
Section 5

Definitions

[By-law 4316AI-13 (OMB File No. PL130581, OMB Case No. PL130581) removed all references to subsection numbers (i.e. 5.1 to 5.524 inclusive) and all definitions are to be ordered alphabetically.]

ABANDONED means the failure, in the opinion of the Chief Building Official, to proceed expeditiously with construction work or to undertake construction work during any continuous twelve (12) month period.

ABANDONED USE or DISCONTINUED USE means a use of land that has ceased to exist for a period of twelve (12) months.

ACCESSORY BUILDING or STRUCTURE means a detached building or structure on the same lot as the main building, the use of which is clearly secondary to the main building or use and includes a detached garage, detached deck, gazebo, private greenhouse, dock, boat house above ground swimming pool, in ground swimming pool and satellite dish greater than 1.2 m (3.94 ft) in circumference. The accessory building or structure shall not be used for overnight habitation except for a farm help accommodation located in the Agricultural (A) Zone.

ADULT ENTERTAINMENT PARLOUR means any premises, or part thereof, in which the business carried out is provided in pursuance of a trade, calling, business or occupation appealing to or designed to appeal to erotic or sexual appetites or inclinations.

ADULT ENTERTAINMENT STORE means any premises, or part thereof, in which the business carried on is provided in pursuance of the sale or rental of goods appealing to or designed to appeal to erotic or sexual appetites or inclinations.

AGGREGATE means gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite, rock or other prescribed material.

AGRICULTURAL EDUCATION AREA means a building or part of a building dedicated solely to the purpose of providing educational presentations in association with farm tours and other agricultural-related uses provided on site, where baked goods and non-alcoholic beverages may be offered.

AGRICULTURAL INFRASTRUCTURE 1 means a portion of watercourse in a natural form with the ability to sustain fish habitat and it may also be a municipal drain or irrigation channel.

AGRICULTURAL INFRASTRUCTURE 2 means a portion of a watercourse, original headwater area and farm swale that may contribute to fish habitat and may also be a municipal drain or irrigation channel.

AGRICULTURAL INFRASTRUCTURE 3 means a man-made municipal drain or irrigation channel that may contribute to fish habitat and may also include roadside ditches.

AGRICULTURAL MARKET means a secondary use to an agricultural operation that includes a building used for the retail sale of fresh fruit and vegetables, processed fruit and vegetables, including frozen fruit, nuts, honey, maple syrup products, flowers, plants and bedding plants that are products grown locally and from the property. The retail sale of dairy products, hand crafted products and baked goods baked on the premises are permitted provided the same are secondary to the products described above. The sale of clothing, meat, frozen foods other than frozen fruit, paper products, coffee, house wares, breakfast cereals, tobacco products, magazines, newspapers, soap, detergents, pharmaceutical products, lottery tickets, furniture, and home furnishings is prohibited.

AGRICULTURAL PROCESSING FACILITY means a building or buildings used to process agricultural products grown locally or on the property where the agricultural processing facility is located and includes products directly related to agriculture such as fruits, vegetables, nuts, seeds, corn, wheat, flowers, plants and bedding plants. The total area for the agricultural processing facility shall be related to the size of the agricultural operation.

AGRICULTURAL STAND or SEASONAL HOME GROWN PRODUCE STAND means an accessory building or structure to an agricultural use comprising a maximum area of 18.5 m² (199 ft²) where produce of fresh fruit, vegetables, flowers, plants and bedding plants that are grown locally and from the agricultural operation of the property are offered or kept for sale on a seasonal basis.

AGRICULTURAL USE or FARM means the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fiber, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including an owner's dwelling and secondary buildings, and farm help accommodation for seasonal and full-time farm labour when the size and nature of the operation requires additional employment. Agricultural uses shall not include the butchering and rendering of animals raised on the premises. The Minimum Distance Separation Formulae I and II criteria apply to certain types of agricultural uses and vary by types of livestock operation, and manure storage.

AGRICULTURAL-RELATED USES means those farm-related uses that relate to the size of the farm operation and is directly related to the farm operation and are required to be in close proximity to the farm operation such as an agricultural processing facility, an agricultural produce storage building, an agricultural stand, a pick your own agricultural operation, a farm or cottage winery, or a riding stable.

AIRPORT or AIRCRAFT LANDING AREA means the use of land, including water, runway, or other facility, designed used or intended to be used, either by the public or by any persons or persons, for the landing or taking off of aircraft, including all necessary taxiways, aircraft storage, tie-down areas, hangers and other necessary buildings, structures and open areas.

AIRPORT means the use of land for airport services in support of airport activities, including the sale and manufacturing of airplanes, parts, and service.

ALTER:

- (a) When used in reference to a building or structure or part thereof, shall mean to change any one or more of the external dimensions of such building or structure, or to make any change in the supporting members to the type of construction of the exterior walls or roof thereof or to make internal changes; When used in reference to a lot, shall mean to change the area, frontage or depth thereof; to change the width, depth or area of any required yard, landscaped open space or parking area; or to change the location of any boundary of such lot with respect to a street or lane, whether such alteration is made by conveyance or expropriation of any portion of such lot or otherwise; or
- (b) When used in reference to use, shall mean to discontinue and replace the use with a use which is defined herein as being distinct from the discontinued use.
- (c) When used in reference to grading shall not result in adverse impacts on adjacent properties.

The words “altered” and “alteration” shall have a corresponding meaning.

AMENITY AREA means the area situated within the boundaries of any residential development site intended for recreational purposes, and may include landscaped open space, patios, private amenity areas, balconies, communal lounges, swimming pools, children’s play areas, but does not include any area occupied at grade by a building’s service areas, parking areas, parking aisles, or driveways.

AMUSEMENT ARCADE means a commercial establishment used for the provision of three or more indoor entertainment and amusement activities such as coin-operated machines and devices, games of skill or chance, exhibits and displays, including the sale of souvenirs, food and beverages, but shall not include premises licensed under the *Liquor License Act*.

AMUSEMENT PARK means an establishment for the commercial operation of a recreational, entertainment or amusement complex including a variety of facilities such as a miniature golf course, driving range, amusement rides, water sports, and an amusement arcade.

ANIMAL HOSPITAL See *VETERINARY CLINIC*

ANIMAL SHELTER means a building or portion thereof where small domestic animals/pets, birds, livestock or farm animals are given temporary shelter, where minor treatment is given, and includes a public pound and crematorium, but does not include any establishment engaged primarily in the retail sale of animals or in the breeding or training of animals for gain or profit.

ANTIQUE SALES STORE means a building or part thereof used for the sale of any old and authentic objects of personal property which was made, fabricated or manufactured sixty (60) or more years earlier and which has a unique appeal and enhanced value mainly because of its age, and in addition, may include the sale of any article of personal property which was made, fabricated or manufactured twenty (20) or more years earlier and because of public demand has attained value in a recognized commercial market which is in excess of its original value.

APARTMENT BUILDING means a building containing four (4) or more dwelling units which have one or more common entrances from street level and are served by a common corridor, and the occupants of the units have the right to use, in common, the corridors, stairs, elevators, yards or parking areas.

APARTMENT DWELLING See *DWELLING, APARTMENT, SECONDARY APARTMENT*

AREA OF NATURAL AND SCIENTIFIC INTEREST (ANSI) means areas of land and water containing natural landscapes or features that have been identified as having life science or earth science values related to protection, scientific study or education.

ARENA means a building or structure, or part thereof, where facilities are provided primarily for athletic, artistic, circus, entertainment, or recreation programs, activities, performances, or events.

ART GALLERY means a commercial establishment where works of art, such as paintings, sculpture, pottery, glass and weaving, are displayed for public viewing and sale.

ARTIFICIAL EMBANKMENT means an artificial slope which can be made out of earth, stones or bricks, or a combination of these. An artificial embankment is not permitted where the purpose is to alter an existing grade by filling in a slope with earth, stones or bricks or a combination of these.

ARTIST STUDIO or PHOTO STUDIO means a commercial establishment used as the workplace of an artist, photographer, or craftsperson including the sale of artifacts or products produced in the studio only as a secondary use but does not include facilities for human habitation.

ASSEMBLY HALL means a building or part thereof, in which facilities are provided for such purposes as meetings for civic, educational, political, recreational, religious or social purposes and, without limiting the generality of the foregoing, may include such facilities as a banquet hall, community centre or private club and may include an auditorium or public hall.

ATTACHED means a building or structure otherwise complete in itself which depends for structural support or complete enclosure, upon a division wall or walls shared in common with adjacent building or buildings.

ATTIC means that portion of a building immediately below the roof and wholly or partly within the roof framing.

Refer to the illustrations at the end of this By-law.

AUCTION CENTRE means a building, or part thereof, where the principal use is for the retail sale of articles or goods to members of the public bidding the highest offer for the article or goods during the sale proceedings.

AUDITORIUM or PUBLIC HALL means a building or structure, or part thereof, where facilities are provided for public assembly, in connection with athletic, civic, educational, recreational, political, religious, or social events and may include an assembly hall.

AUTOMOBILE BODY REPAIR SHOP means an establishment for the repair of damage to a vehicle caused by collision, accident, corrosion, or age, and, without limiting the generality of the foregoing, includes the reconstruction of vehicles and the painting or repainting of vehicles, but shall not include any other automobile use defined in this By-law.

AUTOMOBILE GAS BAR or GAS BAR means one or more pump islands, and shelter having a floor area of no more than 9.29 m² (100 ft²), excluding washrooms which may be used for the sale of motor fuels and small accessories required for the operation of vehicles but shall not include facilities for the repair or maintenance of vehicles. The sale of propane shall be considered a secondary use.

AUTOMOBILE MACHINE SHOP means a shop where metal and other materials are cut, shaped, milled or finished with machine tools and designed to be installed onto vehicles.

