactment of this Law which does not have the minimum width, depth or area for the district in which it is located.
- 82. NON-CONFORMING USE - Any use of land, buildings or structures lawfully existing on the date of enactment of this Law which does not conform to the use regulations of the district in which it is situated.
- 82A. NON-DEDICATED-USE BUILDING: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.**
- 82B. NON-PARTICIPATING PROPERTY: Any property that is not a participating property.**
- 82C. NON-PARTICIPATING RESIDENCE: Any residence located on Non-participating Property.**
- 82D. OCCUPIED COMMUNITY BUILDING: Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.**
- 83. PARKING SPACE, OFF-STREET - A space adequate for parking an automobile and having an area of not less than two hundred (200) square feet per vehicle, exclusive of passageways and driveways appurtenant thereto. Such space shall be located on the lot it is accessory to and shall have direct access to a street or public way.
- 83A. PARTICIPATING PROPERTY: A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.**

84. PONDS - Any man-made body of water which is greater than twenty-one thousand (21,000) square feet and has a capability of more than two (2) feet in depth resulting from excavations, dams, dikes, etc. ~~Ponds on properties of less than ten (10) acres shall be defined as swimming pools. [1998]~~

85. PRIMARY ZONE DISTRICT - A zone district regulating the use of land exclusive of any overlay restrictions or regulations.

85A. PRIME FARMLAND- Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, Prime Farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

A map showing Prime Farmlands and Farmland of Statewide Importance within the Town of Warsaw is available at the Town Clerk’s office and is made a part of these regulations, which is styled “Prime Farmland Soil Classifications, Town of Warsaw, Wyoming County, New York.”

86. PRINCIPAL BUILDING - A building in which is conducted the main or principal use of the lot on which said building is located.

87. PRINCIPAL USE - The main or primary purpose for which a building, structure or lot is to be used.

88. PUBLIC BUILDING - The words “public buildings and grounds,” as used in this Law are intended to designate any one or more of the following uses, including grounds and accessory buildings necessary for their use:

- a. **Planned Unit Development District (PUD)- a special type of floating overlay district which generally does not appear on the municipal zoning map until a designation is requested. This is applied at the time a project is approved and may include provisions to encourage clustering of buildings, designation of common open space, and**

incorporation of a variety of building types and mixed land uses. A PUD is planned and built as a unit thus fixing the type and location of uses and buildings over the entire projects.

- b. ~~a.~~ Churches, places of worship, parish houses and convents.
 - c. ~~b.~~ Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
 - d. ~~c.~~ Not-for-profit nursery schools, elementary schools, secondary schools, colleges or universities having a curriculum approved by the Board of Regents of the State of New York.
 - e. ~~d.~~ Golf courses and country clubs when occupying not less than fifty (50) acres, not including, however, clubs whose activities include the maintenance, storage or takeoffs or landings of aircraft.
 - f. ~~e.~~ Public libraries and museums.
 - g. ~~f.~~ Not-for-profit fire, ambulance and public safety buildings.
 - h. ~~g.~~ Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged or residences for adults as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.
 - i. ~~h.~~ Not-for-profit membership corporations established for cultural, social or recreational purposes.
 - j. ~~i.~~ Not-for-profit day care centers approved by the New York State Department of Social Services.
89. RECREATIONAL VEHICLE - A vehicle type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are:
- a. Travel Trailer - A vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and of a body width of no more than eight (8) feet and a body length of no more than thirty-eight (38) feet when factory equipped for the road.
 - b. Camp Trailer - A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle.
 - c. Truck Camper - A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck. Truck campers are of two basic types:
 1. Slide-in Camper - A portable unit designed to be loaded onto and unloaded from the bed of a pickup truck.
 2. Chassis-mount camper - A portable unit designed to be affixed to a truck chassis.
 - d. Motor Home - A vehicular unit built on a self-propelled motor vehicle

chassis.

90. RESERVOIR SPACE - Any temporary storage space for a vehicle waiting for service or admission. Such space shall be in addition to drives, aisles or parking space required by this Law. One (1) reservoir space shall be twenty (20) feet long and eight (8) feet wide.
91. RESTAURANT - Any establishment, however designed at which food is sold for consumption on the premises to patrons seated within an enclosed building and where the taking of food and drink from said building is incidental. However, a snack bar or refreshment stand at a public, semi-public or community swimming pool, playground, play field or park operated by the agency or groups or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.
92. RESTAURANT, DRIVE-IN - An establishment where food, soft drinks, ice cream and similar confections are sold for principal consumption outside the confines of the principal building or in automobiles, regardless of whether or not seats are provided for patrons.
93. RIGHT-OF-WAY - The line determining the street or highway limit of public ownership.
94. ROADSIDE STAND - Retail outlets, with all related structures, for the sale of farm products.
- 94A. ROOF-MOUNTED SOLAR ENERGY SYSTEM- A Solar Energy mounted on the roof of any legally permitted Building or structure and wholly contained within the limits of the roof surface.**
95. SATELLITE DISH - Utilized for the purposes of receiving radio or telecommunications and can be used commercially in a restaurant/bar or residential location. ~~For the purposes of this ordinance, a satellite dish has an average diameter of greater than thirty six inches (36"), anything less than thirty six inches (36") in diameter is not regulated by this ordinance.~~ [1998] [2012]
96. SCREENING DEVICES - See BUFFER AREA [2004]
97. SETBACK - The horizontal distance between the street line, rear or side lines of the lot and the front, rear or side lines of the building. All measurements shall be made at right angles to or radially from the lot lines to the building lines. Setbacks from street lines to building lines are defined as "front setbacks." Setbacks from side lot lines are "side setbacks." Setbacks from rear lot lines are "rear setbacks."

