



TOWN OF BETHLEHEM

Chapter 128. Zoning Code

Part 1. Introductory Provisions

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ARTICLE 10

ESTABLISHMENT & APPLICABILITY

§ 128-10.1 SHORT TITLE

This chapter shall be known and may be cited as the "Zoning Law of the Town of Bethlehem," also referred to as the "Zoning Code."

§ 128-10.2 AUTHORITY

This chapter is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York and the Town Law of the State of New York, in conformance with the Town of Bethlehem Comprehensive Plan Update duly adopted by the Town Board. As stated herein, specific sections of Article 16 of the Town Law have been superseded by this chapter pursuant to the authority of § 10 of the Municipal Home Rule Law.

§ 128-10.3 SEVERABILITY

If any part of this chapter is declared to be invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of said chapter as a whole or any other part of said chapter. The Town Board hereby declares that it would have adopted this chapter and each part thereof irrespective of the fact that any one or more of the parts may be declared invalid.

§ 128-10.4 SUPERSESION OF INCONSISTENT LAWS

To the extent that this chapter is inconsistent with Town Law § 261-b, 261-c, 265-a, 267-a, 274-a, 274-b, 276, 277 or 278 or any other provision of Article 16 of the Town Law, the provisions of this chapter are expressly intended to and do hereby supersede any such inconsistent provisions.

§ 128-10.5 WHEN EFFECTIVE

This chapter shall take effect upon the effective date of the local law, filed with the Secretary of State, that governs this chapter.

§ 128-10.6 INTERPRETATION & APPLICABILITY

In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum standards applicable to land development as regulated herein. Further, this chapter shall not be deemed to affect, in any manner whatsoever, any easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land, or upon the erection, construction, establishment, moving, alteration, or enlargement of buildings, than is imposed by other ordinances, local laws, rules, regulations, licenses, certificates, or other authorizations, or by easements, covenants, or agreements, the provisions of this chapter shall prevail.

§ 128-10.7 PURPOSE & OBJECTIVES

- A.** The purpose and objectives of this chapter are:
1. To guide the future growth and development of the Town in accordance with the Town of Bethlehem Comprehensive Plan Update by encouraging the establishment of population densities that will reflect a beneficial influence considering the most appropriate use of land relative to population trends, existing land use, environmental considerations, topographical features, soil types, economic activity, and building development and recognizing such conditions and trends both within the Town and in surrounding areas.
 2. To secure safety from fire, flood, panic, and other dangers; provide adequate light and air; prevent overcrowding of the land; and avoid undue concentration of population.
 3. To conserve the value of land and buildings in accordance with the character of the district and its suitability for particular uses; protect the economic stability of the entire Town and commensurate with the availability and capacity of public facilities and services and the ability of land and natural resources to accommodate such growth.
 4. To establish the most beneficial relationships between land use, buildings, and the circulation of traffic throughout the Town, with particular regard to the lessening of congestion, the safe and efficient movement of vehicles and pedestrians, the provision of adequate parking facilities, and convenient access appropriate to the prospective use.
 5. To guide public policy so as to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public improvements and guide private enterprise in building development, investment, and other economic activity relating to land use and buildings.
 6. To safeguard natural, agricultural, historic and scenic resources; prevent the contamination of public and private drinking wells and aquifers, lakes and ponds, and freshwater wetlands and watercourses; and preserve the integrity, stability, and beauty of the community.
 7. To assure privacy for residences and freedom from nuisances and harmful, unsightly uses and protect the community against unsightly, obtrusive, and noisome land uses and operations.
 8. To facilitate, as far as environmental conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.
- B.** The regulations contained herein have been made in accordance with the Comprehensive Plan Update of the Town of Bethlehem, with reasonable consideration as to the character of land and the extent of development in each district, as well as the suitability of each district for particular uses.

§ 128-10.8 CONFORMITY REQUIRED

- A. Uses.** Following the effective date of this chapter, any use not identified in Part 2 of this chapter, shall be deemed prohibited. No building or lot shall be used for any purpose or in any manner except in conformity with all regulations, requirements and/or restrictions specified in this chapter for the district in which such building or lot is located. Where permitted uses are identified by generic words or descriptions, the Zoning Board of Appeals shall determine whether a specific use shall be construed to be part of such generic class. In making such determination, the Zoning Board of Appeals shall consider to what extent the proposed use is similar to the class of use indicated in the Schedule of Uses.
- B. Buildings.** After the effective date of this chapter, no building shall be erected, moved, altered, rebuilt, enlarged, designed or arranged to be used for any purpose or in any manner except in

conformity with the regulations, requirements and/or restrictions specified in this chapter for the district in which such building is located.

- C. **Lots.** After the effective date of this chapter, no lot shall be built upon unless it is a buildable lot as defined herein.

§ 128-10.9 EXCEPTIONS

- A. **Height exceptions.** The height limitations of this chapter shall not apply to church spires, belfries, cupolas, sirens and loudspeakers for emergency purposes, penthouses and domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, silos, bulkheads and similar features, and necessary mechanical appurtenances usually carried above the roof level. Nothing contained in this chapter shall prevent the erection of an ornamental parapet wall or cornice that extends not more than five feet above the maximum permitted height of the building. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve.
- B. **Projecting architectural features.** The space in any required setback shall be open and unobstructed except for the ordinary projection of windowsills, belt courses, cornices, eaves and other architectural features; provided, however, that such features shall not project more than three feet into any required setback.
- C. **Building entry and porticos.** Roofed-over but unenclosed stairs and/or landings in the nature of an entryway or portico not more than eight feet wide and extending not more than six feet out from the front wall of the building shall be permitted to encroach on a required front yard setback.

§ 128-10.10 CONFLICTS WITH OTHER LAWS

Where this chapter imposes greater restrictions than required by any other law, ordinance, or regulation, the provisions of this chapter shall govern. Where the provisions of any other law, ordinance, or regulation impose greater restrictions than are required by this chapter, the provisions of such law, ordinance or regulation shall govern.

§ 128-10.11 TRANSITIONAL PROVISIONS

- A. **Applications Prior to Effective Date.** All development applications submitted on or after the effective date of this Chapter will be reviewed wholly under the terms of this zoning law. See §128-10.11(E) for applications submitted prior to the effective date of this Chapter.
- B. **Permits Granted Prior to Effective Date.**
 1. Any building, development or structure for which a building permit was issued before the effective date of this Chapter may be completed in conformance with the issued building permit and other applicable permits and conditions.
 2. If construction has not commenced by the effective date of this Chapter, then the building, development or structure must be constructed, completed and occupied in compliance with the standards of this zoning law. Time extensions for previously approved projects may be granted in accordance with §128-40.8(E).
- C. **Continuance of Violations.**
 1. Any violation of the previous zoning law will continue to be a violation under this zoning law and be subject to penalties and enforcement as provided by this Chapter and the Code of the Town of Bethlehem.

2. If the use, development, construction, or other activity that was a violation under the previous law complies with the express terms of this zoning law, enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date of this Chapter.
 3. The adoption of this zoning law does not affect nor prevent any pending or future prosecution of, or action to abate violations of, the previous law that occurred before the effective date of this Chapter.
- D. Continuing Nonconformities.** Any nonconformity under the previous zoning law will also be nonconformity under this zoning law, as long as the situation that resulted in the nonconforming status under the previous regulation continues to exist. If, however, a nonconforming situation under previous zoning regulations becomes conforming because of the adoption of this zoning law, or any subsequent amendment to it, then the situation will no longer be considered a nonconformity.
- E. Existing Approval Exemptions.**
1. **Site Plan.** A site plan approval application shall be exempt from the requirements of this chapter, as amended, if, as of the effective date of this chapter, the Planning Board has adopted a resolution granting conditional site plan approval and said conditional approval has not expired, or has adopted a Negative Declaration or accepted a Draft Environmental Impact Statement as complete pursuant to 6 NYCRR 617.11 of the State Environmental Quality Review Act regulations in regard to said application.
 2. **Subdivision.** An application for subdivision approval shall be exempt from the requirements of this chapter and Chapter 103, Subdivision Regulations, as amended, if, as of the effective date of this chapter, the Planning Board has approved a resolution granting preliminary subdivision approval for major subdivisions and final plat approval for minor subdivisions and said approval has not expired, or has adopted a Negative Declaration or accepted a Draft Environmental Impact Statement as complete pursuant to 6 NYCRR 617.11 of the State Environmental Quality Review Act regulations in regard to said application.

ARTICLE 11

ZONING MAP & DISTRICTS

§ 128-11.1 PERMIT REQUIRED

No person shall alter or add to any existing structure, or construct a new structure or part thereof, nor change the use of any building, without a valid zoning and building permit as required by Chapter 53 of the Town of Bethlehem Code and issued by the Building Inspector.

§ 128-11.2 DISTRICTS ESTABLISHED

The Town of Bethlehem is hereby divided into the zoning districts as outlined in Part 2 of this Chapter.

§ 128-11.3 ZONING MAP

The districts established by this Chapter are bounded as shown on the map series titled "Zoning Map, Town of Bethlehem," adopted on XXXXX, and as amended, which, with all explanatory matter thereon, is made a part of this chapter.

- A. The words "Zoning Map" or "Bethlehem Zoning Map" shall mean the Zoning Map of the Town of Bethlehem, New York.

§ 128-11.4 INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts, the rules specified below shall apply. In cases where these rules do not identify the true location of a district boundary line, the Zoning Board of Appeals shall render a determination with respect thereto.

- A. **Along center lines.** Where district boundaries are indicated as following roads, highways, driveways, watercourses, or power lines, the center lines of such rights-of-way shall be construed to be the boundaries of the zoning district.
- B. **Parallel to center lines.** Where district boundaries are indicated as being parallel to roads, highways, driveways, watercourses, or power lines, a line parallel to the center line of such rights-of-way and at a distance therefrom as specified on the Zoning Map shall be construed to be the boundaries of the zoning district. If no distance is given, such dimension shall be determined by use of the scale shown on the Zoning Map.
- C. **Along lot lines.** Where district boundaries are indicated as following lot lines, such lot lines shall be construed to be the boundaries of the zoning district.

§ 128-11.5 PARCELS IN MULTIPLE DISTRICTS

If a lot or parcel is divided by a zoning district boundary, each portion of the lot or parcel so divided shall be subject to the zoning regulations for the district in which it is located.

ARTICLE 12

ENFORCEMENT & PENALTIES

§ 128-12.1 PENALTIES FOR OFFENSES

A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or by imprisonment for a period not to exceed 15 days, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or by imprisonment for a period not to exceed 15 days, or both. Each day's continued violation shall constitute a separate, additional violation.