AUTOMOBILE PARTS AND ACCESSORIES SALES means a commercial establishment used for the purpose of retail and wholesale sales of equipment and parts used to repair, service or customize vehicles, but shall not include any installations or repairs.

AUTOMOBILE RENTAL ESTABLISHMENT means premises where vehicles are stored and rented to the public.

AUTOMOBILE REPAIR GARAGE means a building or part thereof used for the repair or replacement of parts in a motor vehicle and, without limiting the generality of the foregoing includes the repair, replacement or reconditioning of mufflers, exhaust systems, shock absorbers, transmissions, gears, brakes, clutch assemblies, steering assemblies, radiators, heating or cooling systems, ignition systems, electrical systems, tires or wheels, windshields, windows and other mechanical or electrical parts or systems, the installation of undercoating, engine tuning, lubrication and engine conversion or replacement, but does not include an automobile body repair shop, an automobile service station or gas bar.

AUTOMOBILE SALES ESTABLISHMENT or MOTOR VEHICLE SALES OUTLET means a commercial establishment used for the display and sale of new or used vehicles and may include the servicing and repair of vehicles, automobile body repair, the sale of automobile parts and accessories and related products and the leasing or renting of vehicles.

AUTOMOBILE SERVICE STATION or MOTOR VEHICLE SERVICE ESTABLISHMENT means a building or part thereof, or lot used primarily for the retail sale of gasoline, lubrication oils, diesel fuel and propane for motor vehicles and may include the sale of automobile accessories, tires, spark plugs, batteries, electric light bulbs, antifreeze, and the servicing and repair essential to the operation of motor vehicles, and may include a car washing establishment, but does not include an automobile repair garage or gas bar.

AUTOMOBILE SPECIALTY REPAIR SHOP means a commercial establishment which provides specialized maintenance or repair service for licensed vehicles, usually limited to one aspect of automobile repair such as: transmission establishments, muffler shops, alignment shops, rust proofing establishments, auto-glass repair shops, tire sales and installation, braking system service, including the sale of the required components, but shall not include automobile body shops, automobile machine shops or automobile general repair establishments.

BACKGROUND SOUND LEVEL means the sound level that is present in an environment, or produced by noise sources other than the source under impact assessment. Highly intrusive short duration noise caused by a source such as aircraft flying or train pass-by is excluded from the Background Sound Level.

BAKERY means a commercial establishment used for producing, mixing or baking bread, biscuits, cakes, pastry or other bakery products, but shall not include a restaurant or other premises where such products are made for consumption on the premises.

BAKE SHOP means a commercial establishment, with or without association to a bakery, where bakery products are offered for retail sale, but may include a restaurant where such products are made for consumption.

BALCONY means an external platform structure at least 2 m above grade, attached to and/or extending from a building wall with access from an upper floor through either a door or window.

BANK or FINANCIAL ESTABLISHMENT means a commercial establishment which is used primarily for financial transactions including the borrowing, depositing, and exchanging of currency and credit and shall include banks, trust companies, credit unions, finance companies and stockbroker establishments.

BASEMENT means that portion of a building partially below ground level and having fifty per cent (50 %) or more of its exterior wall area above the average finished grade.

Refer to the illustrations at the end of this By-law.

BED AND BREAKFAST ESTABLISHMENT means a single-detached dwelling with no more than three (3) guest bedrooms for overnight guest lodging, where only breakfast is included, for the temporary accommodation of the traveling or vacationing public and includes the living accommodation of the residents of the dwelling. Such establishment shall be licensed by the Town of Niagara-on-the-Lake and shall not include a restaurant, hotel, motel, boarding or rooming house, nursing home, or any home licensed, approved or supervised under any general or special Act. The principal use of the dwelling unit shall be for residential purposes and the bed and breakfast establishment shall be an ancillary use to the main residential use. Guest bedrooms shall not be suites.

BEDROOM means, for the purposes of determining the number of bedrooms in a “Bed and Breakfast Establishment”, “Cottage Rental”, “Country Inn”, “Vacation Apartment” or “Villa”, a habitable room larger than seven square metres, including a den, study or other similar area, but does not include a living room, dining room or kitchen, and which meets the requirements of the Ontario Building Code for a bedroom. *(added by 4316A1-13, OMB decision PL130581, December 5, 2013)*

BLOCK means an area bounded on three sides by streets, or by one or more streets and one or more natural or manmade barriers such as a river or railway.

BLOCK FACE means all land fronting on one side of a street between the nearest streets intersecting, meeting or crossing the aforesaid street.

Refer to the illustrations at the end of this By-law.

BLUEPRINTING SHOP See *PHOTOCOPYING SHOP*

BOARDING HOUSE or ROOMING HOUSE See *LODGING HOUSE*

BOAT HOUSE means a detached accessory building or structure constructed for the purpose of sheltering or storage of boats or other form of water transportation and accessories, but shall not include a dwelling unit.

BOAT LAUNCH means a location on a shore where the launching of boats and recreational vehicles by the public is permitted, and includes an associated parking area. A boat launch does not include a marina or other commercial uses.

BODY-RUB includes the kneading, manipulation, rubbing, massaging, touching, or stimulating, by any means, of a person's body or part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered under the laws of the Province of Ontario.

BODY-RUB PARLOUR means the use of a building or structure, or a portion thereof, where a body-rub is performed, offered, or solicited in pursuance of a trade, calling, business or

occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered under the laws of the Province of Ontario.

BREW YOUR OWN OPERATION means a service use where member of the public can make their own beer, wine, or other beverages for consumption off the premises and where the owner or operator may retail related equipment or ingredients.

BUFFER STRIP means an area of land used for the erection of a fence and/or the planting and maintaining of a continuous row of coniferous trees or a natural living fence, immediately adjacent to the lot line or portion thereof along which such buffer strip is required.

BUILDING means any structure consisting of walls, foundation and a roof, which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods or materials and shall exclude a boundary wall or fence and any vehicle as defined herein.

BUILDING AREA means the greatest horizontal area of a storey above grade within the outside surface of exterior walls or within the outside surface of exterior walls and the centreline of firewalls.

BUILDING or CONTRACTING ESTABLISHMENT means a premises used for the purposes of undertaking or managing activities engaged in maintaining and building new structures or works, additions or renovations, and includes offices of general building contractors, general contractors, specialized trades and building maintenance services such as window cleaning and extermination services. Also included is the prefabrication of building equipment and materials, and wrecking and demolition contractor's offices, but does not include salvage or wrecking yards.

BUILDING DEPTH means the horizontal distance between the front wall and the rear wall of a building, excluding a covered porch, deck or veranda.

BUILDING FACE means that portion of a front wall of a building or the horizontal projection thereof, situated closest to the street and with exposure to the street.

BUILDING HEIGHT when used in reference to a building or structure, means the vertical distance measured from the average finished grade around the structure to the peak, except:

- (a) In the case of a flat or shed roof, the highest point of the roof's surface;
- (b) In the case of a structure not having a roof, the uppermost part of such structure; or
- (c) Where an exterior wall other than a required fire wall extends above the top of the roof of a building, the topmost part of such exterior wall.

Refer to the illustrations at the end of this By-law.

BUILDING LINE means the line lying in the interior of a lot drawn parallel to a lot line for the purpose of establishing the minimum distance that must exist between a building or structure, erected upon the lands and a lot line.

BUILDING, MAIN means the building in which the main use of the lot is used, and in a Residential zone, the dwelling is the main building. For the purpose of this definition the main use means the principal use of the lot on which the building or structure is located.

BUILDING SUPPLY or LUMBER YARD ESTABLISHMENT means a lot, building, and/or structure used for the wholesale or retail sales of building or construction supplies and accessories, including outdoor storage of building materials which may include: lumber, millwork, cement, siding, roofing, plumbing or electrical supplies, heating, cooling or ventilating construction supplies, fireplaces, windows, paints, wall coverings, and floor coverings.

BULK SALES ESTABLISHMENT means the use of land for the purpose of storing, buying and selling fuel, oil, propane, wood, lumber, building materials, ice and allied chemicals, but does not include any manufacturing, assembling or processing uses.

BUSINESS or PROFESSIONAL OFFICE means a building in which one or more persons are employed in the management, direction or conducting of a business or where professionally qualified persons and their staff serve clients who seek advice and consultation of a public or private agency, a business, a brokerage, or a labour or fraternal organization, but not a medical office or retail store.

BY-LAW ENFORCEMENT OFFICER means a person(s) appointed by Council and charged with the duty of enforcing the provisions of the Zoning By-law and other By-laws of the Municipality and any amendments to such By-laws.

CAMPGROUND See *TENT AND TRAILER CAMPGROUND*

CARPORT means a structure of not more than 4.5 m (14.76 ft) in height attached to a dwelling, having a roof supported by columns or piers and enclosed to a height of not more than 1.4 m (5 ft) that is intended for the parking of vehicles associated with a private dwelling.

CARWASH, AUTOMATIC means a commercial establishment that is used or designed to be used for the automated washing, polishing and/or drying of one or more vehicles at any one time, but does not include an automobile service station where car washing is incidental to the operation of such service station.

CARWASH, MANUAL means a commercial establishment that is used or designed to be used for the washing of one or more vehicles at any one time, by means of hand operated pressurized wands connected to the water system of the structure, but does not include

an automobile service station where car washing is incidental to the operation of such service station.

CATALOGUE SALES OUTLET means a commercial establishment in which orders are accepted for the purchase of goods listed in a catalogue provided by the establishment and in which some or all of the goods so listed may also be available within the establishment for sale at retail.

CATERING ESTABLISHMENT means a building or structure in which food and beverages are prepared for consumption off-site and are not served to customers on the premises or used for a take-out restaurant.

CELLAR means any enclosed portion of a building that has more than fifty per cent (50 %) of its height, from floor to ceiling, located below finished grade.

Refer to the illustrations at the end of this By-law.

