

## ARTICLE 2. DEFINITIONS.

### Sec. 3. Definitions.

(a) For the purpose of this Code, certain words and phrases used herein shall be interpreted or defined as follows:

(1) Accessory building: A detached or subordinate building, the use of which is incidental and subordinate to that of the main building on the same lot.

(2) 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.

(3) Alley: A supplementary thoroughfare which is less than thirty (30) feet width, dedicated for the public use of vehicles and pedestrians, and affording access to abutting property.

(4) Alteration: Alteration as applied to a building or structure is a change or rearrangement in the structural parts or an enlargement, whether by extending on a side or by increasing in height, or moving from one location or position to another.

(5) Area: The extent of surface contained within the boundaries or extremities of land or building or sign. In computing building area, cornices, eaves, gutters, steps, and balconies are excluded.

(6) Basement: A story having a portion of its height below grade, but with more than one-half ( $\frac{1}{2}$ ) the height above average ground level around the building. A basement is counted as a story if the ceiling is more than six (6) feet above the average grade, or if subdivided and used for dwelling purposes other than for a janitor employed on the premises.

(7) Boarding house: A building or portion thereof arranged or used for sheltering and feeding for compensation of more than three (3) individuals.

(8) Building: Any enclosed or open structure other than a boundary wall or fence, occupying more than four (4) square feet within the permitted building area.

(a) Detached: A building which has no party wall.

(b) Semidetached: A building which has only one party wall in common.

(c) Attached: A building which has two (2) party walls in common.

(9) Building accessory: A detached subordinate building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

- (10) Building area: The area horizontal section of a building.
- (11) Building height: The vertical measurement of a building.
- (12) Building length: The horizontal measurement of any continuous building wall.
- (13) Building, principal: A building in which is conducted the principal use of the lot on which it is situated.
- (14) Certificate of occupancy: A statement signed by the designated Town official setting forth that a building, structure, or use legally complies with the zoning code and other applicable codes and regulations and that the same may be used for the purposes state therein.
- (15) Distance between buildings: The required distance between facings or building walls.
- (16) Distribution: A function involved in the division, dispensation or relocation of materials, goods, or products.
- (17) Driveway: The vehicular method of entrance and egress to land use.
- (18) Dwelling, One-Family detached: A detached dwelling designated for and occupied by a single family.
- (19) Dwelling, One-Family semi-detached: A dwelling designated for and occupied by a single family having one party wall and one side yard, per permitted zoning lot.
- (20) Dwelling, Duplex: A detached dwelling designated for and occupied by two families living together independently of each other.
- (21) Dwelling Multi-Family: A building arranged, intended, or designated to be occupied by three or more families living independently of each other.
- (22) Dwelling, Town house: A building consisting of a series of three or more non-communicating one-family sections having a common wall between each two adjacent sections.
- (23) Employees: Whenever the word "employees" or the expression "number of employees" is herein referred to, it shall mean the greatest number of persons to be employed regularly in the building in question during any season of the year, and any time of the day or night.
- (24) Family: One or more related individuals customarily and permanently living together as a single housekeeping unit and using certain rooms and housekeeping facilities in common.
- (25) Fast food service restaurant or franchised food service restaurant: A restaurant in which the majority of customers order and are served their food at a counter and then take it to a table on the premises where it is consumed, or to an automobile parked on the premises, or orders are placed

for food by patrons in their automobiles parked or standing on the premises.

(26) Floor area: (1) Residential use: The sum of the gross horizontal area of the several floors of a building, and its accessory buildings, excluding cellar, basement, and garage or carport floor areas not devoted to residence. (2) Office, commercial or manufacturing use: The sum of the gross horizontal area of the several floors of a building, and its accessory buildings.

(27) Garage, private: A garage accessory to a principal building used primarily for automobile storage purposes, and in which no business, service or industry whether connected directly or indirectly with motor vehicles, is conducted.

(28) Home occupation: A use customarily carried on within a dwelling by the inhabitants which is incidental and subordinate to the residential use.

(29) Improvement: Any type of structure, excavation or paved section, excluding driveway or curb.

(30) Instructional business or trade schools: A duly organized school, giving instruction in business or vocational trade subject.

(31) Landscape screen: Any planting, structure, device, wall, fence, or combination of materials which will create a visual barrier or improve or enhance the natural environment.

(32) Lot: A parcel of land, separate and distinct, in common ownership and occupied or intended to be occupied by one principal building or by a group of principal buildings together with any accessory buildings, including such yards or open spaces as are arranged or designated to be used in connection with such building or buildings.

(33) Lot area: The area of a lot taken at its perimeter, exclusive of any portion within a public or private street right-of-way.

(34) Lot, corner: A lot abutting on two or more streets at their intersection, where the interior angle of the intersection does not exceed one hundred thirty-five (135) degrees.