ARTICLE 13

NONCONFORMITIES

§ 128-13.1 NONCONFORMING USES

- A. Except as otherwise provided in this section, any lawfully permitted use(s) of land or structure(s) existing as of the effective date of this chapter that does not comply with the requirements of this chapter shall be deemed a nonconforming use and may be continued as provided herein.
- B. Except as provided herein, no nonconforming use of a lot or lots shall be moved to another part of a lot or outside the lot, and no nonconforming use of a building or other structure shall be moved or extended to any part of the building or other structure not manifestly arranged and designed for such use at the time the use became nonconforming, and no building or other structure containing a nonconforming use shall be moved, unless the result of any such move is to eliminate or reduce the nonconformity.
- C. No nonconforming use of land, buildings, or other structures shall be changed to any use which is substantially different in nature or purpose from the existing nonconforming use, except to a use which is permitted in the district in which the land, building, or other structure is located, unless the Zoning Board of Appeals finds that the new use will have no greater injurious impact upon the character of the neighborhood and of the community than the existing nonconforming use.
- D. No nonconforming use of land, buildings, or other structures that is changed to conform or to more nearly conform to this chapter shall thereafter be changed to be less conforming.
- E. No nonconforming use of land, buildings, or other structures which shall have been discontinued shall thereafter be resumed. Any one of the following items shall constitute prima facie evidence of discontinuance:
 - 1. Any positive act indicating intent to discontinue.
 - 2. Any conscious failure to take all necessary steps to resume the nonconforming use with reasonable dispatch in the circumstances.
 - 3. Cessation of the nonconforming use of a lot and/or structure for 12 consecutive months, or for a total of 18 months during any three-year period.
 - 4. Substitution of or change to a conforming use.
- F. All nonconforming uses shall conform in all other respects to the requirements of the zoning district in which they are located.

§ 128-13.2 NONCONFORMING LOTS & STRUCTURES

- A. **Structures.** Except as otherwise provided in this section, any lawfully permitted structure existing at the time of the effective date of this chapter which does not comply with the requirements of this chapter shall be deemed to be a nonconforming structure and may be continued as provided herein.
- B. **Lots.** Except as otherwise provided in this section, any lot in existence at the time of the effective date of this chapter which does not comply with the requirements of this chapter shall be deemed to be a nonconforming lot.

1. A nonconforming lot may be built upon for any purpose permitted in the zoning district in which it is located, without a variance, despite its failure to comply with the area, shape, or frontage requirements of this chapter, provided that:
 - a) The nonconformity results solely from the adoption of this chapter (including any preceding zoning law or subsequent amendments); and
 - b) The nonconformity has not been increased by any act or event subsequent to the effective date of this chapter.
 2. A nonconforming lot satisfying Subsection B1 above shall be designated an "eligible nonconforming lot." A lot shall remain an eligible nonconforming lot until the occurrence of any of the following events:
 - a) Reduction in the lot's size, or any other increase in the degree of its nonconformity for any reason, other than the adoption of a more stringent zoning law;
 - b) Acquisition after the effective date of this chapter by the owner of adjoining land which, when added to the original nonconforming lot, forms one or more lots complying with the area, shape, and frontage requirements of this chapter. In such case no portion of the lot(s) so formed shall thereafter qualify as an eligible nonconforming lot under this section, unless and until again made nonconforming by the adoption of a more stringent zoning law; or
 - c) Acquisition after the effective date of this chapter by the owner of the lot of adjoining land which, when added to the original nonconforming lot, reduces its nonconformity but does not form a lot complying with the area, shape, and frontage requirements of this chapter. In such case, a new eligible nonconforming lot shall be formed which reflects the addition of the adjoining lot.
- C. Compliance.** Nothing herein is intended or shall be construed to affect any requirement of this chapter with respect to matters other than the area, shape and frontage of nonconforming lots. An eligible nonconforming lot shall be required to comply with all other requirements of this chapter, including those set forth in the Schedule of Uses and the Schedule of Area and Bulk Requirements, and with all other requirements of the Town, county, and state regarding the construction of buildings and supporting systems.
- D. Completion.** Notwithstanding any provision of law to the contrary, any non-conforming building, extension, or alteration for which a permit has been duly granted, the actual construction of which has been started before the effective date of this chapter, or of a pertinent amendment thereto, may be completed in accordance with plans on file with the Building Inspector, provided that such actual construction proceeds in an expeditious manner and the building is completed within one year of the adoption of this chapter.
- E. Rebuilding.** A prior nonconforming structure may be rebuilt in the event of its total or partial destruction, provided the reconstruction commences within 24 months of said destruction, and further provided that the rebuilt structure occupies the same or a lesser amount of footprint and does not exceed the original height of the totally or partially destroyed structure, according to the following:
1. In the case of a structure of 4,000 gross square feet or greater and which is used for nonresidential purposes, such rebuilding shall require site plan review and approval by the Planning Board.
 2. The rebuilding of a residential or a nonresidential structure of less than 4,000 gross square feet shall be exempt from site plan review and approval. [Amended 10-8-2008 by L.L. No. 3-2008]
- F. Repair.** A prior nonconforming structure may be repaired or restored to a safe condition, provided that such repair does not increase the size of such structure.
- G. Expansion.** Notwithstanding any other provision of this section, a nonconforming structure may be expanded, enlarged or extended, provided that said expansion, enlargement or extension complies

with the area, yard and bulk requirements for the district in which it is located and such expansion, enlargement or extension does not increase the extent of existing nonconformity.

ARTICLE 14

TERMINOLOGY

§ 128-14.1 INTENT

Words defined in this Article shall have the specific meaning assigned, unless the context expressly indicates another meaning. Words that are not defined in this Zoning Law shall have the relevant meaning given in the latest edition of Merriam-Webster's Unabridged Dictionary.

§ 128-14.2 WORD USAGE

For the purposes of this Zoning Law, certain terms and tenses used herein shall be interpreted or defined as follows:

- A. Plurality.** 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.
- B. Tense.** Words used in the present tense include the future tense. The reverse is also true.
- C. Nouns.**
 - 1. "Person" includes an association, firm, partnership, entity, or corporation or the plural of those words.
 - 2. "He" also includes the words "she" and "they."
 - 3. "Lot" shall include the word "plot," "parcel," "tract", or "site."
 - 4. "Building" includes the word "structure."
 - 5. "Premises" includes a lot and all buildings or structures thereon.
- D. Modal Verbs.**
 - 1. "Shall," "must," "will," and "may not" are mandatory or required.
 - 2. "May" is permissive and "should" is advisory or recommended, not mandatory or required.
- E. Conjunctions.** Unless the context otherwise clearly indicates, conjunctions have the following meanings:
 - 1. "And" indicates that all connected items or provisions apply.
 - 2. "Or" indicates that the connected items or provisions may apply singularly or in combination.
- F. Activity.**
 - 1. "Occupied" shall include "designed, arranged, or intended to be occupied."
 - 2. "Used" shall be deemed also to include "designated, intended, or so arranged to be used or occupied."

3. "To erect," "to construct" and "to build" a building or structure each have the same meaning and include "to excavate" for a building and "to relocate" a building by moving it from one location to another.

§ 128-14.3 MEASUREMENT

- A. When used with numbers, "up to X," "not more than X," and "a minimum or maximum of X" all include X.
- B. Unless otherwise specified, all distances shall be measured horizontally along the ground from nearest edge to nearest edge.

§ 128-14.4 LISTS & EXAMPLES

Unless otherwise expressly indicated, lists of items or examples that use "including," "such as," or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

§ 128-14.5 FRACTIONS

The following rules apply to fractional number unless otherwise expressly stated.

- A. **Minimum Requirements.** When a regulation is expressed in terms of a minimum requirement, any fractional result of 0.5 or more must be rounded up to the next consecutive whole number. For example, if a minimum requirement calling for one tree to be provided for every 30 linear feet of frontage is applied to a 50-foot dimension, the resulting fraction of 1.67 is rounded up to two required trees.
- B. **Maximum Limits.** When a regulation is expressed in terms of maximum limits, any fractional result will be rounded down to the next lower whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet is applied to a 12,500 square foot lot, the resulting fraction of 2.5 is rounded down to 2 (allowed dwelling units).

§ 128-14.6 CURRENT VERSIONS & CITATIONS

All references to other town, county, state, or federal regulations in the zoning law refer to the most current version and citation for those regulations, unless expressly indicated otherwise. When the referenced regulations have been repealed and not replaced by other regulations, zoning law requirements for compliance are no longer in effect.

§ 128-14.7 DEFINITIONS

When used in this chapter, unless otherwise expressly stated or unless the context or subject matter otherwise requires, the following definitions shall apply:

Aa

ACCESSORY DWELLING UNIT (ADU)

An additional, subordinate dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the principal dwelling, for use as a

complete, independent living facility with provision within the accessory dwelling unit for cooking, eating, sanitation, and sleeping.

ACCESSORY USE

See "use, accessory" definition.

ACCESS ROAD; ACCESSWAY

A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

ACREAGE

1. **GROSS.** The total acreage of a parcel or parcels of land proposed for subdivision and/or development, as determined by a certified survey.
2. **NET.** The gross acreage of a parcel of land minus the acreage of constrained land. It is this figure into which the minimum lot size per dwelling unit is to be divided to determine the buildable area and the buildable yield of a lot or property proposed for development.

ADAPTIVE REUSE

Contemporary use of an existing building or structure for a use other than that for which it was originally designed, intended or occupied, e.g., use of a former barn as a residential dwelling.

ADULT BUSINESS USE

Any use or business that:

1. Is any use of land, structure or location which, by the provisions of the Penal Law, is required to restrict the access thereto by minors.
2. Is an establishment, location, building or structure which features topless dancers, nude dancers or strippers.
3. Is a location, building or structure used for presenting, lending or selling motion-picture films, videocassettes, cable television or any other such visual media, or used for presenting, lending or selling books, magazines, publications, photographs or any other written materials, distinguished or characterized by an emphasis of matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below:
 - a) SPECIFIED SEXUAL ACTIVITIES:
 - i. Human genitals in a state of sexual stimulation or arousal;
 - ii. Simulated and actual acts of human masturbation, sexual intercourse or sodomy; or
 - iii. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
 - b) SPECIFIED ANATOMICAL AREAS:
 - i. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola; or
 - ii. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
4. Is the use of land, structures or location for an adult entertainment business or as an adult physical contact establishment as defined below:

- a) **ADULT ENTERTAINMENT BUSINESS** - Includes adult bookstores, adult video stores, adult theaters, adult cabarets, adult physical contact establishments, and nude modeling studios.
- b) **ADULT BOOKSTORE** - An establishment having as a substantial or significant portion of its stock-in-trade books, magazines 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 as defined herein.
- c) **ADULT VIDEO STORE** - An establishment having as a substantial or significant portion of its stock-in-trade video films, videocassettes or other films for sale or rental which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein.
- d) **ADULT THEATER** - An establishment which regularly features live performances, films, motion pictures, videocassettes, DVDs, slides or similar photographic reproductions characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas as defined herein. An adult theater shall also include drive-in theaters and establishments where such materials or performances are viewed from one or more individual enclosures or booths.
- e) **ADULT CABARET** - An establishment which features live topless dancers, exotic dancers, strippers, impersonators or similar entertainers whose performances are characterized by partial or full nudity.
- f) **ADULT PHYSICAL CONTACT ESTABLISHMENT** - Any establishment which offers or purports to offer massage or other physical contact to patrons of either gender by employees or staff of either gender. Medical offices, offices of persons licensed or authorized under the Education Law to practice massage therapy, offices of persons licensed or otherwise authorized by the Education Law as physical therapists or physical therapist assistants, and electrolysis, karate, judo and dance studios are not to be considered adult physical contact establishments.
- g) **NUDE MODEL STUDIO** - Any place where a person appears seminude or in a state of nudity or displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration. "Nude model studio" shall not include a proprietary school licensed by the State of New York or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:
 - i. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing;
 - ii. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
 - iii. Where no more than one nude or seminude model is on the premises at any one time.