CEMETERY means land that is used as a place for the interment of the deceased or in which human bodies have been buried and may include a crematorium, mausoleum, or columbarium.

CENTRE LINE means that line which equally divides the width of the road allowance of a street or highway, as opposed to the centre line of the traveled roadway.

CHURCH See *RELIGIOUS INSTITUTION*

CINEMA means a building or part of building which is used for the commercial showing of films and excludes the presentation of live entertainment.

CIVIC USE See *PUBLIC USE*

CLEANING ESTABLISHMENT means a building or structure where cleaning, dyeing, or pressing of articles or clothing is carried out including rugs, carpets, linens and draperies.

CLINIC See *MEDICAL CLINIC*

CLUBHOUSE means a building or part of a building used by members of an organization which owns, hires or leases the building or part thereof, the use of such premises being restricted to members and their guests for social, recreational and charitable purposes and may include a lodge, fraternity or sorority house, labour union hall or community organization.

CLUBHOUSE, GOLF COURSE means a building or part of a building used by members of an organization, the use of such premises being restricted to members and their guests for social or recreational purposes. Where the Golf Clubhouse is located on a public golf

course, the premises are open to the public for social and recreational purposes in conjunction with the payment of golf fees on a daily, weekly or seasonal basis.

COIN LAUNDRY See *LAUNDROMAT* or *LAUNDRY, COIN OPERATED*

COMMERCIAL ENTERTAINMENT ESTABLISHMENT or THEATRE means the use of a building or structure, or portion thereof, for a fee, for the provision of entertainment or amusement without the necessity of active participation by the user and shall include such uses as a cinema, playhouses, bingo hall, dance hall, and other assembly halls, but shall not include an adult entertainment parlour, an adult entertainment store, a body rub parlour, an amusement arcade or an amusement park.

COMMERCIAL ESTABLISHMENT or COMMERCIAL USE means the use of any lot, building or structure, or portion thereof, for the purpose of buying and selling of commodities, the rental of goods and materials, and the supplying of services to the general public, separate from such uses as manufacturing or assembling of goods, warehousing, transport terminals, construction and shall not include an adult entertainment parlour, an adult entertainment store, a body rub parlour, an amusement arcade, an amusement park or a salvage yard.

COMMERCIAL GREENHOUSE See *GREENHOUSE, COMMERCIAL*

COMMERCIAL RECREATION FACILITY means the use of a lot, building or structure or a portion thereof for the provision of participatory athletic, recreation or physical fitness facilities for gain or profit. Without limiting the generality of the foregoing, shall also include a health facility, fitness centre, an ice or roller skating rink, a curling rink, a racquet club, a swimming pool, a billiard parlour and a bowling alley, but shall not include an adult entertainment parlour, adult entertainment store, a body rub parlour, an amusement arcade or an amusement park as defined herein.

COMMERCIAL SCHOOL or TRADE SCHOOL means a school operated by an individual or company for gain or profit, providing instruction in a specific trade, skill or service such as secretarial skills, vocational skills, aviation, banking, commercial arts, automobile driving, language, modeling, cooking and culinary skills, business, hairdressing, beauty, culture, dancing and music schools. A commercial school shall not include a post-secondary institution or a school.

COMMERCIAL STORAGE FACILITY means a building or structure or part thereof, which for a fee is used for the temporary storage of articles, goods or materials.

COMMERCIAL USE See *COMMERCIAL ESTABLISHMENT*

COMMERCIAL VEHICLE means any vehicle which displays commercial lettering or commercial license plates and shall also include construction equipment which is self-propelled or designed to be towed.

COMMONS, THE means federally owned open space that is unfenced, undeveloped, and uncultivated and is a significant, unspoiled, archaeological and landscape feature used primarily by the public for passive enjoyment and recreation and includes historic Fort George.

COMMUNITY CENTRE or RECREATION CENTRE means a publicly owned building, structure or lot used for recreation or social or cultural activities, hosting of banquets or receptions, meeting or other leisure activities. Common types of facilities may include swimming pools, curling rinks, ice rinks, racquet courts, training rooms, meeting rooms, gymnasiums, auditoriums, arenas and including, but not limited to outdoor activities such as playing fields. *(as amended by 4316J-11)*

COMPLYING means a lot, building or structure that fulfills the requirements of the specific zone regulations for the zone in which such lot, building, or structure is located and the general provisions of this By-law.

CONDOMINIUM means a building, structure or land wherein the owner holds title to his/her own unit and/or land while sharing title to common areas of the development and sharing maintenance/operating costs with other unit or land owners through a condominium corporation incorporated under the *Condominium Act*.

CONFERENCE CENTRE means a building used for social or cultural activities, hosting of banquets or receptions and meetings. Facilities may include meeting rooms, auditoriums, kitchen facilities, banquet rooms and other compatible accessory facilities contained within the building. *(as amended by 4316T-11)*

CONFERENCE ROOM means a meeting room in conjunction with a hotel or school which is used for the purposes of meetings, lectures, seminars and training.

CONFORMING means a use, or activity of any lot, building or structure which falls within the uses permitted in this By-law for the zone in which such use or activity is located.

CONTAMINATED SITE means land that is contaminated from past land use activity relating, but not limited to, industrial uses, transportation or utility purposes including Municipal and Ministry of Transportation refueling yards, waste disposal sites, and commercial uses such as automobile service stations, automobile gas bar, automobile repair or body shop and lands where filling has occurred.

CONTINUOUS USE in the context of non-conforming uses shall mean the continuous use of a lot, building or structure, notwithstanding the change of ownership of the property where the use is located. Use shall further be deemed continuous if, after having ceased, the same use recommenced within a period of one (1) year from the date of cessation, and / or if a structure is destroyed or damaged, it is rebuilt or repaired to the same use within a period of one year from the date of its destruction or damage. This is in addition to the protection afforded by Section 34(9) of the *Ontario Planning Act*. The onus is on the owner to provide evidence of continuous use.

CONSERVATION MANAGEMENT ACTIVITIES AND USES means activities and uses associated with land and water conservation management including fisheries management, flood and erosion control measures, wetland management, wildlife habitat areas management, and forestry management.

CONTRACTING ESTABLISHMENT See *BUILDING ESTABLISHMENT*

CONTRACTOR'S YARD means the yard or depot of a construction company or contractor used for the storage and maintenance of equipment used by the contractor or company, and includes facilities for the administration or management of the business and the stockpiling or storage of supplies used by the business, but does not include the wholesale or retail sale of construction materials or supplies, or home improvement supplies, or lands used by a service establishment.

CONVENIENCE STORE or NEIGHBOURHOOD CONVENIENCE STORE means a retail outlet limited to 223 m² (2400 ft²) gross floor area serving the daily household and grocery shopping needs of neighbourhood consumers, and may include secondary convenience services such as a dry cleaning and laundry depot, photo finishing, automated banking outlet, video rental, or postal outlet.

CONVENTION CENTRE means a building designed to accommodate large gatherings for specific events such as conferences, meetings, industrial shows, having large unobstructed exhibit areas and may include meeting rooms, assembly halls, restaurants, theaters, recreation facilities and/or other similar activities and may also include hotel accommodations as a secondary use. *(as added by 4316AH-13)*

CONVERSION means the physical alteration or change of use of an existing building or structure, or a portion thereof, to another use.

CONVERTED DWELLING See *DWELLING, CONVERTED*

CORNER SIGHTLINE TRIANGLE See *SIGHT TRIANGLE*

CORNICE shall mean an exterior horizontal projection or ornamental molding along the top of a building, wall, arch, etc.

CORPORATION means the Corporation of the Municipality of the Town of Niagara-on-the-Lake.

COTTAGE or SEASONAL RESIDENTIAL DWELLING *(as deleted by 4316J-11)*

COTTAGE RENTAL means the commercial use of a single detached dwelling unit with up to three bedrooms that may be rented for periods up to 28 consecutive days for use as temporary accommodation and used as an occasional or seasonal residential dwelling for recreation, rest or relaxation, but not occupied continuously as a principal residence.

When occupied continuously as a principle residence (i.e. for more than 28 days), a "Cottage Rental" can be used as a "Single Detached Dwelling". A "Cottage Rental" use is not a "Villa". (added by 4316AI-13, OMB decision PL130581, December 5, 2013)

COTTAGE WINERY See *FARM WINERY*

COUNCIL means the Municipal Council of the Corporation of the Town of Niagara-on-the-Lake.

COUNTRY INN means a residential use which is in the principal residence of the owner/operator and host, having more than three rented rooms and providing lodging and only breakfast to overnight guests. Country Inns located in the Agricultural Zone District are restricted to a maximum of six (6) rented rooms.

COURIER SERVICE ESTABLISHMENT See *POSTAL OUTLET*

COVERAGE See *LOT COVERAGE*

CUSTOM WORK SHOP means a building or part thereof for planning, designing and producing or manufacturing small quantities of articles by skilled craftsman requiring manual or mechanical skills and may include a retail sales area for the articles produced on the site of a maximum area of 90 m².

DATA PROCESSING ESTABLISHMENT means a business office primarily for the purpose of keyboarding data for internal or external clientele.

DAY CARE CENTRE means a premises licensed under the *Day Nurseries Act*, as amended, that receives more than five (5) children, primarily for the purpose of providing temporary care, or guidance, or both temporary care and guidance, for a continuous period not exceeding twenty-four (24) hours, where the children are:

- (a) Under eighteen years of age in the case of a day care centre or day nursery for children with a developmental challenge; and
- (b) Under ten years of age in all other cases.

DAY CARE CENTRE - UNLICENSED means a premises used for the temporary care and custody for a reward or compensation of not more than five (5) children under ten years of age in a private residence other than the home of a parent or guardian of any such child for a continuous period not exceeding twenty-four (24) hours and not licensed under the *Day Nurseries Act*.