(35) Lot coverage: That portion of the lot area that is covered by buildings; the building area divided by the lot area; e.g., a lot containing ten thousand (10,000) square feet has principal and accessory buildings planned or existing whose area is twenty-five hundred (2,500) square feet; thus, the lot coverage is twenty-five (25) percent.

(36) Lot depth: The average depth measured in the mean direction of the side lot lines from the front street line to the rear lot line. The rear line shall be deemed to be not farther back than a line drawn parallel with the front street line, entirely on the lot, and not less than ten (10) feet long.

(37) Lot width: The distance measured along the setback line between

the side lot lines of the lot, provided that the width of the lot at the street right-of-way line shall be a minimum of seventy (70) percent of the lot width required for the zoning district. In applying this definition to a corner lot, the side street right-of-way line, as determined in accordance with the definition of a corner lot, shall be considered to be a side lot line.

(38) Manufacture: A function involving either the processing or production of materials, goods or products.

(39) Non conformance building: A building or parts of a building fully existing at the time these regulations, or subsequent amendment, became effective, which does not conform to the dimensional requirements of the district in which it is located.

(40) Non-conforming use: A use of land or use of a building lawfully existing at the time these regulations, or subsequent amendment became effective, which does not conform to the use requirements of the district in which it is located.

(41) Open area: That portion of a lot excluding area set aside or used for buildings, loading berths and streets. Land devoted to recreational purposes to include land for swimming pools, tennis courts, and similar recreation uses shall be considered open area for the purpose of this definition.

(42) Owner: The term shall be construed to include the duly authorized agent, attorney, purchaser, devisee, fiduciary or any person having vested or contingent interest in the property in question.

(43) Parking space: Accommodation for the parking of a motor vehicle on a lot provided for restricted use in connection with a residential, business, or private enterprise.

(44) Person: Any individual, firm, partnership, agency, or corporation.

(45) Personal service establishment: A barber or beauty shop, shoe repair shop, or tailor shop.

(46) Restaurant: A building whose primary function is the preparation and serving of food to patrons. This definition shall be construed to mean facilities that primarily serve food on the premise with carry-out facilities as a subordinate function.

(47) Setback: An area extending the full width of the lot between the street right-of-way and the building setback line within which no buildings or parts of building may be erected.

(48) Setback line, or building setback line: A line extending between the two side lot lines or parcel of land which is parallel to, and a stated distance from a street line.

(49) Shall: Mandatory.

(50) Sign: Any letter, work, model, device, or representation intended as an announcement, direction, or advertisement.

(51) Street: A strip of land, comprising the entire area within the right-of-way intended for possible use as a means of vehicular and pedestrian circulation to provide access to more than one lot. The word street includes road, thoroughfare, parkway, avenue, boulevard, expressway, highway, land, throughway, place, square, alley, or however otherwise designated within the above-mentioned right-of-way.

(52) Street lines: The dividing line between a lot and a street.

(53) Street, private: Any street right-of-way not dedicated to public use

(54) Street, public: Any street right-of-way dedicated to public use and/or maintained by the Delaware Department of Transportation or the Town of Magnolia.

(55) Street right-of-way: An area set aside or used as a means of ingress, egress or approach. No parts of private group parking areas, nor the driveways that service said parking area, are to be classified as street rights-of-way.

(56) Structure: Any object constructed, erected, or attached to a fixed ground location.

(57) Testing: A function involved in the examination of the qualities, performances, or capabilities of a product, goods, or material.

(58) Use: The purpose for which land, a structure, a sign, or a building is arranged, designated, or intended, or for which either land a structure, a sign, or a building is or may be used, occupied, or maintained.

(59) Use, principal: The main or primary purpose or purposes for which land, a structure, a building and/or a sign or use thereof is designed arranged, or intended or for which they may be occupied or maintained under this zoning code. All other structures, buildings, signs, or uses on the same lot and incidental or supplementary thereto are permitted under this zoning code and shall be considered accessory uses.

(60) Variance: An activity which is prohibited by this code, but may be granted a special permit.

(61) Yard: An unoccupied space open to the sky, on the same lot with a building or structure.

(62) Yard, front: A yard extending the full width of the lot between the front street line and the parts of the principal building erected thereon which are set back from the nearest such street line.

(63) Yard, side: A yard between the building and the adjacent side line of the lot extending from the front yard to the rear yard.

(b) Words not defined above shall have the meaning given in Webster's Unabridged Dictionary.

(c) words used in the present tense include the future, the singular number includes the plural, and the plural the singular, the word "building" includes the word "structure," the word "occupied" includes the word "designed" or "intended to be occupied;" the word "used" includes the words "arranged," "designed," or "intended to be used."