AGRICULTURAL DISTRICT

A district established pursuant to Article 25-AA of the Agriculture and Markets Law.

AGRICULTURE; AGRICULTURAL USE

A property that is actively used for agricultural production, is currently receiving an agricultural tax exemption, and/or is located within an Albany County managed agricultural district as provided for by NYS Agriculture and Markets Law Article 25-AA. For a detailed list of agricultural uses and operations see §128-25.6(B).

AGRITOURISM

Activities conducted by a farmer on-farm for the enjoyment or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public’s understanding and awareness of farming and farm life.

AIRPORT

Land devoted to the storage, servicing, takeoff and landing of aircraft and the storage of fuel for the same.

ALLEY

A narrow street or passage between properties or buildings serving as a secondary means of access to abutting property.

ALTERATION

A change to, modification of, or addition to the parts of a structure or man-made improvement other than normal maintenance or repairs, or the moving of a building from one location to another.

ALTERNATIVE ENERGY SYSTEM, SOLAR

For terms associated with solar photovoltaic (PV) systems see §128-27.1.

AMATEUR RADIO COMMUNICATIONS TOWER

An accessory structure or series of structures, attached to or nonattached to a building, which are used in the transmission of amateur radio communications.

ANGLE OF REPOSE

The maximum angle at which a material will rest on a given surface without sliding or rolling as measured from the horizontal. For details on the maximum angle see 128-49.

ANIMAL CARE SERVICES

A commercial or non-profit operation that provides treatment and services for the care of domesticated animals and pets that customarily reside and are cared for within a residential dwelling.

APPLICATION, COMPLETE

An application that includes the following:

1. A completed application form together with all information concerning a proposed project in the format as specified by the applicable provisions of this chapter.
2. All application fees required by this chapter and the professional review fee escrow deposit, if any, required by the reviewing agency.
3. An environmental assessment form (EAF) or draft environmental impact statement (DEIS) assessing the potential environmental impacts of the proposed project.
4. A determination by the reviewing agency, or by the lead agency in the event of coordinated review, that the proposed project is not likely to have a significant impact on the environment (negative declaration) or the filing of a notice of completion of a draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act (SEQRA).

ASPHALT PLANT

A facility that mixes mineral aggregates and bituminous material (like crushed stone) with asphalt cement (a petroleum-based product) to create asphalt pavement material.

Bb

BACKLIGHTING

A light source placed behind a letter, graphic, or sign face to create a highlight that separates the sign from the background.

BANK

The location of the mean high-water level.

BANNER

A length of fabric or similar material, temporarily strung between two points.

BAR

An establishment engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises and that may or may not serve food.

BASEMENT

That portion of a building that is partly or completely below grade.

BED-AND-BREAKFAST

A structure where rooms are rented to guests for a maximum stay of two weeks and where meals produced on premises shall only be provided to those individuals staying at the bed-and-breakfast. The maximum number of rented rooms permitted in a bed-and-breakfast shall be limited to five. A bed-and-breakfast does not qualify as a home occupation use.

BEDROOM

All rooms in multi-family, row and group dwellings beyond one kitchen, living room and dining room or area per dwelling unit. For the purpose of determining the number of bedrooms in a proposed multi-family or townhouse dwelling, all dwelling units shall be rated as having at least one bedroom (example: studio apartment).

BICYCLE FACILITY

A facility or device that accommodates bicycling such as bicycle lanes, shared-use paths, bicycle parking devices, and signing, designed in accordance with AASHTO guidelines for bicycle facilities.

BILLBOARD

An outdoor advertising sign available on lease for the display of a commercial or public service message and which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed, or only incidentally upon such lot.

BREWERY

An enclosed building for the manufacture, processing, bottling, and packaging of malt liquors, such as beer, ale, or ciders, but not to include distilled liquors, and duly licensed by the NYS Liquor Authority. For the purposes of this Chapter, this shall include operations which include tasting rooms.

BREWERY, MICRO

A brewery operation manufacturing and selling up to 75,000 gallons of beer annually. This shall not preclude licensed brewers from manufacturing and selling beer in excess of 75,000 gallons annually

off-site. Such brewery may hold any valid brewer(s) license provided for by NYS Alcoholic Beverage Control Law; however, such operation shall be limited to the production scale provided herein.

BROADCASTING FACILITY, FCC LICENSED

Any structure or equipment used to transmit and/or receive electromagnetic signals for broadcasting purposes, requiring a license from the Federal Communications Commission (FCC).

BUFFER AREA OR BUFFER ZONE

Open space, landscape areas, fences, walls, berms or any combination thereof used to physically separate or screen one use or property from another use or property so as to visually shield or reduce noise, light, or other nuisances.

BUILDABLE AREA

The space remaining on a lot after the minimum yard, area, and bulk requirements of this chapter have been met, or that area of the lot for which a variance from said minimum yard, area, and bulk requirements has been granted by the Zoning Board of Appeals.

BUILDABLE LOT

A lot having a buildable area capable of accommodating proposed principal and accessory improvements and including, where required, an on-site water supply facility and sewage treatment system that meet the standards of the Albany County Department of Health. A buildable lot shall also adjoin and have access to an improved street or shall adjoin and have access to a paper street that will be improved as part of the development plan for the lot.

BUILDABLE YIELD

The maximum unit density for a proposed subdivision after deduction of constrained land areas.

BUILDING

Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, or chattel.

BUILDING, ACCESSORY

A detached subordinate building on a lot, the use of which is customarily incidental to that of the main or principal building. For the purposes of this chapter, temporary tents, canopies and other membrane structures that are in place for more than 30 days shall also be considered accessory buildings.

BUILDING, COVERAGE

Area covered by the principal and accessory building footprints on a lot.

BUILDING, DETACHED

A building surrounded by open space on the same lot.

BUILDING, FRONT LINE OF

The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

BUILDING, MAIN OR PRINCIPAL

A building in which is conducted the main or principal use of the lot on which said building is situated.

BUILDING AREA

The total of the areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

BUILDING FOOTPRINT

The area encompassed by a building's outer wall at ground level.

BUILDING HEIGHT

The vertical distance measured from the average elevation of the proposed finished grade at the front entrance of the building to the highest point of the roof for flat roofs, to the deckline for mansard roofs and to the median height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING INSPECTOR OR CODE ENFORCEMENT OFFICER

The Building Inspector or Code Enforcement Officer of the Town of Bethlehem, New York.

Cc**CALIPER, NEWLY PLANTED TREE**

Diameter of a newly planted tree as measured 6-inches above the ground.

CALIPER, EXISTING TREE

The diameter of an existing tree as measured at DBH (Diameter at Breast Height) which is 4.5 feet above the ground.

CAMPGROUND

Two or more cabins, tents, travel or camping trailers, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise.

CAR WASH

A building, the use of which is devoted to the washing of and cleaning of the interior and exterior of trucks and automobiles, including but not limited to one of the following types:

1. **CONVEYOR TYPE** - A car wash facility where automobiles progress through the washing process pulled by a conveyor or by some other means than their own power.
2. **DRIVE-THROUGH TYPE** - A car wash facility where automobiles are driven through the washing process under their own power.
3. **SELF-SERVICE TYPE** - A car wash facility where automobiles are washed by the driver of the automobile using machinery provided by the management of the facility.

CEMETERY

A place that is established, maintained, managed, operated, or improved and which is dedicated to and used or intended to be used for the final disposition of human remains and their memorialization and in which burial plots and vaults have been and/or are currently available to family of the property owner/operator or for purchase by the general public.

CHANNEL LETTER

A fabricated or formed three-dimensional letter illuminated by a light source, such as a tube light bulb, that is placed inside and fully enclosed within the letter. Channel lettering is a form of internal illumination.

CHANNEL LETTER, REVERSE

A channel letter that has a face and sides but no back and is pinned out from a surface so as to produce a halo effect around the letter when illuminated. Reverse channel lettering is a form of backlighting and considered to be internally illuminated.

CHARACTER

The atmosphere, identity, or physical environment that is created by the combination and variation of land uses, buildings and structures, and environmental or design elements within an area. "Character" is influenced by land use types and intensity, landscaping and natural features, transportation modes and patterns, and also by the location, size and design of structures as well as the interrelationship of all these features.

CHARGING STATION

A site with electrical ports, outlets, or electric vehicle supply equipment (EVSE) that supplies electrical power for charging one or more plug-in hybrid or electric vehicles. A charging station may be provided in an approved parking area.

CLEARING

Any activity that removes the vegetative ground cover and/or trees including, but not limited to, root mat removal and/or topsoil removal.

COLLOCATION

The placement of a wireless communication antenna on an existing telecommunication tower or other permissible structure, usually owned by another entity and supporting antenna from multiple entities.

COMMERCIAL BAKERY

A facility for producing, mixing, compounding, or baking bread, biscuits, ice cream cones, cakes, pies, buns, or any other bakery product, but does not include a restaurant or other on-premises consumption arrangement.

COMMERCIAL MESSAGE

Any message where the primary purpose of which is the commercial advertisement or promotion of a commercial product, event, or service.

COMMERCIAL VEHICLE

Any vehicle that is used for any commercial purpose or which has any business advertisement affixed to or mounted on the vehicle.

CONCRETE PLANT

The production of concrete through a manufacturing process involving the mixing of aggregates, sand, water, cement, and/or other components. This use also includes the stockpiling of bulk materials required for the process and the storage of the required equipment used in the operation.

CONSERVANCY

An establishment organized for the purpose of protecting, conserving and managing existing natural resources and valuable historic and cultural areas in order to ensure a continuous flow of recreational and social benefits to the public and to achieve sustained resource utilization. Examples of a conservancy include diffuse outdoor recreation activities, timber harvesting on a sustained-yield basis, passive agricultural uses such as pasture and range lands, and other related uses and activities. Compatible commercial uses are low-intensity and low-impact activities such as small camping or picnic facilities, aquacultural, and cottage industries when the operation is entirely contained within the primary residence, excluding outbuildings, provided that such commercial activities must not alter the character of the conservancy environment. A conservancy may also incorporate educational training and meeting rooms, with or without sleeping and eating accommodations, solely for the use of attendees.

CONSERVATION SUBDIVISION

A residential subdivision pursuant to Town Law § 278 where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be concentrated on a smaller and more compact portion of land and where a majority of the remaining land is left in its natural open space condition in perpetuity. Conservation development results in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

CONSTRAINED LAND

Land containing one or more of the following: state and/or federal protected freshwater wetlands and buffers; one-hundred-year floodplains or flood hazard areas; steep slopes of 20% and greater; and open bodies of water, including streams, ponds and lakes.

CONTRACTOR YARD

A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the contractor's trade, but excluding storage of materials or equipment for on-site or off-site sale. May include an office use accessory to the contractor trade use.

CONVENIENCE STORE; MINI MART

A retail store that is designed and stocked primarily to sell food, beverages and household supplies, having no more than 12 customer seats, to customers who purchase only a relatively few items.

CONVERSION

A change in use or occupancy of a dwelling by alteration or by other reorganization as to increase the number of families or dwelling units in a structure.

CORNICE

A horizontal decorative molding that crowns a building, such as the top edge of a façade or over an external door or window.