DECKED TOWNHOUSE means a townhouse with the required amenity space situated above the garage. (as added by 4316AH-13)

DECK means an unenclosed and uncovered structure that may be attached to a building, with or without steps, consisting of a platform no greater than 2.0 m (6.56 ft) above grade and intended as an outdoor privacy area.

DEMOLITION means the removal of a building or any part thereof.

DENSITY means the ratio of the number of residential units to one net hectare of land area. Density calculation shall be based on the number of hectares of net land area owned by a proponent and available for development.

DEPARTMENT STORE means a retail store that sells various lines of merchandise, including apparel, jewellery, cosmetics and toiletries, furniture, home furnishings, appliances, electronics, sporting goods, toys, photo equipment, hardware, auto accessories, and other household goods and services which generally includes at least three main lines, namely apparel, hardware and home furnishings. A department store shall not include an auto-oriented sales store, home improvement centre, drug store, pharmacy, neighbourhood convenience store, grocery store, specialty retail store or retail warehouse.

DESIGNATED PROPERTY means a building, structure, or property, or a portion thereof, designated by the Town of Niagara-on-the-Lake under Part IV or Part V of the *Ontario Heritage Act*.

DEVELOPMENT means:

- (a) Activities such as filling, grading and excavation that would change the landform and natural vegetative characteristics of land, but does not include:
 - (1) The construction of facilities for transportation, infrastructure and utilities used by a public body;
 - (2) Activities or works under the *Drainage Act*; or
 - (3) The carrying out of agricultural practices on land that was being used for agricultural uses on the date the Plan came into effect.
- (b) The making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof;
- (c) The laying out or establishment of a parking area, or loading spaces, or of sites for the location of a mobile home or mobile homes;

DEVELOPMENT CONTROL – NIAGARA ESCARPMENT COMMISSION (NEC) means lands under development permit control jurisdiction of the *Niagara Escarpment Commission*. These lands are not regulated by the Town's zoning regulations, but by the NEC, who administers development permits pursuant to the *Niagara Escarpment Planning and Development Act* and regulations. The affected lands are identified as areas of Development Control (DC) in pink on the zoning schedules.

DOCK means a structure on land or in the water used for transferring goods or passengers to or from a boat or airplane and does not include a commercial marina.

DORMER means framing which projects from a sloping roof, thereby providing an internal recess in the roof space.

DORMER WINDOW means a vertical window in a dormer for lighting a room adjoining a sloping roof.

DRIVEWAY means a vehicle access provided between a street or lane and a parking area or a loading space, or between two parking areas, but shall not include a parking aisle.

DRIVING RANGE means a public or private area operated for the purpose of developing golfing techniques, but does not include a golf course or miniature golf course operated for commercial purposes.

DRUG STORE or PHARMACY means a commercial establishment which dispenses prescription drugs and which sells, among other things, medical devices, non-prescription medicines, health and beauty products, and associated sundry items.

DRY CLEANING OUTLET means a commercial establishment used for the purpose of receiving articles of clothing to be subjected to the process of dry cleaning, dry dyeing or cleaning elsewhere, and for the pressing and / or distribution of any such articles or goods which have been subjected to any such process.

DRY CLEANING or LAUNDRY PLANT means a building where dry cleaning, dry dyeing, cleaning or pressing of articles of clothing is carried on.

DUPLEX DWELLING See *DWELLING, DUPLEX*

DUPLICATING SHOP See *PHOTOCOPYING SHOP*

DWELLING means a building or part thereof used or intended to be used as a residential unit.

DWELLING, APARTMENT means a residential unit located within an apartment building.

DWELLING, BUNGALOW means a single detached dwelling that is one storey and does not include a mobile home and a 1 1/2 storey dwelling.

DWELLING, CONVERTED means a building originally designed as a one-unit dwelling which has been altered or converted so as to provide therein more than one dwelling.

DWELLING, DUPLEX means a building that is divided horizontally into two (2) separate dwellings each of which has an independent entrance either directly from the outside or through a common vestibule.

DWELLING, FOURPLEX or DWELLING QUADRAPLEX means a building divided horizontally and vertically into four (4) separate dwelling units, each of which has its own independent entrance from the exterior of the building or from a common vestibule.

DWELLING, GARDEN SUITE means a one-unit detached residential structure that is temporary in nature, containing bathroom and kitchen facilities and is ancillary to an existing residential structure and is designed to be portable.

DWELLING, MOBILE HOME means a manufactured, movable or portable dwelling constructed to be towed, to its appropriate site, on its own chassis, connected to utilities and designed to be placed on a permanent foundation or piers for year round living. It may consist of one or more parts that can be folded, collapsed or telescoped for towing to the appropriate site, and expanded later for additional cubic capacity to be joined into one integral unit. The mobile home must contain sleeping accommodation, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems.

DWELLING, PARK MODEL HOME means a structure that is built on a permanent chassis designed for use as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical system but this term does not include a recreational vehicle. Model home differs from Mobile Home in size being normally limited to 13.72 m (45 ft) in length.

DWELLING, MODULAR means a prefabricated single detached dwelling being so constructed or assembled that the shortest side of such dwelling is not less than 6 m (19.69 ft) in width.

DWELLING, SEMI-DETACHED means a building divided vertically into two dwellings by a common wall extending from the base of the foundation to the roof line.

DWELLING, SINGLE DETACHED means a single detached building which is freestanding, separate, and has independent exterior walls and contains one dwelling constructed for year round habitation by one or more persons. A single detached dwelling does not include a mobile home as defined herein.

DWELLING, TOWNHOUSE or ROW means a separate building containing three or more dwellings, each dwelling separated from its neighbour by a dividing wall and each having its own entrance at grade.

- (a) CLUSTER or BLOCK TOWNHOUSE means a group of townhouses which are situated on a lot in such a way that individual units may not have legal frontage on a public street or road.
- (b) ON-STREET TOWNHOUSE means a townhouse with each unit on a separate lot and having legal frontage on a public street.
- (c) STACKED TOWNHOUSE means a group of townhouses with one unit above another unit.

DWELLING, TRIPLEX means a building that is divided horizontally into three dwellings.

Refer to the illustrations at the end of this By-law.

DWELLING UNIT, BACHELOR means a dwelling designed for the use of one person.

EASEMENT See *RIGHT-OF-WAY*

EATING ESTABLISHMENT See *RESTAURANT*

EDUCATIONAL FACILITY means a building, structure or part thereof, offering instruction for a particular skill or profession and may include a science and technology/research facility. *(as added by 4316AH-13)*

ENCLOSED means to surround on all sides with either walls or windows or a combination thereof, and a roof.

ENVIRONMENTAL IMPACT STUDY (EIS) means an environmental study of a property prepared and signed by a qualified professional with relevant environmental expertise in accordance with the *Regional Environmental Impact Study Guidelines (EIS Guidelines)* to assess the effect of development on a natural or man-made feature and recommend mitigative measures to protect the feature, including a minimum vegetated protection zone. The requirements in the Agricultural (A) Zone may differ from the urban community zones.

ERECT means to build, construct, re-construct or relocate any building or structure and includes, without limiting the generality of the foregoing:

- (a) The performance of any preliminary physical operation, such as excavating, grading, filling or draining;
- (b) The alteration of a building or structure by an addition, enlargement or extension; or
- (c) Any work for which a building permit is required under the *Ontario Building Code*, as amended.

The words “erected” and “erection” shall have a corresponding meaning.

EROSION LIMIT, REGULATORY means the area adjacent to Lake Ontario and defined by a combination of stable slope, recession rate, and an erosion allowance, as established by the *Niagara Peninsula Conservation Authority (NPCA)*.

ESTHETICIAN OFFICE means a building or part of a building in which a qualified skin care specialist trained to administer non-medical treatments to individuals provides treatment or consultation and may include facial, manicures, pedicures, waxing and relaxation treatments.

ESTABLISHED FRONT BUILDING LINE means a line representing the location of the front wall of a building or the horizontal projection thereof, situated closest to the street, excluding any unenclosed porches, platforms, decks, landing places, or balconies.

ESTABLISHED REAR BUILDING LINE means a line representing the location of the rear wall of a building or horizontal projection thereof, situated nearest to the rear lot line, excluding any unenclosed porches, platforms, decks, landing places, or balconies.

ESTATE WINERY means a use on an agricultural operation on which buildings and structures are used for the making of wine produced from locally grown fruits.

EVENT, OUTDOOR means an event held in the open air for profit or non-profit; but does not include a special event as defined herein and shall not include garage sales, yard sales, flea markets or other occasional uses. *(as amended by 4316AR-13)*

EVENT, SPECIAL means an event that may occupy all or part of a privately owned property or Town owned property and may result in the disruption of the local flow of traffic. A special event may include a parade, festival, filming, running event, procession or any other activity that includes one or more of the following: *(as amended by 4316AR-13)*

- (a) Street closures
- (b) Fireworks or pyrotechnics
- (c) Live entertainment
- (d) Temporary structures or tents
- (e) Service of food or alcohol
- (f) Large volumes of vehicular or pedestrian traffic
- (g) Parking demand in excess of on-site capacity
- (h) Service of food, including mobile food trucks

A special event shall not include garage sales, yard sales, flea markets or other occasional uses. A special event shall be counted as an outdoor event for the purposes of this by-law.

EXISTING unless otherwise indicated, means existing legally on the date of passing of this By-law.

EXTERIOR SIDE YARD See *YARD - SIDE, EXTERIOR*

EXTERNAL DESIGN means the arrangement and/or pattern of materials forming the exterior of a building or structure.

FACADE means a building wall or series of building walls facing a street.

FARM See *AGRICULTURAL USE*

FARM HELP ACCOMMODATION means an accessory building, and may include a mobile home, containing proper sanitation facilities, for the use of housing seasonal agricultural employees, and is not used for year round occupancy, by any employee.