- 97.i. SHADOW FLICKER - The alternating pattern of sun and shade caused by wind tower blades casting a shadow. [2006]
- 98. SHOPPING CENTER - Two (2) or more commercial buildings located on a single lot or adjacent lots, with such buildings developed as part of a single integrated development with a common architectural design.
- 99. SIGN - Any structure, part thereof, or device attached thereto or painted or represented thereon or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, trademark or other representation used as, or in the nature of, an announcement, advertisement, direction or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise or industry, which is located upon any land, or on any building, provided, however, that the following shall not be included in the application of the regulations herein:
 - a. Signs not exceeding one (1) square foot in an area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
 - b. Flags and insignia of any government except when displayed in connection with commercial promotion.
 - c. Legal notices, identification, informational or directional signs erected or required by governmental bodies.
 - d. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
 - e. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
 - f. Temporary signs announcing a campaign, drive or event of a governmental, political, civic, philanthropic, educational or religious nature.
 - g. Signs located within the windows or doors of commercial enterprises provided that such signs occupy less than fifteen (15) percent of the total area of such windows and/or doors.
- 100. SIGN, ADVERTISING - Any sign which directs attention to a business, principal commodity, service or entertainment conducted, sold or offered, elsewhere than upon the premises where the sign is located and only incidentally on the premises if at all.
- 101. SIGN AREA - The area of a sign consisting of the entire surface of any regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed,

but excluding supporting or structural members not bearing advertising matter.

102. SIGN, BILLBOARD (COMMERCIAL ADVERTISING) - An outdoor advertising sign, structure or symbol erected and maintained by an individual, partnership, or corporation engaged in the sale or rental for profit of space thereon; having more than one hundred (100) square feet of display surface and which is either erected on the ground or attached to or supported by a building or structure.
103. SIGN, BUSINESS - An accessory sign which directs attention to a business, profession or industry conducted upon the premises on which the sign is located, or to a primary product, commodity, or service sold by such business, profession or industry.
104. SIGN, DIRECTIONAL - An advertising sign or device intended to direct or point toward a place or business, or one that points out the way to either an unfamiliar or unknown place that obviously could not be easily located without such sign or device.
105. SIGN, GROUND - A sign supported by a pole, uprights or braces placed in or on the ground.
106. SIGN, ILLUMINATED - Any sign which has characters, letters, figures, designs or outline illuminated by electric lights, neon or luminescent tubing.
107. SIGN, PORTABLE - Any sign which is not securely affixed to a structure or the ground and which may readily be moved. Portable signs may or may not have wheels.
108. SIGN, PROJECTING - Any sign which is attached to a building or other structure beyond the surface or that portion of the building or structure to which the sign is attached, and not parallel to the face of the building.
109. SIGN, TEMPORARY - Any sign, banner or other advertising device constructed of temporary material, with or without structural frames, intended for a limited period of display.
110. SITE PLAN - A plan, to scale, showing uses and structures proposed for a parcel of land, including lot lines, streets, existing and proposed buildings and structures, topography, rights-of-way, parking areas, open space, and other information deemed necessary by the Planning Board.

- 110.i. **SITE PLAN** - The rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in this zoning law, which shows the arrangement, layout and design of the proposed use of a single parcel of land. [2006]
- 110.ii. **SITE PLAN REVIEW** - The review of a rendering, drawing or sketch showing the arrangement, layout and design of the proposed single parcel of land as shown on said plan. This review does not apply to single family residences and their accessory buildings, but is required on all special use permit applications. [2006]
- 110A. SOLAR PANEL-** A photovoltaic device capable of collecting and converting solar energy into electrical energy.
- 110B. SOLAR ENERGY EQUIPMENT-** Electrical energy devices, material, hardware, inverters, or other electrical equipment and conduit that are used with Solar Panels to produce and distribute electricity.
- 110C. SOLAR ENERGY EQUIPMENT-** An electrical energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.
- 110.iii. **SPECIAL USE PERMIT** - The term special use permit shall mean an authorization of particular land use which is permitted in a zoning law, subject to requirements imposed by such zoning law to assure that the proposed use is in harmony with such zoning law and will not adversely affect the neighborhood if such requirements are met. [2006]
111. **STABLE** - A building in which any horses are kept for remuneration, hire or sale.
112. **STORY** - That portion of a building included between the surface of the floor and the ceiling next above it, having a vertical distance of at least seven (7) feet, six (6) inches along the studs forming each of the exterior walls. Each story above the first story must have an area equal to at least two-thirds (2/3) that of the first story. The first story is the lowest story which is seventy-five (75) percent or more above the average level of the ground adjacent to said building.
113. **STORY, HALF** - That portion of a building next under a gable, hip or gambrel roof having a vertical distance between the floor and horizontal ceiling of at least seven (7) feet, six (6) inches, except that for habitable space under a sloping roof the minimum height above at least fifty (50) percent of such floor area shall be seven (7) feet, six (6) inches, and the area where the height is less than five (5) feet shall not be considered in computing required floor area.