COURT

An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

CULTURAL OR COMMUNITY FACILITY

Any building, room, or facility designed or utilized primarily for indoor recreational, educational and civic pursuits and purposes by nearby residents and operated by the Town or a non-profit agency, but not including any retail, service, or other commercial activities.

CURB LEVEL

The elevation of the curb opposite the center of the front of the building. If a building faces on more than one street, the curb level shall be the mean of the elevations of the curbs at the center of each side or front of the building. Where no curb level or equivalent has been established by the municipal authority, the mean elevation of the finished grade immediately adjacent to the front of the building shall be considered as the curb level. If a building faces on more than one street where no curb level has been established, the mean of the elevations of the finished grade on each street side of the building shall be considered as the curb level.

Dd

DAY-CARE CENTER

A facility where unrelated persons, both children and adults, are cared for during limited periods each day under supervision.

DECK

An exterior floor surface, unroofed, extending outward from a structure as an integral part thereof, intended to accommodate multipurpose outdoor activities.

DENSITY UNIT

A dwelling unit.

DEPARTMENT OF ECONOMIC DEVELOPMENT AND PLANNING

The Department of Economic Development and Planning of the Town of Bethlehem, New York, also sometimes referred to as "Department."

DEVELOPABLE ACREAGE

The amount of land area left for development after subtracting the constrained land area from the total area of the project parcel.

DEVELOPMENT PLANNING COMMITTEE

A committee appointed by the Director composed of staff members of various Town Departments involved in review of land use applications.

DIAMETER AT BREAST HEIGHT (DBH)

Diameter at Breast Height, which is measured 4.5 feet above the ground.

DIRECTOR

The Director of the Department of Economic Development and Planning of the Town of Bethlehem.

DISTILLERY

An enclosed building for the manufacture, processing, bottling, and packaging of distilled liquors, such as vodka, gin, whiskey, or tequila, duly licensed by the NYS Liquor Authority. For the purposes of this Chapter, that shall include operations that may include tasting rooms.

DISTILLERY, MICRO

A distillery manufacturing and selling no more than 75,000 gallons of spirits annually. Such distillery may hold multiple licenses as provided for by the NYS Alcoholic Beverage Control Law; however, such operation shall be limited to the production scale provided herein.

DISTRIBUTION FACILITY

An establishment engaged in the storage and movement of goods, such as manufactured products, supplies, equipment or food, or parcels/mail. This term excludes bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions. Goods are generally delivered to other firms or the final consumer.

DISTURBANCE

All activities involving the movement, placement, removal, transfer or shifting of soil and/or vegetation, including but not limited to any activity involving the clearing, excavation, filling, grading, grubbing,

regrading or any other activity that alters land topography or vegetative cover, or the building of structures or the placement of improvements on land, including the construction of individual sidewalks, paths, roads or driveways. The condition of land disturbance shall be deemed to continue until the area of disturbance is returned to its original state or to a state complying with a permit for such disturbance granted in accordance with this chapter.

DOCK

An accessory structure, extending from land into a body of water, for purposes of providing access to watercraft, which craft may be affixed thereto when not in use.

DRIVE-IN; DRIVE-THROUGH

An establishment which, by design, physical facilities, service or by packaging procedures, encourages and permits customers to receive services and obtain goods while remaining in their motor vehicles.

DRIVEWAY

Any area reserved on any lot, site or parcel of land for the purpose of providing vehicular access from an access road or state, county or Town highway to principal and accessory structures located on said lot, site or parcel.

DRIVEWAY, SHARED

A single driveway serving two or more adjoining lots.

DRY-CLEANING SERVICE

An establishment which launders or dry cleans articles of clothing or fabric dropped off on the premises directly by the customer, or where articles are dropped off, and picked up by the customer, but where laundering or dry cleaning is done elsewhere.

DWELLING

A building designed or used as the living quarters for one or more families. The term "dwelling," "single-family dwelling," "two-family dwelling" or "dwelling group" shall not be deemed to include a motel, boardinghouse, tourist home or guest house.

DWELLING, MULTI-FAMILY

A building or portion thereof containing three or more dwelling units on one plot but which may have joint services or joint facilities, or both, also known as a "multiple dwelling," and includes apartment, townhouse, cooperative, and condominium developments. Multi-family dwellings may also include dwellings limited to a specific number of dwelling units, including:

1. **FOUR-FAMILY DWELLINGS** - A building designed for or occupied exclusively by four families living independently of each other.
2. **THREE-FAMILY DWELLINGS** - A building designed for or occupied exclusively by three families living independently of each other.

DWELLING, SINGLE-FAMILY

A detached building designed for or occupied exclusively by one family.

DWELLING, SINGLE-FAMILY ATTACHED

A dwelling unit that sits on its own individual lot, has at least one wall in common with an adjoining dwelling unit, and has its own front and rear access to the outdoors.

DWELLING, TWO-FAMILY

A building designed for or occupied exclusively by two families living independently of each other.

DWELLING UNIT, UPPER-FLOOR

A dwelling unit located within a mixed-use or multi-story building on any floor other than the ground floor.

DWELLING UNIT

A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. A trailer, motor home, travel or camping trailer, boarding- or rooming house, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging, nursing or other similar home, or other similar structure shall not be deemed to constitute a “dwelling unit.”

Ee**EDUCATIONAL INSTITUTION**

A nonpublic or private school, college, university, vocational school, or academy.

ELEVATION

The elevation, in feet, above mean sea level, as determined from the nearest United States Coastal and Geodetic benchmark of the principal building to be sited on a lot.

ENERGY STORAGE SYSTEM

A device or group of devices that stores energy, including a Battery Energy Storage System (BESS), typically from the electric grid or renewable sources, and releases it later to supply power when needed. These systems use various technologies like batteries, capacitors, inverters, and other electrical equipment.

EXCAVATION

Any activity that removes or disturbs surface or subsurface conditions of land, lakes, ponds or watercourses.

Ff**FABRICATION SHOP**

A use involving the construction of machines, tools and structures from various raw materials. Fabrication shops generally concentrate on the metal preparation, welding and assembly aspects, while the machine shop is more concerned with the final assembly, fitting and finishing of the project. As used herein the term includes a machine shop and welding shop but excludes auto body repair shops.

FACADE

The exterior wall or walls of a building which identify the front of a building and which typically face a street or public way.

FAMILY

1. Any number of persons occupying a single nonprofit dwelling unit, related by blood, marriage or legal adoption, living and cooking together as a single housekeeping unit.
2. Any number of persons occupying a single nonprofit dwelling unit, not exceeding six adults living and cooking together as a single housekeeping unit where all were not related by blood, marriage or legal adoption.

3. Notwithstanding the provisions of this definition, a group of unrelated persons numbering more than six shall be considered a family upon a determination by the Zoning Board of Appeals that the group is the functional equivalent of a family pursuant to the standards enumerated in Subsection **D** below. This presumption may be rebutted, and the unrelated individuals may be considered the functional equivalent of a family for the purposes of this chapter by the Zoning Board of Appeals if such group of individuals exhibits one or more characteristics consistent with the purposes of zoning restrictions in residential districts.
4. In determining whether a group of more than six unrelated persons constitutes a family for the purpose of occupying a dwelling unit, as provided herein, the Zoning Board of Appeals shall utilize the standards enumerated herein in making said determination. Before making a determination under this subsection, the Zoning Board of Appeals shall hold a public hearing.
 - a) In making a determination the Zoning Board of Appeals shall find that:
 - i. The group is one which, in theory, size, appearance and structure, resembles a traditional family unit.
 - ii. The group is one that will live and cook together as a single housekeeping unit.
 - iii. The group is of a permanent nature and is neither a framework for transient or seasonal living nor merely an association or relationship that is transient or seasonal in nature. Nothing herein shall preclude the seasonal use of a dwelling unit by a group which otherwise meets the standards of this subsection at its permanent residence.
 - b) Any determination under this subsection shall be limited to the status of a particular group as a family and shall not be interpreted as authorizing any other use, occupancy or activity. In making any such determination, the Board of Appeals may impose such conditions and safeguards as the Board of Appeals shall deem necessary or advisable in order to maintain the stability and character of the neighborhood and protect the public health, safety and welfare.
5. In no case shall a dwelling be occupied by more than two adults to a conventional bedroom.
6. Persons occupying group quarters such as a dormitory, fraternity or sorority house or a seminary shall not be considered a family.

FARM EQUIPMENT STORAGE, SALES, SERVICE, AND REPAIR

A use where farm equipment and tools that are intended for use in farming operations are stored, sold, and repaired. This includes, but is not limited to combines, tractors, implements, and motor attachments. The use does not include motor vehicles.

FARM LABOR HOUSING

Housing in accordance with NYS Agriculture and Markets Law, intended for farmworkers, including seasonal or year-round employees and their families, as part of a farm operation.

FARM STAND

A structure used for the display and sale of farm products grown on the property on which the farm stand is located.

FARMSTEAD

A group of buildings and adjacent service areas designed and located in such a manner as to support the function of a farm. Structures may include but are not limited to farmstead homes, barns, machinery sheds, granaries, pump houses, poultry coops and garages. Service areas may include a barnyard, vehicle or machinery holding spaces, corrals, livestock pens, livestock loading and unloading areas, etc.

FARMSTEAD DESIGN

A site plan layout that incorporates design elements typical of a farmstead, including buildings used for residential and agricultural purposes, outbuildings, run-in sheds, split-rail fences, ponds, field gates, stone walls, pasture, open fields and wood lots, that, taken as a whole in their agricultural setting, embody the gradual development of upstate New York farms over the centuries.

FILL

Any act by which earth, sand, gravel, rock or any other similar material is deposited, placed, pushed, pulled or transported to a place other than the place from which it was excavated and shall include the conditions resulting therefrom.

FLOOR AREA, BUILDING

The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use, but including the areas of roofed porches and roofed terraces. All dimensions shall be measured between the exterior faces of walls.

FLOOR AREA, LIVABLE

In accordance with the New York State Building Code, all spaces within the exterior walls of a dwelling unit, exclusive of garages, cellars, heater rooms, basement rooms having a window area of less than 20% of the square foot area of the room, unheated porches and breezeways, but shall include all spaces not otherwise excluded, such as principal rooms, utility rooms, bathrooms and all closets and hallways opening directly into and appurtenant to any rooms within the dwelling unit, and all attic spaces having a clear height of six feet from the finished floor level to the pitch of the roof rafter with a clear height of seven feet six inches from the finished floor level to the ceiling over 50% of the area of such attic space.

FUEL DELIVERY SERVICE

A fuel delivery business is a service that delivers fuel directly to the customer's location, including homes, businesses, and other locations.

FUNERAL HOME OR MORTUARY

An establishment in which the dead are prepared for burial or cremation. The facility may include a chapel or other designated space for the conduct of funeral services and informal gatherings, and/or display of funeral equipment, caskets, or personal items.

FOOD PROCESSING

The preparation, processing, or canning and packaging of food products.

FOOD PROCESSING ESTABLISHMENT

A manufacturing establishment that produces, processes, cans and/or packages food for off-site consumption where the gross floor area of the establishment exceeds 2,500 square feet, and/or less than 25% of the gross floor area is devoted to on-site display and retail sale of such products to the general public. Food processing establishments may include, but are not limited to, facilities involved in the production, processing, canning or packaging of bakery products, sugar and confectionary products, dairy products, fats and oil products (exclusive of rendering plants), fruit and vegetable products, grain mill products, meat and poultry products (excluding facilities that slaughter animals), seafood products, and miscellaneous food preparation from raw products, but excluding restaurants, food stores and similar establishments where such activity is customarily carried on as a secondary part of the business.