FARM IMPLEMENT DEALER means premises where new or used farm machinery are stored or displayed for the purposes of sale or hire and includes the storage and sale of farm machinery accessories, together with the repair and service of farm machinery.

FARM WINERY or COTTAGE WINERY means a farm on which buildings and structures are used for the making of wines from fruit grown exclusively on site.

FENCE, BOUNDARY means any structure of posts, boards, wood, wire, plastic, concrete, stone, metal, hedge or any combination thereof which separates or purports to separate any parcel of land from the parcel of land immediately adjacent.

FILL, CONSTRUCTION, AND ALTERATION TO WATERWAYS REGULATIONS means a regulation passed pursuant to the *Conservation Authorities Act*, or its successors, whereby a *Conservation Authority* may, among other matters, regulate:

- (a) The straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse;
- (b) The construction of any building or structure in or on a pond or swamp or in any area susceptible to flooding; and
- (c) The placing or dumping of fill of any kind in any defined part of the area over which the *Conservation Authority* has jurisdiction in which, in the opinion of the *Conservation Authority*, the control of flooding or pollution or the conservation of land may be affected.

FINANCIAL INSTITUTION See *BANK*

FINISHED GRADE means, when used in reference to a building or structure, the average elevation of the finished surface of the ground measured from a point 0.6 m (2 ft) out from the base of an exterior wall, support of a building or structure, but exclusive of any artificial embankment.

Refer to the illustrations at the end of this By-law.

FITNESS CENTRE or HEALTH FACILITY means a commercial recreation facility providing, for gain or profit, athletic and physical fitness facilities such as free weights, aerobics areas, game courts, exercise equipment, Jacuzzi, sauna, pro shop and locker rooms.

FLEA MARKET shall mean a commercial establishment where second hand goods, wares, substances, merchandise, or articles are displayed or offered for retail sale to the

general public by individual vendors from individual stalls and stands but shall not include a public market, antique sales store, or garage sale.

FLOOD means a temporary rise in the water level resulting in the inundation of areas adjacent to a watercourse not ordinarily covered by water.

FLOOD LEVEL, REGULATORY means the level of water caused by a flood which has a return period of 100 years on average or which has a one per cent (1%) chance of occurring or being exceeded in any given year (1:100 year return flood), as determined by the appropriate approval authority. Along Lake Ontario the regulatory flood level also includes an allowance for wave up rush and other water related hazards.

FLOOD or EROSION CONTROL FACILITIES means facilities approved by the appropriate approval authority to minimize the potential for damage from flooding or erosion and may consist of channels, shoreline protection, storm water control facilities and related structures.

FLOOD PLAIN means the area, usually low lands, adjoining a watercourse, a river stream, a small inland lake system or Lake Ontario which has been, or may be subject to flooding hazards.

FLOOD PLAIN, REGULATORY means the area covered by flood waters which has a return period of 100 years on average or which has a one (1%) per cent chance of occurring or being exceeded in any given year (1:100 year return flood), as determined by the appropriate approval authority. Along Lake Ontario the regulatory flood plain also includes an allowance for wave up rush and other water related hazards.

FLOODPROOFING means any combination of structural and non-structural additions, changes or adjustments to structures, which reduce or eliminate flood damage to real estate, improves real property, water and sanitary facilities, and structures and their contents.

FLOOR AREA, GROSS or GROSS FLOOR AREA means the sum total of the gross horizontal areas of all floors of all buildings or structures on a lot, measured from the interior faces of the exterior walls or from the centre line of the common wall separating two buildings, and the "floor area, gross" of a building or structure shall also include:

- (a) Basement floor area where the basement ceiling height is 2.1 m (7 ft) or more, unless otherwise specified;
- (b) Attic space having headroom of 2.1 m (7 ft) or more for at least half the attic floor area, unless otherwise specified;
- (c) Interior balconies and mezzanines;
- (d) Enclosed porches and enclosed verandas;
- (e) Elevator shafts and stairwells at each floor, and floor area used for mechanical equipment; and

- (f) Ground floor area devoted to secondary uses in the main building.

Floor area contained within a private garage, breezeway, unenclosed porches or unenclosed verandas shall not be included in the floor area calculation.

FLOOR AREA, GROSS LEASABLE means the total area of a building for which tenants pay rent and have exclusive occupancy, measured from the centreline of partition walls and exterior face of outside walls and includes all such floor area on a main floor, mezzanine and upper storey in a cellar, as well as the area of an outdoor patio which is used as a secondary use to a restaurant, but does not include:

- (a) Any floor area used in common by the tenants of the building such as a mall, aisle or hallway, elevator shaft or lobby, stairwell, any lunchroom or staff room, washroom, boiler room, maintenance room, mechanical, electrical or utility room, and any automobile parking facilities provided within the building; and
- (b) Storage area to which the public cannot or does not have access or which is capable of being used for no other purpose than the storage of goods, fixtures and equipment related to an on-site use.

FLOOR AREA, GROUND means the maximum area of that portion of a lot occupied by a building or structure measured to the outside walls, excluding a private garage in the case of a dwelling.

FLORIST means a commercial establishment devoted to the sale of flowers and indoor plants and the arrangement thereof.

FORESTRY USE means the raising and harvesting of wood and, without limiting the generality of the foregoing, includes the raising and cutting of fuel wood, pulp wood, lumber, Christmas trees, and other forest products.

FOURPLEX DWELLING See *DWELLING, FOURPLEX*

FRONT WALL of a building means the wall which faces the street. In the case of a corner lot, the shortest wall facing a street shall be considered the front wall.

FRONT YARD See *YARD - FRONT*

FUEL DEPOT means a lot where bulk storage of fuel, including petroleum products and propane, takes place and where wholesaling and retailing of these products is carried on.

FUNERAL HOME or UNDERTAKING ESTABLISHMENT means a commercial establishment in which a licensed undertaker prepares corpses for viewing and internment by friends and relatives and may include a chapel for funeral services.

GABLE means the triangular or arched end of an exterior wall in a building with a ridged roof.

GAMING ESTABLISHMENT means a premise where any banking or percentage game is played with cards, dice or mechanical device or machine for money, property or any item of value, and includes a place such as a casino or a gambling facility with slot machines or video lottery terminals.

GARAGE, PRIVATE means a detached accessory building or portion of a dwelling designed for the parking of private vehicles.

GARAGE, PUBLIC means a building which is used for the care, repair or equipping of motor vehicles, or where such vehicles are parked or stored for remuneration, hire or sale.

GARAGE SALE or YARD SALE means the sale by an occupant of a dwelling unit, on his or her own premises, of household goods belonging to him or her.

GARDEN CENTRE means commercial establishment where trees, shrubs or plants are offered for sale, either as retail or wholesale, together with the sale of soil, planting materials, fertilizers, garden literature, hand tools, ceramic or concrete ornamental planters or containers and similar materials but shall not include the sale of power operated lawn mowers or other powered garden tools.

GARDEN SUITE DWELLING See *DWELLING, GARDEN SUITE*

GATE HOUSE means a building or structure used for the purposes of providing security which shall not be used for human habitation.

GAS BAR See *AUTOMOBILE GAS BAR*

GIFT SHOP means a building or part thereof in which goods, wares or merchandise or articles are offered or kept for sale at retail, but does not include a convenience store, department store, clothing store, hardware store, variety store, drug store / pharmacy nor grocery store.

GOLF COURSE means a public or private area operated for the purpose of playing golf and may include a restaurant, driving range, the sale of golf equipment and an assembly hall, all of which are secondary uses to a golf course use.

GOLF DRIVING RANGE means a public or private area for the purpose of practicing golf driving techniques and is equipped with distance markers, lighting, safety nets, parking areas, golf equipment rental facilities and washrooms, but does not include a golf course.

GOVERNMENT OFFICE means a Town office, court house, registry office, health and welfare centre, employment centre, post office or other office used for the purposes of local or other government administration.

GRADE means:

- (a) When used in reference to a building or structure, the average elevation of the finished surface of the ground measured from a point 0.6 m (2 ft) out from where it meets the exterior wall face of such building or structure, exclusive of any artificial embankment;
- (b) When used in reference to a street, road or highway, the elevation of the street, road or highway established by the Town of Niagara-on-the-Lake or other regulatory body having jurisdiction.

GRAPPA PLANT means a building or structure or part thereof, used for the distillation of wine products and which is licensed under the *Liquor Control Board of Ontario*.

GREENBELT NATURAL HERITAGE SYSTEM means areas of the Protected Countryside within the *Ontario Greenbelt Plan 2005*, with the highest known concentration of the most sensitive and/or *significant* natural features and functions.

GREENHOUSE, COMMERCIAL means a building(s) or protective environment structure(s), including a hoop house designed to optimize maximum solar radiation in which, temperature, humidity, carbon dioxide and air flow can be regulated for the cultivation of plants for the purpose of a commercial enterprise. The retail operation is to be secondary to the greenhouse operation and limited to twenty-five per cent (25%) of the gross floor area of the main use.

GROCERY STORE means a building or part thereof wherein the primary function is the retail sale of food and other household items to the general public and may include a bake shop, meat and butcher services or delicatessen and which operates on a self-serve cash and carry basis, and may include facilities for parcel pickup.

GROSS FLOOR AREA See *FLOOR AREA, GROSS*

GROUP HOME means a supervised living accommodation unit in a residential unit to accommodate persons requiring a group living arrangement for their well-being, by reason of emotional, mental, physical, social or legal impairment. The residents live together under responsible supervision, approved by the Province of Ontario and licensed by the Town.

GUEST BEDROOM means a room used or maintained for the accommodation of the public and which contains no provisions for cooking.

HABITABLE FLOOR AREA means any room or area in a residential unit designed for living, sleeping, eating, sanitation or the preparation of food.