- 114. STREET - A public or private thoroughfare which affords the principal means of access to abutting properties.
- 115. STREET GRADE - The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the “street grade”.
- 116. STREET LINE - The right-of-way line of a street; the front lot line; the line separating a lot from a street.
- 117. STRUCTURE - Anything constructed or erected which requires temporary or permanent support or attachment to the ground, beneath the ground or to something having permanent location on the ground, including gasoline and oil tanks, buildings, ~~mobile~~ manufactured homes, fences and billboards.
- 118. SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction, alteration, modification of a building, the cost of which equals or exceeds fifty (50) percent of the market value of the building either:
 - a. before the improvement or repair is started; or,
 - b. if the building has been damaged and is being restored before the damage occurred.

The Zoning Officer ~~Building Inspector~~ [1998] shall determine the value of the improvements to be made based upon the square footage of building area added or improved. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

- a. any project for improvement of a building to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or,
 - b. any alteration of a building listed on the National Register of Historic Places or a State Inventory of Historic Places.
- 119. SWIMMING POOL - Any body of water or receptacle for water which has a capability of a depth of more than two (2) feet at any point, used or intended to be used for swimming, bathing or wading and installed or constructed above or below ground.
 - 120. TEMPORARY USES - An activity conducted for a specific limited period of time

which may not otherwise be permitted by the provisions of this Law. Examples of such uses are structures incidental to new construction which shall be removed after the completion of the construction work.

- 120.i. TOTAL HEIGHT - The vertical distance from ground level to the top of a wind turbine blade when the tip is at its highest point. [2006]
- ~~121. TOWER - Includes any structure, including dish antennae, whether attached to a building or freestanding and whether guyed or self-supporting, designed to be used as or for the support of devices to be used for the transmission and/or reception of radio frequency signals, such as, but not limited to broadcast, shortwave, citizens band, cellular telephone, FM or television signals or wind-driven devices such as energy converters and windspeed and/or direction indicators. [1998] [2006]~~
- 121. TYPE 1 SOLAR ENERGY SYSTEM-** A Ground-Mounted Solar Energy System intended to produce energy for onsite consumption or credit for onsite consumption for a Building, single-family Dwelling, Multiple Dwelling, business or farm. Said system shall be considered an Accessory Use (as defined in Section 4), designed and intended to generate electricity solely for use on the premises, potentially for multiple tenants, through a distribution system that is not available to the public.
- 121A. TYPE 2 SOLAR ENERGY SYSTEM-** A Ground-Mounted Solar Energy System intended to produce energy for offsite sale to an consumption by one or more customers.
- 121B. UL:** Underwriters Laboratory, an accredited standards developer in the US.
- ~~122. UNIFORM CODE - The New York State Uniform Fire Prevention and Building Code.~~ **UNIFORM CODE:** the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.
123. UNREGISTERED MOTOR VEHICLE - A motor vehicle that can be, or is required to be registered in the State of New York that is no longer intended or in condition for legal use on the public highways but that is not a junk motor vehicle. [2004]
124. USE, SPECIAL PERMIT - A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in a zoning district as a special permit use

only if specific provision for such special permit use is made in this Ordinance.

125. VARIANCE - A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Law would result in unnecessary and undue hardship.

- a. “Use Variance” shall mean the authorization by the zoning board of appeals for the use of land for purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.
- b. “Area Variance” shall mean the authorization by the zoning board of appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulation.

125.i. WIND ENERGY CONVERSION DEVICE - The siting of one (1) mechanical device such as a wind charger, windmill or wind turbine designed and used to convert wind energy into a form of energy for commercial sale. [2006]

126. WINDMILL - An alternate energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill. See TOWER. [1998]

126.i. WIND TOWER - The monopole, freestanding, or guyed structure that supports a wind turbine generator. [2006]

127. YARD - A required open space unoccupied and unobstructed by any structure or portion of a structure, except as may be provided by this Law and situated between the principal building or group of buildings and the nearest lot line.

128. YARD, FRONT - A yard extending between the side lot lines across the front of a lot adjoining a street; situated between the street line and the front building line.

129. YARD, REAR - A yard extending between the side lot lines situated between the rear line of the building and the rear lot line. In the case of through lots there will be no rear yards, but only front and side yards.

130. YARD, SIDE - A yard extending between the side building line and the nearest side lot line; situated between the front and rear yards.

131. ZONING PERMIT - A permit issued by the Zoning Officer, stating that the purpose for which a building or land area is to be used is in conformance with the uses permitted and all other requirements of this ordinance.