Gg

GARAGE, COMMERCIAL STORAGE

A principal building or structure used for the storage of commercial motorized vehicles and equipment, including commercially registered passenger vehicles and equipment.

GARAGE, PARKING

A principal or accessory building or portion thereof used for the parking and storage of vehicles for a fee and which is available to the general public.

GARAGE, PRIVATE

An accessory building of not more than three bays and where each bay is a maximum width of 12 feet, located on the same lot as the principal use, and that is designed and used for the storage of privately owned vehicles and personal equipment associated with the owner or occupants of the principal use, and which is erected and maintained for the personal, noncommercial use by the owner or occupants of the premises upon which it is erected. No business, occupation or service connected with passenger vehicles or any commercial use shall be permitted in a private garage.

GASOLINE/FUEL SALES

Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle minor accessories, and which may or may not include facilities for lubricating or otherwise servicing motor vehicles, but not including the painting thereof by any means. A canopy over the fuel dispensing stations shall be considered to be part of the principal structure.

GASOLINE/FUEL EXPANSION

Expansion of existing gasoline or fuel sales is measured by an increase to the quantity of pumps.

GRADE, ESTABLISHED

The elevation of the center line of the streets as officially established by the Town authorities.

GRADE, FINISHED

The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

GRADING

The alteration of the surface or subsurface conditions of land, lakes, ponds or watercourses by excavation or filling.

GRUBBING

The removal of stumps and root material from the soil mantle.

Hh

HABITABLE STRUCTURE

A building or structure occupied, or intended for occupancy, by people for residential, commercial, industrial, administrative, recreational, educational, religious, cultural, or other purposes.

HIGHWAY BY USE

A highway by use is established when land has been maintained by the town highway department and used by the public as a highway for at least ten years.

HIGHWAY FRONTAGE

That portion of any lot which bounds a street, as measured along the property line which is coincidental with such street right-of-way or center line, or on a corner lot in which case frontage is along both streets.

HISTORIC SITE; HISTORIC BUILDING; HISTORIC DISTRICT

A site, a building, or a district that is listed on the National Register of Historic Places, or that is listed on the New York State Register of Historic Places, or for which an application for such listing has been submitted by the owner of said site, building or district.

HOME OCCUPATION

A nonresidential use, occupation or business activity operated for financial gain in, or directed from, a residential dwelling unit or accessory building by one or more family members residing within that dwelling unit and where such use is clearly secondary and subordinate to the existing principal residential use.

HOTEL

A building containing 41 or more rooms intended or designed to be used or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests and where a kitchen and dining room are generally provided within the building or in an accessory building. Small service kitchens may be provided in individual rooms. A hotel may also include incidental uses such as conference rooms or banquet rooms. Additional commercial services proposed as part of a hotel and open to the general public, such as restaurants, taverns, or spas, shall be considered separate uses for the purposes of this Chapter and shall be permitted in accordance with district regulations.

ii

INCENTIVE ZONING

Adjustments to the requirements of the Town of Bethlehem Zoning Law in exchange for the provision of amenities, facilities, resources, or other such development asset deemed to be of benefit to the Town. Such incentives or bonuses shall be considered in accordance with Article 46 of Chapter 128 of the Town Code.

INDUSTRIAL, HEAVY

Includes a wide range of assembling, fabricating, and manufacturing activities, such as food processing, manufacturing and packaging; grain storage, processing and distribution; concrete and asphalt batch plants; manufacture of products and merchandise involving the use of chemicals, processes or materials that might constitute a potential explosive or environmental hazard; slaughter plants, packing houses, animal by-products rendering, and other such animal processing activities; automobile salvage and reclamation yards and facilities; processing or production of oil, natural gas, geothermal resources or other hydrocarbons; foundries; and truck terminals, delivery services, moving and storage facilities, and truck maintenance.

INDUSTRIAL, LIGHT

Includes limited manufacturing, wholesaling, warehousing, research and development, and related commercial/service activities, such as beverage bottling, distribution and warehousing; contractors' offices and storage buildings, including general contractors, plumbers, electricians, heating, ventilating and air-conditioning contractors, masons, painters, refrigeration contractors, roofing contractors, and other such construction occupations; distribution centers; ice production, storage, sales and distribution; laboratories for research, testing and experimental purposes; machine shops; manufacture of computers, computer peripherals, electrical appliances, electronic equipment, medical instruments, and other similar products from previously manufactured components; manufacture of precision instruments

and equipment such as watches, electronics equipment, photographic equipment, optical goods and similar products; manufacturing of articles or merchandise from previously prepared or natural materials such as cardboard, cement, cloth, cork, fiber, glass, leather, paper, plastics, wood, metals, stones and other such prepared materials; and printing and publishing.

IMPERVIOUS AREA

All impermeable surfaces that cannot effectively infiltrate rainfall. This includes paved, concrete and compacted gravel surfaces (i.e. parking lots, driveways, roads, runways, and sidewalks); building rooftops and miscellaneous impermeable structures such as patios, pools, and sheds.

IMPERVIOUS SURFACE, GROSS

The total area of all buildings, structures, and surfaces that cannot effectively infiltrate rainfall.

INFILL DEVELOPMENT

Development of vacant land between two other lots where there already exists a principal building on each. Refer to figure in §128.30.12.

INN

A building or portion thereof kept, used, maintained, advertised or held out to the public, containing 40 or fewer units used for sleeping accommodations for guests, and providing meals and other incidental services to guests. Additional commercial services proposed as part of an inn and open to the general public, such as restaurants, taverns, or spas, shall be considered separate uses for the purposes of this Chapter and shall be permitted in accordance with district regulations.

Jj

JUNKYARD OR AUTOMOBILE SALVAGE YARD

Any place of storage or deposit, whether in connection with another business or not, where two or more old or secondhand motor vehicles, whether registered or unregistered, no longer intended or in condition for legal use on the public highways are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose. Such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles.

Kk

KEEPING OF ANIMALS

For a detailed description of keeping of animals, see §128-25.3.

KENNEL

A parcel of land used for the harboring of more than three dogs that are more than six months old or more than 12 dogs that are under six months of age. Any dog owner whose dog(s) bear(s) more than one litter of puppies that are of registered pedigree and offered for sale shall, for the purposes of this chapter, be considered as maintaining a dog kennel and must adhere to all regulations governing the same.

LI

LABORATORY

A facility for testing, analysis, and/or research. Examples of this use include medical labs, soils and materials testing labs, and forensic labs.

LAND DIVISION

Any division of a parent parcel so as to create one new lot fronting on an existing street and not involving the construction of any new streets or roads, not involving a resubdivision, and not adversely affecting the development of the remainder of the parcel or any adjoining property and meeting the criteria of this chapter and not in conflict with any provision or portion of Chapter 103, Subdivision Regulations, or this chapter.

LAUNDRY

An establishment which launders or dry cleans articles of clothing or fabric dropped off on the premises directly by the customer, or where articles are dropped off, and picked up by the customer, but where laundering or dry cleaning is done elsewhere.

LIVE/WORK UNIT

A single dwelling unit (e.g., studio, loft, apartment, or single-family home) consisting of both a commercial and a residential component where the uses share a common wall or floor with direct access between the residential and non-residential area. Live-work units are differentiated from home occupations in that the residential and/or commercial use need not be subordinate to the other in terms of floor area or intensity of use. Live/work units typically occupy a larger share of the dwelling and/or include a larger-scale commercial element such as retail sales or on-site production.

LOT

Land occupied or to be occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this chapter, having not less than the minimum area and width required by this chapter for a lot in the district in which such land is situated and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of state law to be adequate as a condition of the issuance of a building permit for a building on such land.

LOT, CORNER

A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°.

LOT, DEPTH OF

The mean horizontal distance between the front and the rear lot lines, measured in the general directions of its side lot lines.

LOT, FLAG

A lot which has sufficient frontage on a public street to comply with the minimum lot frontage requirements of this chapter but which is shaped in such a manner that the portion of the lot closest to the street can only be used for access purposes and not as a yard or buildable area, and whose width some distance back from the right-of-way is sufficient to provide proper space to meet the yard and setback requirements.

LOT, HOUSE

In cluster subdivisions, that portion of the subdivision reserved as a development area for the location of dwelling units and constituting lands outside of the protected open space areas.

LOT, INTERIOR

A lot other than a corner lot.

LOT, MOBILE HOME

The space that shall be assigned or used and occupied by any one mobile home.

LOT, THROUGH

An interior lot having frontage on two parallel or approximately parallel streets but which is not a corner lot.

LOT COVERAGE, MAXIMUM

The percentage of the area of the lot covered by impervious surface. This definition includes all buildings and structures as well as impermeable surfaces such as driveways, decks, patios, pools, parking areas, and other similar lot improvements. Where noted by this zoning law, maximum accessory structure coverage shall include only those impervious structures and surfaces incidental to the property.

LOT LINE

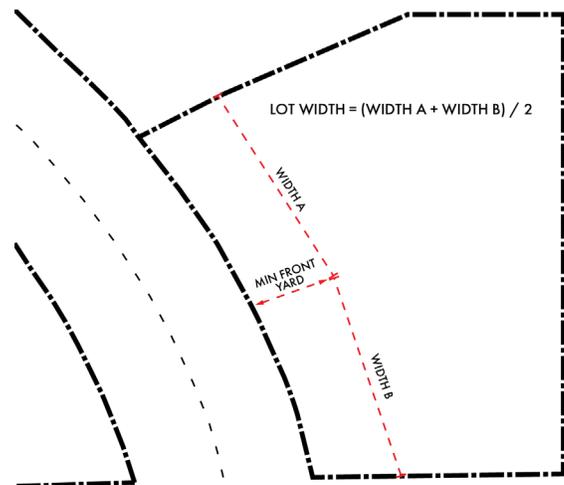
Any line dividing one lot from another.

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 wide lying farthest from the front lot line.

LOT WIDTH

The mean distance measured at the required minimum front yard depth along a line at right angles to the depth of lot line and parallel to the street right-of-way (ROW) line (see graphic at right).



LUMBERYARD

A parcel or building or both where bulk supplies of lumber and other building materials are stored, offered or kept for retail sale and may include storage on or about the premises of such material. Not included in this category are retail sales of furniture, appliances or other goods not ordinarily used in building and construction.

LUMINAIRE

A complete lighting unit, consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power. When used, includes ballasts and photocells. Commonly referred to as "fixture."

LUMINAIRE, FULL CUTOFF / SHIELD

A luminaire that does not emit light at or above a horizontal plane running through the lowest point on the luminaire.

LUMINAIRE, UNSHIELDED

A luminaire that emits light above the horizontal plane running through the lowest point on the luminaire.

LUMINAIRE, SEMI-SHIELDED

A luminaire that does not allow light to escape above a specified angle measured from a vertical line from the center of the lamp extended to the ground. See Article 35.

Mm**MAIN FLOOR**

The largest area formed by the projection of a horizontal plane through the livable floor area that is enclosed by the exterior walls of the building.