HABITABLE ROOM means any room in a residential dwelling unit used, or capable of being used, by one or more persons for living, sleeping, eating or food preparation; but does not include any part of a private garage, bathroom, unfinished attic, laundry room,

pantry, corridor, stairwell, storage room or any space used for the service or maintenance of a building or for common access to two or more residential units.

HARDWARE STORE means a commercial establishment engaged primarily in the indoor sale of hardware and home maintenance and improvement supplies including but not limited to tools, paints, varnishes, wall coverings, window components, finished and semi-finished lumber products, plumbing supplies, garden supplies and cleaning supplies.

HAZARDOUS LANDS means lands that are unsafe for development due to naturally occurring processes. Along the Lake Ontario shoreline this includes land that may be covered by water and the furthest landward limit of the flooding, erosion or dynamic beach hazard limits.

HAZARDOUS SITES means lands that are unsafe for development due to naturally occurring hazards and may include unstable soils or unstable bedrock.

HEALTH FACILITY See *FITNESS CENTRE*

HEIGHT See *BUILDING HEIGHT*

HELIPORT means any area used for the landing and taking-off of helicopters including all necessary passenger, cargo, fuelling and emergency services facilities.

HOME IMPROVEMENT CENTRE means a commercial establishment engaged in the sale of goods or materials required for the construction or alteration of buildings, including such merchandise as wall paneling, wood products, sheet glass products, windows and mirrors, floor, wall and ceiling tiles, carpeting, paint and wallpaper, bathroom and kitchen cupboards and plumbing fixtures, landscaping materials and related installation equipment.

HOME INDUSTRY means an occupation conducted for gain or profit within an accessory building to a single detached dwelling by the resident(s) of the dwelling, and which is secondary to the main agricultural use of the lot.

HOME OCCUPATION means an occupation, business, trade or craft conducted for gain or profit within a single detached dwelling as a secondary use to the principal residential use by a resident therein.

HOME PROFESSION means a professional service conducted for gain or profit within a single detached dwelling as a secondary use to a residential unit by a resident therein.

HOOP HOUSE See *GREENHOUSE, COMMERCIAL*

HOSPITAL means a hospital as defined by the *Private Hospitals Act* or a hospital as defined by the *Public Hospitals Act*.

HOSPITALITY PATIO means part or all of a patio where wine and food may be served but does not include the use of commercial cooking equipment on site in the preparation of food.

HOSPITALITY ROOM means part or all of a building where wine and food may be served, but does not include the use of commercial cooking equipment on site in the preparation of food.

HOSPITALITY TENT means part or all of a tent where wine and food may be served but does not include the use of commercial cooking equipment on site in the preparation of food.

HOTEL means a commercial establishment in which accommodation is provided for the traveling public, with or without restaurant facilities, and having a minimum of ten (10) guest sleeping rooms or suites and may include among its internal functions a banquet hall, meeting rooms, licensed lounge, convenience store, gift shop and indoor or outdoor commercial recreation facilities and commercial entertainment facilities but does not include adult entertainment facilities or body rub parlour.

HOUSEHOLD FURNISHINGS STORE means a building or part thereof, used for the retail sale of moveable contents of a room or home and may include furniture, light fixtures, clocks, organs or pianos, carpet and window coverings.

HOUSE, ROW means three or more dwellings units linked together by a common wall between each unit. The property line for freehold dwelling units shall be the common wall between each unit.

INDUSTRIAL USE means the use of land, buildings or structures primarily for manufacturing, processing and assembling of goods or raw materials, warehousing and bulk storage of goods, and the repair and servicing of goods including transportation terminals.

INDUSTRIAL MALL means a building or group of buildings which are planned, developed, managed and operated as a unit, and in which each building contains two or more units or spaces for lease or occupancy for industrial purposes.

INFRASTRUCTURE means physical structures (facilities or corridors) that form the foundation for development or resource use. Infrastructure includes: sewage and water systems, municipal and private irrigation and drainage systems including dams, sewage treatment systems, waste management systems, electric power generation and transmission including renewable energy systems, communications/telecommunications, transit and transportation corridors and facilities, oil and gas pipelines and associated facilities.

INSTITUTIONAL USE means the use of land, buildings or structures for some public or social purpose and may include governmental, religious, educational, charitable, philanthropic, or hospital uses.

KENNEL, ANIMAL means a secondary use and is a building or structure within which three (3) or more domesticated animals are housed, groomed, bred, boarded, trained or sold and which may offer provisions for minor medical treatment.

KEY HYDROLOGIC FEATURE means a key hydrologic feature including permanent and intermittent streams, lakes (and their littoral zones), seepage areas, springs and wetlands. Key hydrologic features are identified within the Environmental Conservation (EC) Zone, the Environmental Conservation Zone Overlay and the Schedules.

KEY NATURAL HERITAGE FEATURE means a key natural heritage feature including significant habitat of endangered species, threatened species and special concern species, fish habitat, wetlands, life science areas of natural and scientific interest (ANSI), significant valley lands, significant woodlands, significant wildlife habitat, sand barrens, savannahs and tall grass prairies, and alvars. Key natural heritage features are identified within the Environmental Conservation (EC) Zone, the Environmental Conservation Zone Overlay and the Schedules.

KITCHEN means an area containing equipment for food preparation and storage, base cabinets which are capable of accommodating cooking facilities, and cleaning facilities such as a sink.

LABORATORY means a building or structure or portion thereof wherein scientific experiments, tests or investigations are conducted and may include the taking and processing of x-rays, and / or where drugs, chemicals, or other substances or articles pertinent to such experiments, tests or investigations are manufactured or otherwise prepared for use on the premises.

LANDSCAPED OPEN SPACE means the area of a lot which is at finished grade or terraced and primarily used or intended to be used for the growth and maintenance of grass, flowers, trees, shrubbery, natural vegetation and indigenous species and other landscaping and includes any buffer strip, surfaced walk, surface patio, swimming pool, but shall not include any access driveway, ramp, parking area or loading spaces or any open space beneath, above or within any building or structure.

LANE means a public access not more than 9 m (29.53 ft) in width which affords access to an abutting property, but does not include a private lane, private road or a street.

LANE, PRIVATE See *PRIVATE LANE*

LAUNDROMAT or LAUNDRY, COIN OPERATED means a commercial establishment where the service of coin-operated laundry machines, using only water, detergents and additives are made available to the public for the purpose of laundry cleaning.

LIBRARY, PUBLIC means a building, or part thereof, used for the collection of literary, artistic, musical and reference materials in the form of books, manuscripts, recordings, and films for public use.

LIQUOR STORE or BEER STORE means a commercial establishment exclusively devoted to the retail sale of liquor, wine and / or beer.

LIVERY STABLE or CALECHE SERVICE means a stable where horses or horse and carriages are offered for hire and which service is licensed by the Region, and may include ancillary uses such as the repair of harnesses, carriages or equipment, but does not include a blacksmith shop.

LIVING FENCE means a fence or barrier that is comprised of shrubs, trees, hedges or bushes which separates or purports to separate lands not under common ownership, and which is continuous through the entire length where required except for where access to areas and sight lines are required for traffic and safety purposes.

LOADING SPACE means an off-street space or berth located on the same lot as a permitted use and used for the parking of a commercial vehicle for the purpose of loading or unloading merchandise or materials pertinent to a permitted use, and which has unobstructed access to the road or lane.

LOCALLY GROWN means when referring to an estate winery, that the fruit used in the production of wine shall consist entirely of fruit in the first instance grown and harvested within the municipal boundaries of Niagara-on-the-Lake, in the second instance from fruit grown and harvested in the Regional Municipality of Niagara and in the third instance from fruit grown and harvested in the Province of Ontario.

LODGING HOUSE means a residential dwelling or portion thereof in which roomers or boarders are harboured, received or lodged, with or without meals, for gain or profit, but shall not include a bed and breakfast establishment, an accessory residential unit, hotel, hospital, nursing home, home for the young or the aged or institution, if the hotel, hospital, home or institution is licensed, approved or supervised under any other general or special Act.

LODGING UNIT means living accommodation which does not include the exclusive use of both a kitchen and a bathroom.

LOT means a parcel, or tract of land:

- (a) Which is the whole lot as shown on a registered plan of subdivision, but a registered plan of subdivision for the purpose of this paragraph does not include a registered plan of subdivision which has been deemed not to be a registered plan of subdivision under a By-law passed pursuant to Section 50(4) of the *Ontario Planning Act*; or
- (b) Which fronts a public highway, road or street and is a separate parcel of land without any adjoining lands being owned by the same owner or owners as of April 25, 1974; or (as amended by 4316J-11)

- (c) The description of which is the same as in the deed which has been given consent pursuant to Section 53 of the *Ontario Planning Act*; or
- (d) Is the whole remnant remaining to an owner or owners after conveyance made with consent pursuant to Section 53 of the *Ontario Planning Act*, but for the purposes of this paragraph no parcel of land ceases to be a lot by reason only of the fact that a part or parts of it has or have been conveyed to, or required by the Town, Region of Niagara, Her Majesty in the right of Ontario or Her Majesty in the right of Canada.

LOT AREA means the total horizontal area within the lot lines of a lot. In the case of a corner lot having street lines rounding at the corner with a radius of 6.09 m (19.98 ft) or less, the lot area of such lots shall be calculated as if the lot lines were produced to their point of intersection.

LOT, CORNER means where a lot abuts one or more streets of such a curve that the tangents drawn from the street extremities of the lots lines contain an interior angle of not more than 135°, the lot for the purpose of determining yard requirements shall be considered a corner lot. The corner shall be to the point on the lot nearest to the point of intersection of the tangents.

LOT COVERAGE means the percentage of the lot area covered by buildings, including accessory buildings, bay / cantilevered windows, covered porches and verandas, covered decks and covered entrance ways, but not including an in- ground or above-ground swimming pool, satellite dish, uncovered parking areas or driveways, or uncovered and unenclosed decks, porches or patios.