MANUFACTURING

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

MARIJUANA / CANNABIS USE

For the purposes of this Chapter, the definitions provided by the NYS Office of Cannabis Management shall apply. This includes but is not limited to the following. Where this Zoning Law conflicts with NYS Law, the NYS provided definitions shall take precedence.

1. **CONSUMPTION SITE** — A building, structure, or lot licensed by the Cannabis Control Board for on-site consumption of cannabis product. An on-site consumption license authorizes the acquisition, possession, and sale of cannabis from the licensed premises of the on-site consumption licensee to cannabis consumers for use at the on-site consumption location.
2. **CULTIVATION** — Growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants for sale to certain other categories of cannabis license- and permit-holders. A cultivator's license authorizes the acquisition, possession, distribution, cultivation and sale of cannabis from the licensed premises of the adult-use cultivator to a licensed processor.
3. **DELIVERY** — The direct delivery of cannabis products by a retail licensee, microbusiness licensee, or delivery licensee to a cannabis consumer. Delivery licenses may not have a total of more than twenty-five individuals, or the equivalent thereof, providing fulltime paid delivery services to cannabis consumers per week under one license
4. **DISTRIBUTION** — Any operation that sells at wholesale any cannabis product, except medical cannabis, for the sale of which a license is required under the provisions of NYS Law. A distributor's license authorizes the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use processor, adult-use cooperative, microbusiness, or registered organization authorized to sell adult use cannabis, to duly licensed retail dispensaries, on-site consumption sites and adult-use delivery licensees.
5. **MICROBUSINESS** — A duly licensed operation authorized for the limited cultivation, processing, distribution, delivery, and sale of their own adult-use cannabis and cannabis products.
6. **PROCESSING** — Extracting concentrated cannabis and/or compounds, blending, extracting, infusing, or otherwise manufacturing concentrated cannabis or cannabis products. A processor's license authorizes the acquisition, possession, processing, and sale of cannabis from the licensed premises of adult-use cultivators to licensed distributors.
7. **RETAIL DISPENSARY** — Any establishment that sells at retail any cannabis product, to cannabis consumers. A retail dispensary license authorizes the acquisition, possession, sale and delivery of cannabis from the licensed premises of the retail dispensary by such licensee to cannabis consumers.

MARINA

1. Any waterfront facility which provides accommodation services for vessels by engaging in any of the following:

- a) The sale of marina products or services.
 - b) The sale, lease, rental or charter of two or more vessels of any type.
 - c) The sale, lease, rental or any other provision of storage, wharf space or mooring, or launching for two or more vessels not registered to the owner of said facility, members of the owner's immediate family, or overnight guests on said property.
2. Any campground or travel trailer park that provides boats coincidentally with the rental of camping spaces or rental of parking spaces for automobiles shall be deemed to be a marina.

MEAN

A measure of central tendency. The mean of a set of numbers is the arithmetic average.

MEDIAN

When data is arranged in order of magnitude, the middle item (i.e., half above and half below) is the median. If the number of items is even, the median is the average of the two middle items.

MINING; MINERAL EXTRACTION

Use of land for the purpose of extracting and selling stone, sand, gravel, or other minerals, as defined in § 23-2705 of the Environmental Conservation Law, not including the process of preparing land for construction of a structure for which zoning approvals and a building permit have been issued.

MIXED-USE BUILDING

A principal structure in which are located a variety of uses, including residences, offices, retail, entertainment and recreation.

MIXED-USE DEVELOPMENT

Use of land and/or a building or structure for a variety of complementary and integrated uses, such as residential, office, retail, entertainment, and recreation.

MOBILE HOME

A dwelling unit manufactured in one or more sections, designed for long-term occupancy, containing sleeping accommodations, a flush toilet, a tub or shower, bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems, and designed to be transported after fabrication on its own permanent chassis and/or wheels to the site where it is to be occupied as a complete dwelling. A recreational vehicle is not included in this definition.

MOBILE HOME PARK

Any lot on which two or more mobile homes are located, subject to the provisions of Chapter 115, Trailers and Trailer Camps, of the Code of the Town of Bethlehem.

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, but does not include boardinghouses.

MOTOR VEHICLE

A vehicle, machine, bus, tractor, truck trailer or semi-trailer, or boat propelled or drawn by mechanical power and used upon streets or waterways in the transportation of property or passengers, but does not include any locomotive or car operated exclusively on a rail, rails, or track.

MOTOR VEHICLE REPAIR SHOP

A building or portion of a building arranged, intended, or designed for making repairs to motor vehicles, their mechanical systems and their body structure, including painting, but excluding the sale of petroleum products.

MOTOR VEHICLE SALES

A building and/or area arranged, intended or designed to be used for the rental, lease, sale and/or resale of motor vehicles, new or used.

MULTIPLE USE PATH

Paved or gravel surface that accommodates pedestrians, bicyclists, and other types of non-motorized users.

MUNICIPAL OR PUBLIC SERVICE USE

A building, structure, lot, or other property occupied by a municipal authority, such as a local governmental agency.

MURAL

Any pictorial or graphic representation painted on an outside wall, facade, or affixed directly to an exterior wall of a principal building containing less than three-percent text.

Nn

NATURAL MATERIALS

Any physical matter that is part of the earth.

NONCONFORMING BUILDING OR STRUCTURE

A building, structure or other improvement that does not conform to the area, yard or bulk regulations of this chapter.

NONCONFORMING LOT

A plot of land which does not conform to the area, yard or bulk regulations of this chapter.

Oo

OFFICE, ADMINISTRATIVE OR PROFESSIONAL

The use of a building or structure for the operation of day-to-day activities that are related to record keeping, billing, personnel, and logistics, within an organization. This shall also include the workplace of any person who earns their living from a specified professional activity, such as an accountant, engineer, architect, or financial planner. This shall not include medical professionals.

OFFICE OR CLINIC, MEDICAL

A facility for the diagnosis and/or treatment of outpatients by medical professionals. This may include a group practice in which several physicians or medical professionals work cooperatively. Medical professionals include, but are not limited to, dermatologists, doctors, dentists, or psychiatrists.

OPEN SPACE

Land left in a natural state for conservation and agricultural purposes or land landscaped for scenic purposes, devoted to active or passive recreation, or devoted to the preservation of distinctive architectural, historic, geologic or botanic sites. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, or occupied by any structure. Open space may be

included as a portion of one or more large lots or may be contained in a separate open space lot but shall not include private yards within 50 feet of a principal structure.

OUTDOOR STORAGE

The placement of goods in an area outside the principal structure for ancillary storage purposes to support the primary operation of a nonresidential use located inside an adjacent or nearby building.

OVERLAY DISTRICT

A district, with supplementary regulations, which is superimposed upon existing use districts.

OWNER

The owner of record of a tract or parcel, the subdivision of which requires approval of the Planning Board, or a person or persons holding an option to purchase a tract or parcel, contingent only upon receipt of Planning Board approval of a proposed subdivision of such tract or parcel. The owner may be represented by a duly authorized agent or representative in the conduct of business before the Board, except in those instances specified hereafter that require the appearance of the owner in person.

Pp

PARENT PARCEL

A parcel of land legally in existence on the effective date of this chapter. For purposes of this chapter the parent parcel shall be deemed to be that lot, parcel or tract of land owned by the person or persons as shown on the records of the Town of Bethlehem Assessor's office as of the effective date of this chapter.

PARKING LOT, JOINT

A parking lot shared by and serving two or more land uses in instances where said land uses are not located on the same building lot. Joint parking lots may be located on a building lot(s) independent of the use(s) it is intended to serve, or on one or more of the lots so served.

PARKING SPACE

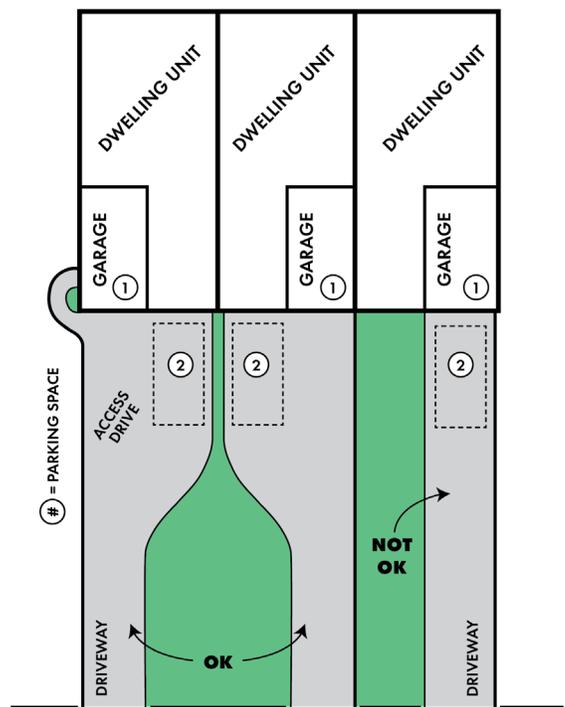
An off-street space available for the parking of one motor vehicle, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street, driveway or alley (see illustration at right).

PEDESTRIAN-ORIENTED

Refers to a pedestrian-friendly design policy providing clear, comfortable pedestrian access to residential and nonresidential areas as well as providing for the construction of buildings, sites, and amenities to be human-scaled, purposefully engaging and accommodating pedestrians.

PEDESTRIAN PATH

A continuous designated route consisting of a concrete or asphalt surface, which may include striping, to indicate the path for pedestrian or mobility device travel.



PERFORMANCE STANDARDS

Measurable standards imposed under this chapter to ensure that a proposed use can operate or locate in a particular district without exceeding clearly defined standards of tolerance in areas such as noise, odor, smoke, lighting, glare, dust, vibration, and other potentially objectionable characteristics.

PLANNED DEVELOPMENT DISTRICT

A mixed-use development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements, uses and structures that exceed the permitted scale, density, or intensity of use in the district, as well as uses not otherwise allowed by the underlying zoning.

PLANNING BOARD

The Planning Board of the Town of Bethlehem, New York.

PORCH

A roofed, screened or unscreened, veranda, stoop, deck, access ramp, steps or the like providing or having access to a principal structure.

PROCESSING

Any mechanical manipulation of excavated earth material, including blasted rock, including crushing, screening, blending, washing, and any procedure that changes the size of the particles or the particle size distribution or gradation from in situ characteristics, including that of blasted but unexcavated rock. "Processing" also includes any mechanical combining or blending of earth materials from one or more sources in order to manufacture a product with certain specification requirements. "Processing" does not mean simply excavating and loading earth material directly into a transport vehicle.

PUBLIC GATHERING SPACE

Public or private outdoor space where the public is directly or indirectly invited to visit or permitted to congregate. Such areas may include, but are not limited to, pedestrian plazas, courtyards, squares, and pocket parks. The gathering space shall not be used for parking, loading, or motor vehicle access, except emergency and maintenance vehicular access.

PROPERTY

Any lot or parcel of land.

PUBLIC SEWER OR PUBLIC WATER

Sewage disposal and water supply systems accepted by the Town Board as meeting the standards required for municipal operations.

PUBLIC UTILITY

The use of land, buildings and/or structures by a public agency or private entity for the purpose of producing or providing water, sanitary sewer, drainage, electric power, natural gas, steam, telephone, cable television, internet, or other power, heating, utility or communication service to the general public over a fixed network of collection, transmission and/or distribution lines, and whose services and/or rates are regulated by a federal, state or local government entity. For the purpose of this chapter, "public utility" shall not include the fixed collection, distribution and transmission lines of said utility, administrative offices, equipment storage yards, maintenance yards or similar support operations. "Public utility" shall also exclude solar PV systems and telecommunication facilities regulated under this chapter.

REBUILT

For the purpose of interpreting the off-street parking regulations found at § 128-56 of this chapter, the term "rebuilt" shall mean to tear down or demolish a building, including its major structural components, and to build it again. The term "rebuilt" shall not apply to activities such as remodeling, rehabilitation, restoration or repair to a building, even if such activity is extensive.

RECREATION OR ENTERTAINMENT USE, INDOOR

Establishments providing amusement, entertainment, or recreational services occurring within a fully enclosed structure for a fee or admission charge, such as: arcades containing coin-operated amusements and/or electronic games; bowling alleys; movie theaters; laser tag businesses; indoor play center (rock climbing or inflatable party place); indoor sports fields, courts, or arenas; swimming pools; and other indoor activities determined to be substantially similar to the above. Accessory uses may be permitted to include the preparation and serving of food and/or the sale of equipment related to the primary use.

RECREATION OR ENTERTAINMENT USE, OUTDOOR

Establishments providing amusement, entertainment, or recreational services occurring within in an open area or partially enclosed structure for a fee or admission charge, such as: outdoor pools, sports fields or courts, concert venues, outdoor drive-in theaters, amusement parks or rides, golf courses (including miniature), or other outdoor activities determined to be substantially similar to the above. Accessory uses may be permitted to include the preparation and serving of food and/or the sale of equipment related to the primary use.

RELIGIOUS INSTITUTION

A structure, together with its accessory structures and uses, where persons regularly assemble for worship ceremonies and related activities, and where such facilities are controlled and maintained by a religious organization. Accessory structures and uses may include, but are not limited to, a rectory, convent, school, meeting hall, administrative office, licensed day care, playground, cemetery or other related accessory use commonly associated with a religious institution, where said accessory use(s) is sponsored and operated by the religious organization.

RESIDENTIAL CARE FACILITY

A multi-unit residence building (or buildings) designed for and restricted to the housing of persons in which personal and health-related services (such as congregate meals, housekeeping, homemaking, transportation, social activities, personal care, counseling, and supervision) are provided to residents, and where compensation and/or reimbursement of costs is paid to an operator pursuant to state and/or federal standards, licensing requirements, or programs funding such services. (Comparable common terms include assisted living facilities, nursing homes, and convalescent homes.)

RESTAURANT

Any establishment whose principal business is the retail sale of foods, which includes all edible and drinkable substances, in a ready-to-consume state for consumption on the premises or for delivery or carry-out.

RETAIL BUSINESS

Traditional establishments, such as florists, lumber and hardware stores, pharmacies, grocery stores, convenience stores, stationery stores, bookstores, video-rental stores, clothing stores, department stores, shoe stores, antique stores, etc., that sell goods or merchandise to the general public for personal or household consumption, but not including an adult business use. Take-out food establishments shall also be considered a retail use, provided they have no more than 12 seats for on-site consumption by customers.

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.

RIGHT-OF-WAY

A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, railroad, electrical transmission line, oil or gas pipeline, waterline, sanitary line, storm sewer line, or other similar uses and which exists for the purpose of allowing passage over the property of another.

Ss

SELF-STORAGE, INDOOR

A building consisting of indoor, individual, self-contained, and secured units offered for rent to the general public for the purpose of storing personal property. The self-storage definition does not include outdoor storage or on-demand portable storage bins.

SENIOR HOUSING

Housing opportunities specifically marketed to and intended for residents aged 55 years or older.

SERVICE BUSINESS

An establishment primarily engaged in rendering services to businesses on a fee or contract basis, such as advertising and mailing, building maintenance, beauty shop, personal care services, unemployment service, office equipment rental and leasing, commercial research, development and testing, photo finishing, and personal supply services.

SETBACK

The minimum horizontal distance from a property line to any structure, roadway, parking area, accessory building or other such improvement on a lot, except driveways.

SEQRA / SEQR

The State Environmental Quality Review Act provided for by Article 8 of the NYS Environmental Conservation Law.

SHOPPING CENTER; SHOPPING MALL

A group of commercial establishments, having three or more retail stores or more than 20,000 square feet devoted to retail use, that are planned, approved, constructed, maintained and/or managed as a single entity, with shared customer and employee parking provided on site, provision for goods delivery separated from customer access, and having a common plan of development for vehicular circulation, parking, infrastructure, lighting, landscaping and/or signage.

SHORT-TERM RENTAL (STR)

A dwelling unit, including the surrounding land area, structures, and amenities of the lot on which it is located, that is rented, in whole or part, by the owner or occupant of the dwelling to any person or entity for a period of less than 30 consecutive nights. Motels, hotels, inns, and bed and breakfasts are excluded from this definition. For land and building use classification, assessment, occupancy tax, and utility billing purposes, an STR shall be considered a transient commercial use or business.

SIGN

A use of land, structure or material for the purpose of conveying information, as a name, direction, warning, or advertisement, that is prominently displayed for public view and that consists of letters or symbols formed, inscribed or mounted on wood, metal, masonry or any other material. The term "sign"

shall be limited to those signs that are visible to the public from a street, walkway or neighboring property, that are displayed indoors or outdoors.

1. **SIGN, A-FRAME** — A freestanding sign that is comprised of two sign faces diverging at an angle of no more than 45 degrees from their adjoined edge.
2. **SIGN, AWNING or CANOPY** — A sign that is part of or attached to a roof-like protective cover of canvas or other flexible material over a door, entrance, window, or outdoor service area that projects from the façade of a structure.
3. **SIGN, BILLBOARD** — An outdoor advertising sign available on lease for the display of a commercial or public service message and which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed, or only incidentally upon such lot.
4. **SIGN, DIGITAL** — A sign that utilizes computer-generated messages or some other electronic means of message display. This may include, but is not limited to, signs using technologies such as LCD, LED, OLED, projection and e-paper to display digital images, video, or text.
5. **SIGN, DIRECTIONAL** — A sign commonly associated with and limited to information and directions necessary and convenient for persons coming on the property. This includes wayfinding signs for pedestrians, bicyclists, and motorists, including but not limited to signs marking, parking areas, driveways, fire zones, pickup and delivery areas, and drive-throughs.
6. **SIGN, FREESTANDING** — Any sign not attached to or part of any building but separate and permanently affixed by any other means in or upon the ground.
7. **SIGN, GOVERNMENTAL** — Any official sign, public notice, or warning sign authorized by federal, state, or local law, including but not limited to signs erected and maintained pursuant to and in discharge of any governmental function or required by any general law, local law, or governmental regulation. This may also include signs intended to convey public service and/or safety information associated with local municipal and public safety operations.
8. **SIGN, GROUND** — A sign not attached to any building or structure, which may be flush with the ground or supported by two columns or posts provided the distance between the ground and bottommost edge of the sign is no greater than six (6) feet.
9. **SIGN, INCIDENTAL** — A sign containing no commercial message and primarily erected for the of the public while on such premises. Such signs include, but are not limited to those identifying addresses, building entrances/exits, restrooms, hours and days of operation, public utility locations, emergency addresses, and telephone numbers, etc.
10. **SIGN, INTERNAL** — A sign within a building not legible from the public right-of-way or adjacent lots, or any sign within an enclosed outdoor space, such as an athletic field, where such sign is intended only to be seen from within the enclosed space and is so oriented.
11. **SIGN, NEON** — A sign that incorporates illumination using neon gas tubing.
12. **SIGN, POLE** — A sign not attached to any building or structure and is supported by one or two columns or posts with a distance exceeding three feet between the ground and the bottommost edge of the sign.
13. **SIGN, PORTABLE** — Any temporary freestanding sign which can be disassembled and moved by one person, or one which is on wheels and can be trailered or towed from one location to another.
14. **SIGN, PROJECTING** — A sign which is attached to the building wall or structure and which extends horizontally more than nine (9) inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.
15. **SIGN, ROOF** — A sign that is supported on the top of a building or structure and/or projects above the roofline.
16. **SIGN, SUSPENDED** — A sign attached to and supported by the underside of a horizontal plane.
17. **SIGN, TEMPORARY** — A sign that is not permanently affixed to the ground or a structure and that is displayed for a period of time not to exceed three months in any twelve-month period on any lot or parcel of property. Such signs may include, but are not limited to, political signs, signs advertising civic, religious, educational or nonprofit events, and signs of a similar nature.

18. **SIGN, WALL** — A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall and not extending more than nine (9) inches from the face of such wall.
19. **SIGN, WINDOW** — A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material or located inside within four feet of window, but not including graphics in connection with customary window display of products.

SIGN SURFACE AREA

For a detailed description of sign area measurement see §128-34.5.

SIGN FACE

The surface on, against, or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface on which the sign copy is displayed by distinct delineation, such as a reveal or border. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures or combination of regulator geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same façade.

SIGN ILLUMINATION

A sign that is lighted by one or more of the following artificial light sources:

1. **EXTERNAL** - A separate light source attached to the sign that is directed so as to shine on the sign face.
2. **INTERNAL** - A light source concealed within the sign structure. This shall include backlighting (e.g. reverse channel lettering) provided the bulbs or other elements are not visible on the outside of the sign.

SIGN TYPE

The physical nature of a sign by design and/or structure, including freestanding signs, wall signs, projecting signs, suspended signs, awning signs, and window signs.

SITE PLAN

A rendering, drawing, or sketch prepared in accordance with the specifications of this chapter and which shows the arrangement, layout and design of a proposed use of a single parcel of land as shown on said plan.

SLAUGHTER PLANT

A facility for the slaughtering and processing of Animals and the refining of their byproducts; and/or a facility where slaughtered animals (including game) are processed; and/or a facility where meat, poultry, or eggs are cooked, smoked or otherwise processed or packed.

SLOPE OF SITE, MEANS OF MEASURING

The vertical distance, in feet, between the highest elevation of a lot or development and the lowest elevation of a lot or development, divided by the horizontal difference between these two elevations, in feet, said horizontal distance ordinarily to be the natural course of stormwater runoff. Should the site be sufficiently large in the judgment of the Planning Board and heterogeneous in character (difference of one or more slope factors), the site may be divided into different measurement units, with a gradient defined for each.

SOCIAL 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 that there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

STEEP SLOPES

All ground areas having a topographical gradient equal to or greater than 20% measured by utilizing two-foot contours.

STORAGE

The holding or safekeeping of goods in a warehouse or other depository to await the happening of some future event or contingency that will call for the removal of the goods.

STORAGE, BULK

The accumulation of wholesale quantities of raw or finished materials (solids, liquids and gases) preparatory to use in a manufacturing process or to retail sales, a permanent reserve being maintained. Junk and scrap materials do not qualify for inclusion in this category.

STORY

That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between any floor and the ceiling next above it.

STORY ABOVE GRADE

Any story having its finished floor surface entirely above grade, except that a basement shall be considered a story above grade where the finished surface of the floor above the basement is:

1. More than six feet above grade plane;
2. More than six feet above the finished ground level for more than 50% of the total building perimeter; or
3. More than 12 feet above the finished ground level at any point.