LOT DEPTH means the horizontal distance measured between the front and rear lot lines. Where the front and rear lot lines are not parallel, the lot depth is the length of a line joining the midpoints of such lines. In the case of two or more rear lines, lot depth shall be the average of the distance from the front lot line to each point where the angle changes measured at right angles to the front lot line. In the case of a lot with less than four lot lines, the lot depth shall be the distance from the front lot line to the point of intersection of the side lot lines. In the case of a triangular lot, the lot depth means the perpendicular distance from the front lot line to the apex of the angle formed by the intersection of the side lot lines.

LOT, FIRELANE means a lot having frontage on a private lane or private-right-of way known as a Firelane.

LOT, FLAG means an interior lot that could fill the middle of an existing block and which is accessed by a narrow frontage from a public street.

LOT FRONTAGE means:

- (a) where the side lot lines are parallel, the distance between the side lot lines measured at right angles;
- (b) where the side lot lines are not parallel, the length of a line drawn between the side lot lines parallel to the front lot line at the minimum required front yard setback;
- (c) where the side lot lines are not parallel and where the front lot line is curved, the length of a line drawn between the side lot lines back from and parallel to the chord of the lot frontage at the minimum required front yard setback. The chord of the lot frontage is a straight line joining the two point where the side lot lines intersect the front lot lines.

LOT, INTERIOR means a lot other than a corner lot or a through lot.

LOT LINE means any line which defines the boundary of a lot.

LOT LINE, EXTERIOR means the lot line that intersects the front lot line and divides the lot from the street.

LOT LINE, FRONT means:

- (a) In the case of an interior lot, the lot line that divides the lot from a street;
- (b) In the case of a corner lot that fronts on one or more streets, the shorter lot line abutting the street unless each lot line is of equal length, in which case the front lot line shall be the lot line onto which the principal means of access is provided;
- (c) In the case of a through lot, the front lot line shall be the lot line where the principle means of access to the building is provided; and
- (d) In the case of a lot having direct frontage on a shoreline or shoreline reserve, the lot line directly adjacent to the shoreline or shoreline reserve.

LOT LINE, REAR means, in the case of a lot having four or more lot lines, the lot line farthest from and opposite to the front lot line. If a lot has less than four lot lines, the point of intersection of the two side yards shall be deemed to be the rear lot line.

LOT LINE, SIDE means a lot line other than a front lot line or a rear lot line.

LOT, THROUGH means a lot having two lot lines which are not adjacent to one another abutting on two or more streets. For the purpose of setback requirements, the lot frontage for a through lot shall be deemed to be the lot line which provides the principal means of access for the building.

LOT, WATERFRONT means a lot which abuts a shoreline or shoreline reserve and may or may not also abut a street.

Refer to the illustrations at the end of this By-law.

LUMBER YARD See *BUILDING SUPPLY ESTABLISHMENT*

MACHINE SHOP means a building or part of a building used for the repair of household articles and shall include the repair or servicing of communication parts and accessories, electronic devices, television sets, radios, home security systems, satellite systems, computers, furniture, appliance repair shops and other similar uses, but shall not include manufacturing, industrial assembly or motor vehicle repair shops.

MAIN BUILDING See *BUILDING, MAIN*

MAIN WALL of a building means a wall facing a street. In the case of a corner lot all walls facing a street shall be considered main walls.

MANUFACTURING ESTABLISHMENT means a building or part of a building used for the production, compounding, processing, packaging, crating, bottling, packing, or assembling of raw or semi-processed or fully-processed goods or materials.

MARIHUANA FOR MEDICAL PURPOSES PRODUCTION FACILITY means a building used for the cultivation, processing, testing, destruction, packaging and/or shipping of medical marihuana, licensed under the *Marihuana for Medical Purposes Regulations* to the *Controlled Drugs and Substances Act*.

MARINA means a commercial establishment providing transient and/or seasonal docking and mooring facilities to the general public where boats are berthed, stored, serviced, repaired or launched. A marina may include land based facilities for the winter storage of boats, sale or rental of boats and boat accessories; the sale of marine fuels and lubricants and a marine supplies establishment, waste water pumping facilities, washroom and shower facilities, a laundromat, launching ramp, boat lift, and administrative offices.

MARINE SUPPLIES ESTABLISHMENT means a commercial establishment that sells marine supplies such as boat parts, boat accessories or boating accessories.

MARKET, PUBLIC means a place, building or structure where produce, meat, flowers, fruit, crafts, paintings and other items, largely produced by the vendor, are sold to the public at retail by vendors from individual stalls or stands but shall not include a flea market.

MEDICAL CLINIC means a commercial establishment used by three (3) or more medical practitioners and their associated staff and offers services for medical, dental, chiropractic, optic or other human health treatment and which may include ancillary administrative offices, laboratories, dispensaries, but shall not include a hospital or other facilities for in-patient care or major surgical procedures.

MEDICAL OFFICE means a commercial establishment in which not more than two (2) medical practitioners provide consultative, diagnostic and treatment services for humans.

MEDICAL PRACTITIONER means a practitioner of consultative, diagnostic and treatment services for medical, surgical, dental, chiropractic, optic or other human health care services for the public.

MICRO-BREWERY means a building used for the making of beer on a small scale, and may include tasting and dining facilities and the retail sale of related items, which comprises twenty-five per cent (25%) of the total floor area of the facility, to a maximum of 400 m².

MINERAL AGGREGATE RESOURCES means gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite, rock or other material prescribed under the *Aggregate Resources Act* suitable for construction, industrial, manufacturing and maintenance purposes but does not include metallic ores, asbestos, graphite, kyanite, mica, nepheline syenite, salt, talc, wollastonite, mine tailings or other material prescribed under the *Mining*.

MINIATURE GOLF COURSE means an area of land or a building or structure or part thereof, operated for profit or gain as a commercial place of amusement in which facilities are provided to simulate the game of golf or any aspect of the game on a small scale, but does not include a golf driving range.

MINI-WAREHOUSE means a building containing separate, individual self-storage units divided from floor to the ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short term basis to the general public for private storage of personal goods, materials and equipment or the storage of goods which will be sold elsewhere or, subsequently, transported to another location for sale or consumption.

MIXED COMMERCIAL/RESIDENTIAL DEVELOPMENT means a building or structure which is used for a mixture of commercial and residential uses, where the entire ground floor of such building or structure shall be used for commercial purposes.

MOBILE FOOD TRUCK means a readily movable mobile motorized vehicle or towed vehicle used to store, prepare and display food intended for individual portion service; but does not include a food cart and shall not include a transport trailer, or a towed enclosed trailer in excess of 3.65 metres (12 feet). (*as amended by 4316AR-13*)

MOBILE HOME See *DWELLING, MOBILE HOME*

MOBILE HOME LOT means a parcel of land within a mobile home park which shall be used only for the placement of only one, single or double width mobile home, for the exclusive use of its occupants, and which directly abuts a laneway giving access to a street.

MOBILE HOME PARK means an area of land used exclusively for the siting of mobile homes, with commercial facilities and recreational uses for park residents, including any building,

structure or enclosure of such mobile home park and which remains under single ownership.

MONUMENT SALES means a commercial establishment used for the display and sale of cemetery monuments and related articles.

MOTEL means a commercial establishment consisting of a group of attached or detached living or sleeping rooms with bathroom, located on a single site, accessed by a separate entrance directly from outside of the building, and designed for use by the traveling public and may include restaurant facilities, a banquet hall, meeting rooms, licensed lounge, convenience store, gift shop and indoor or outdoor commercial recreation facilities and commercial entertainment facilities but does not include an adult entertainment facility nor body rub parlour.

MOTOR VEHICLE SALES OUTLET See *AUTOMOBILE SALES ESTABLISHMENT*

MOTOR VEHICLE SERVICE ESTABLISHMENT See *AUTOMOBILE SERVICE STATION*

MUNICIPAL PARKLAND means an area of public land consisting largely of landscaped open space or other open areas and used primarily for active or passive recreation purposes. Municipal parkland may include outdoor sports field, facilities, picnic areas, playgrounds, recreation trails, public washroom facilities, walkways as defined in this By-law, and other accessory structures such as park furniture, play equipment, service buildings and statues.

MUNICIPAL UTILITY FACILITY means a lot, building or structure, or a portion thereof, used by the Town or a public authority for the provision of local utility services including a water or waste water pumping station, municipal transportation depot / yard, and road maintenance equipment yard.

MUNICIPALITY means the Corporation of the Town of Niagara-on-the-Lake.

MUSEUM means a building or part of a building used for the storing and exhibiting to the general public of objects illustrating antiquities, natural history, art works, sculptures and paintings and may include retail sales as a secondary use.

NATURAL CORRIDOR means a linear biophysical feature such as a stream, cliff, woodlands, escarpment, ravine, valley, marsh or wetland. These areas serve as essential passageways for native plant and animal species and communities for such purposes as migratory routes, passage between different habitat types for animals requiring a variety of habitat types to survive, and pathways for the movement and reproductive interchange between different populations of the same plant or animal species.

NATURAL SELF-SUSTAINING VEGETATION means vegetation dominated by native plant species that includes grass that can grow and persist without direct human management, protection, or tending.

NAVIGABLE WATERWAY means a navigable body of water or stream deemed under the *Beds of Navigable Waters Act* and includes any body of water which is capable in its natural state or at normal water level of being navigated by floating vessels for the purpose of transportation, recreation or commerce.

NEGATIVE IMPACT means:

- (a) In regard to water features, degradation to the quality or quantity of surface or ground water, key hydrologic features or vulnerable areas, and their related hydrologic functions, due to single, multiple or successive development of site alteration activities;
- (b) In regard to fish habitat, the harmful alterations, disruption or destruction of fish habitat, except where, in conjunction with the appropriate authorities, it has been authorized under the *Fisheries Act*, using the guiding principle of no net loss of productive capacity; and
- (c) In regard to other natural heritage features and areas, degradation that threatens the health and integrity of the natural features or ecological functions for which an area is identified due to single, multiple or successive development or site alteration activities.