STORY, HEIGHT OF

The vertical distance from the top surface of the floor to the top surface of the floor next above. The height of the topmost story is the distance from the top surface of the floor to the top surface of the ceiling joists.

STREET

A right-of-way, typically publicly owned, serving primarily as a means of vehicular and pedestrian travel, providing access to abutting properties, and which may also be used to provide space for bicycle facilities, stormwater management facilities, shade trees, and utilities. Streets shall be designated and constructed in accordance with Chapter 100, Streets and Sidewalks, of the Town of Bethlehem Code, the Town of Bethlehem Department of Public Works Guidelines for Final Subdivision Plans, and the State Highway Law, as amended. See Chapter 103, Subdivision Regulations, for the definition of street classifications such as arterial, collector, local, or private.

STREET, ARTERIAL

A street designed to be used by large volumes of through traffic, receive traffic flow from collector and local streets, allow for major movement between areas of the Town, and usually have heavy traffic moving at relatively high speeds.

STREET, COLLECTOR

A street that carries traffic from local streets to the arterial network, consists of principal entrance streets for residential, nonresidential and mixed-use developments, and provides for major circulation within the developments. These streets can be broken down into major and minor with major collectors typically being longer in length, having lower connecting driveway densities, having higher speed limits, spaced at greater intervals, having higher annual average traffic volumes, and may have more travel lanes than minor collectors.

STREET, LOCAL

A street designed primarily for access directly to individual lots or developments. These streets are not intended for use in long distance travel as they are often designed to discourage through traffic.

STREET, PAPER

A street that has never been built but is shown on an approved plan, subdivision plat, tax map, or the Official Map of the Town of Bethlehem.

STREET, PRIMARY

Where only one street abuts a lot, that street is considered the primary street. A lot with multiple frontages must have at least one primary street, as designated by the Code Enforcement Officer, based on the following criteria:

1. The street(s) with the highest classification.
2. The established orientation of the block.
3. The street(s) abutting the longest face of the block.
4. The street that the lot takes its address from.

STREET, PRIVATE

An interior circulation road designed and constructed to carry traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

STREET, PUBLIC

A right-of-way that has been set aside for public travel, built to public street standards, and eligible for maintenance by either the Town or the State of New York.

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.

STREET LINE

The dividing line between the street and the lot.

STRUCTURE

Anything constructed or erected, the use of which requires location on, in or under the ground or attachment to something having location on the ground.

STRUCTURE, ACCESSORY

A detached structure or building that is subordinate to, and the use of which is customarily incidental to, that of the main or principal building on the lot. Accessory structures may include, but are not limited to, accessory buildings (such as storage sheds or garages), gazebos, dumpsters, drop-off boxes (such as for clothing), storage pods and other structures of a similar nature and size, any of which is left in place for more than 30 days. For the purpose of determining required yard setbacks, the terms "accessory structure" and "accessory building" shall be used interchangeably.

SUBDIVISION

The division of any parcel of land resulting in the creation of three or more lots, plots, or sites, with or without streets or highways, for the purpose, with respect to any portion of the original parcel, of immediate or future development, or for the immediate or future sale, lease or any other transfer of any interest in any portion of such original parcel. The term "subdivision" shall include a resubdivision.

SUBDIVISION, MAJOR

Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five or more lots, or any size subdivision requiring any new street or road or the extension of municipal facilities.

SUBDIVISION, MINOR

Any subdivision or resubdivision containing not more than four lots fronting on an existing improved public street and not involving construction of any new street(s) or road(s) and that meets the criteria of Article 5 of this chapter.

SUBMISSION, COMPLETE

A submission that includes the following:

1. A completed application form together with all information concerning a proposed project in the format as specified by the applicable provisions of this chapter.
2. All application fees required by this chapter and the professional review fee escrow deposit, if any, required by the reviewing agency.
3. An environmental assessment form (EAF) or draft environmental impact statement (DEIS) assessing the potential environmental impacts of the proposed project.

SWIMMING POOL

Any artificial pool or structure intended for bathing or swimming purposes made of concrete, masonry, metal, vinyl, plastic, or other impervious material over 24 inches in depth.

Tt**TECHNOLOGY-BASED BUSINESS**

A company that has as its principal function the providing of services, including computer, information transfer, communication, distribution, processing, administrative, laboratory, experimental, developmental, technical, or testing services; manufacture of goods or materials; the processing of goods or materials by physical or chemical change; computer related activities; robotics, biological or pharmaceutical, industrial activities; or technology-oriented or emerging industrial activity. Technology-enabled businesses can be situated in industries such as, but not limited to: agriculture technology, biotechnology, consumer technology, financial services technology, green technology, health care technology, logistics technology, manufacturing technology, and services technology.

TELECOMMUNICATIONS FACILITIES

Personal wireless radio telecommunication facilities using an automated high-capacity system with two or more multichannel fixed base stations arranged as part of an integrated cellular system providing radio telecommunication from the fixed (immobile) base stations to mobile stations. Such personal wireless radio telecommunication facilities employ low-power transmitting and receiving and automatic handoff between base stations of communications in progress to enable channels to be reused at short distances for the purposes of voice, data or paging transmissions. Cellular systems may also employ digital techniques such as voice encoding and decoding, data compression, error correction and time or code division multiple access in order to increase system capacities. Personal wireless radio

telecommunication facilities ("PWRT facilities") shall include cellular services, personal communication services (PCS), specialized mobile radio services, and paging services.

THEATER, INDOOR

A building or part of a building devoted to the showing of moving pictures, or for the rehearsal or presentation of live dramatic, operatic, dance, musical or similar performances, on a paid-admission basis.

THEATER, OUTDOOR

A theater, with open-air seating for audiences, devoted to the presentation of live dramatic, operatic, dance, musical or similar performances.

THEATER, OUTDOOR DRIVE-IN

An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical products, on a paid-admission basis, to patrons seated in automobiles or on outdoor seats.

TOWN BOARD

The Town Board of the Town of Bethlehem, New York.

TOWN COMPREHENSIVE PLAN

A comprehensive plan for the development of the Town as adopted by the Town Board pursuant to §272-a of the Town Law, which may include general recommendations for various public works and reservations, and for the general physical development of the Town, including any updates or parts of such plan separately adopted and any amendment to such plan or parts thereof.

TRACT

Any body of land, including contiguous parcels of land, under single ownership or under common control of any group of persons acting in concert as part of a common scheme or plan.

TRAILER, CAMPING

A folding structure mounted on wheels and designed for travel, recreation and vacation use.

TRAILER, OFFICE

A vehicular, portable structure, built on a chassis, designed as a temporary facility for such uses as banking, on-site construction supervision, and other office or clerical uses.

TRAILER, TRAVEL

A vehicular, portable structure, built on a chassis, designed as a temporary single-family dwelling for travel, recreation and vacation, having a body length not exceeding 40 feet.

TRANSPORTATION TERMINAL

Any premises used for the garaging or parking of public transportation vehicles and the loading and unloading of passengers.

TRUCK OR RAIL TERMINAL

The use of land for trucking or rail operations where there are dock facilities, either partially or wholly enclosed, for the purpose of transferring goods for assembly or disassembly or loading onto tractor-trailers or rail cars for transport to other locations. Warehouses and similar facilities for the deposit, storage and safekeeping of goods shall not be deemed to be truck or rail terminals.

TRUCKING BUSINESS

A facility designed and used for the purposes of parking, storing, and/or servicing semi-trucks.

Uu

UNCONSTRAINED LAND

Land area that does not contain constrained land as defined in this chapter.

USE

The specific purpose for which land or a building is designed, arranged, or 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.

USE, ACCESSORY

A use customarily incidental and subordinate to the principal use of a building and located on the same lot with such principal use of a building. Except for uses accessory to a dwelling unit, any use that is accessory to a special permit use shall also be a special permit use. Any use that is accessory to a permitted use shall also be a permitted use.

USE, BY RIGHT

The use of land that is not subject to site plan, special use permit, or use variance approval, except as provided herein.

USE, DE MINIMIS

A use of land or structure that is not outwardly apparent to an off-site viewer so as to call attention to its existence.

USE, NONCONFORMING

The lawful occupancy of a structure or land by a use or activity which was lawful at the time of enactment of this chapter or its predecessor ordinances and laws or any amendment to this chapter but which does not conform to the regulations of the district or zone in which it is situated.

USE, NONRESIDENTIAL

A building, lot, structure, or structure(s) containing no dwelling units and designated or intended for commercial, public, institutional, or other such use. The inclusion of dwelling units in a mixed use building or structure shall be considered a nonresidential use for the purposes of this Chapter.

USE, PRINCIPAL OR PRIMARY

The main or primary use of the lot. Except for designated mixed uses and multiple retail uses within a shopping center, only one principal use is permitted per lot, all other uses, except special uses and permitted accessory uses, being excluded.

USE, RESIDENTIAL

A building, lot, structure, or structure(s) containing a dwelling unit or grouping of dwelling units designated or intended for the housing of individuals and families, not including any commercial, public, or institutional use. The inclusion of dwelling units in a mixed use building or structure shall be considered a nonresidential use for the purposes of this Chapter.

USE, SPECIALLY PERMITTED

A land use which is deemed permissible within a given zoning district or districts but which may have the potential to exhibit characteristics or create impacts incompatible with the purposes of such district. The special use shall, therefore, be subject to approval by the Planning Board in accordance with conditions set forth for such use, as well as other applicable provisions of this chapter. Both general and specific conditions have been established for special uses to ensure that such use is in harmony with

this chapter and the Town of Bethlehem Comprehensive Plan and will not adversely affect the neighborhood if the requirements are met.

Ww

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.

WAY

A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

WELLNESS CENTER

A facility offering a range of services including activities, programs, training, treatments and/or therapies designed to promote and/or maintain a healthy lifestyle and physical, spiritual, intellectual, social and/or emotional well-being. Such facilities may offer, but are not limited to, activities and programs in exercise and physical fitness, stress management, diet and nutrition, weight management, lifestyle counseling, health screening, and social, spiritual or emotional guidance, and may also offer alternative treatments and therapies such as hydrotherapy, acupuncture, acupressure, massage therapy, neuromuscular therapy, chiropractic care, energy healing, kinesiology, and reiki therapy.

WINERY

An enclosed building for the manufacture, processing, bottling, and packaging of wine as defined by and duly licensed by the NYS Liquor Authority. For the purposes of this Chapter, this shall include operations which include tasting rooms.

WINERY, MICRO

A winery operation manufacturing and selling up to 1,500 gallons of wine and/or cider annually. Such winery may hold multiple licenses as provided for by the NYS Alcoholic Beverage Control Law; however, such operation shall be limited to the production scale provided herein.

Yy

YARD

An unoccupied space, open to the sky, on the same lot with a building or structure.

YARD, FRONT

A space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

YARD, FRONT; OPPOSITE SIDE YARD

A space on the same corner lot with a main building, between the street line and the front line of the building, opposite the side yard.

YARD, REAR

A space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot or the center line of the alley, if there is an alley, and the rear line of the building.

YARD, SIDE

A space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot, and if no rear yard is required, the rear boundary of the side yard shall be the rear line of the lot.

Zz

ZONING BOARD OF APPEALS (ZBA)

The Zoning Board of Appeals of the Town of Bethlehem, New York.