NEIGHBOURHOOD CONVENIENCE STORE See *CONVENIENCE STORE*

NET LAND AREA means the area of a lot owned by a proponent:

- (a) Less any lands which have been or which will be dedicated to the Town for public roads, public pathways, public open space, municipal parkland or public community facilities including, but not limited to libraries, fire stations, and recreation facilities; and
- (b) In a development that contains parks, communal pathways or communal open space uses that are not dedicated to the Town. These are included in the calculation of net land area. Roads, private roads and lands dedicated to the Town are excluded from the calculation.

NIAGARA PARKS COMMISSION AREA means the regulation of land by the Niagara Parks Commission (NPC) under the *Niagara Parks Act* and Regulation 829. The NPC may grant permission for development in or on areas within their jurisdiction and adjacent or close to the Niagara River Parkway.

NIAGARA PENINSULA CONSERVATION AREA REGULATION AREA means lands subject to regulation by the *Niagara Peninsula Conservation Authority (NPCA)* under *Ontario Regulation 155/06*.

NON-CONFORMING means an existing use or activity on any lot, or within any building, or structure, or portion thereof which does not conform to the list of permitted uses or

activities, as of the date of passing of this By-law, for the zone in which such existing lot, building, or structure is located.

NON-COMPLYING means an existing lot, building, or structure that does not fulfill the requirements of either the specific zone regulations of this By-law for the zone in which the lot, building, or structure is located or the general provisions, but which complied to the applicable regulations and general provisions when the lot was created or the building or structure constructed.

NON RESIDENTIAL when used in reference to a building or structure or use, shall mean designed, intended or used for purposes other than those of a dwelling unit.

NURSERY means an establishment where trees, shrubs or plants are grown for the purpose of transplanting and may be offered for retail or wholesale price and may include the sale of soil, planting material and fertilizers, but shall not include the sale of lawn or garden equipment, or powered lawn and garden tools. The retail operation is to be secondary to the nursery operation.

NURSING HOME means a building licensed under the appropriate provincial statute(s) and wherein food, lodging or nursing care and treatment are furnished, with or without charge.

NUTRIENT UNIT means an amount of nutrients that give a fertilizer replacement value of the lower of 43 kilograms of nitrogen, or 55 kilograms of phosphate as nutrient (as defined in Ontario Regulation 267/03 made under the *Nutrient Management Act*).

OBNOXIOUS USE means an offensive trade which is offensive or dangerous by reason of emission of odour, smoke, dust, noise, fumes, gas, vibration or refuse matter.

OCCASIONAL USE means a use which only occurs for a maximum duration of four (4) consecutive weeks or a total of twenty-eight (28) days per year.

OFFICE, BUSINESS See *BUSINESS* or *PROFESSIONAL OFFICE*

OFFICE COMPLEX means a freestanding building in which one or more businesses, professions or practices are conducted including associated clerical, administrative, consulting, advisory or training services, but not a medical clinic or veterinary clinic, medical office or veterinary office, or data processing establishment.

OFFICE, GOVERNMENT See *GOVERNMENT OFFICE*

OFFICE, MEDICAL See *MEDICAL OFFICE*

OFFICE, PROFESSIONAL See *BUSINESS* or *PROFESSIONAL OFFICE*

OFFICE SUPPLY AND EQUIPMENT SALES, RENTAL AND SERVICE means a commercial establishment devoted to the retailing, rental and servicing of materials used in offices and businesses.

OFFICE, VETERINARY See *VETERINARY OFFICE*

OPERATING APPARATUS means outdoor mechanical equipment or machinery used in conjunction with buildings or structures include but not limited to air conditions, pool pumps and pool heaters, generators, heat exchangers and compressors. *(added by By-law 4316BZ-16)*

OPEN STORAGE See *OUTDOOR STORAGE*

OUTDOOR AMENITY AREA means an outside space, immediately adjacent to and accessible from a dwelling, such as a grassed area, garden or deck which shall be available for use by the occupants and guests of a dwelling, bed and breakfast or country inn establishment for leisure activities.

OUTDOOR DISPLAY AREA means an area set aside out of doors, covered or uncovered, which shall be used in conjunction with an established use or business located on the same lot in adjacent permanent premises for the display of fresh produce and new goods or merchandise. *(as amended by 4316Y-12)*

OUTDOOR SALES AREA means an area set aside out of doors, covered or uncovered, which shall be used in conjunction with an established use or business located on the same lot in adjacent permanent premises for the sale of fresh produce and new goods or merchandise. *(as amended by 4316Y-12)*

OUTDOOR PATIO RESTAURANT means an outdoor area for the purpose of serving food and / or beverages used in conjunction with and secondary to the operation of a restaurant, and shall not include outdoor cooking facilities.

OUTDOOR PATIO, GOLF COURSE means an outdoor roofless unenclosed area for the purposes of serving food and beverages as a use related to a golf course clubhouse, for the patrons of a golf course or driving range.

OUTDOOR PRIVACY AREA means an outside space, immediately adjacent to and accessible from a dwelling such as a porch, deck or balcony, which shall be available for use by the occupants of such dwelling for leisure activities.

OUTDOOR SPORTS PRACTICE FACILITIES means a public or private area operated for the purpose of developing a sporting technique and may include safety nets, lighting, equipment rental, parking area and washrooms, such as a baseball batting practice facility.

OUTDOOR SPORTSFIELD FACILITIES means an area of land, publicly or privately owned, used for the outdoor playing of soccer, football, field hockey, lacrosse, softball, cricket, baseball, tennis, volleyball, basketball, or lawn bowling or any other sport that requires a large open field.

OUTDOOR STORAGE or OPEN STORAGE means the storage of goods, materials, merchandise and equipment or the display and sale of goods and materials, including vehicles for hire or sale, outside a building in the open air.

OUTDOOR THEATRE See *THEATRE - OUTDOOR*

PARAPET means the low protective wall on a balcony or above the cornice of a building.

PARK MODEL HOME See *DWELLING, PARK MODEL HOME*

PARK, PRIVATE means a park controlled or owned by a private individual, group or organization and which may not be open to the public.

PARK, PUBLIC means a park controlled or owned by the Municipality or a public authority and which is normally open to the public for both active and passive recreations uses and includes landscaped playing fields, play equipment, and accessory buildings and structures.

PARKING AISLE means a portion of a parking area which abuts, on one or more sides, parking spaces to which it provides access, and which is not to be used for the parking of vehicles.

PARKING AREA means an area provided for the parking of operable vehicles and includes parking aisles, internal roads, parking spaces and related ingress and egress lanes or a private garage, but does not include any part of a street.

PARKING LOT means a parking area forming the principal use of a lot and operated by either a private or public organization for public use.

PARKING SPACE means an area exclusive of any aisles or ingress or egress lanes, usable for the temporary parking or storage of motor vehicles, and may include a private garage. See the table in general provisions Section 6.38 (e) for the minimum parking space dimensions as per parking alignment.

PARKING SPACE, TANDEM / STACKED means one parking space located immediately behind another parking space in a row.

PARKING STRUCTURE means a building or structure used for the parking of vehicles and is available to residents, clients, customers or the public with or without a fee being charged and may be above or below finished grade.

PATIO, OUTDOOR RESIDENTIAL means a platform that may be roofed and enclosed, with or without a foundation, generally attached to or abutting a residential dwelling with or without direct access to the ground, which is not more than 0.6 m (2 ft) above the finished grade.

PERSON means an individual, association, firm, partnership, corporation, trust, incorporated company, organization, trustee or agent and their heirs, executors or other legal representatives of a person to whom the same can apply according to law.

PERSONAL SERVICE ESTABLISHMENT means a commercial establishment in which persons are employed in providing services and administering to the individual and personal needs of persons and shall include, but not be limited to a barber, hairdresser, beautician, aesthetician, tailor, dressmaker, shoemaker, and a tanning salon, but shall not include a body rub parlour or adult entertainment parlour as defined herein. The sale of merchandise shall be permitted only as a secondary use to the personal service provided.

PET-GROOMING ESTABLISHMENT means a commercial establishment in which facilities are provided for the washing and grooming of dogs and cats but where no boarding or medical treatment of animals takes place.

PHARMACY See *DRUG STORE*

PHOTO STUDIO See *ARTIST STUDIO*

PHOTOCOPYING SHOP or BLUEPRINTING SHOP means a commercial establishment in which photocopying or blueprinting services are provided to the public and other businesses, but shall not include printing and binding establishments.

PHOTOFINISHING ESTABLISHMENT means a building or part thereof used primarily for the developing and print processing of film and includes portrait and commercial photography.

PICK YOUR OWN AGRICULTURAL OPERATION means an agricultural use which is open to the public and provides for the picking of fruits, vegetables, nuts and includes secondary uses that support the agricultural operation.

PICNIC AREA means an area set aside in a park to accommodate picnic tables and barbecues and shall not include tent and trailer campground.

PIT means land or land under water from which unconsolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or structure on the excavation site.

PLAYGROUND means an area of landscaped open space equipped with children's equipment such as slides, swings, or wading pool.

POINT OF INTERSECTION means the point at which two street lines abutting a corner lot intersect or if the two street lines meet in a curve, then it is the point at which the projections of the two lot lines abutting the two streets intersect.

POINT OF RECEPTION refers to the Ministry of the Environment publication PIBS 4709 “Interpretation for Applying MOE NPC Technical Publications to Wind Turbine Generators”, Version 1.0 which defines a Point of Reception as any point on the premises of a person within 30 m of a dwelling or camping area, where sound or vibration originating from other than those premises is received.

A Point of Reception shall include existing or zoned for future use premises; permanent or seasonal residences, hotels / motels, nursing / retirement homes, rental residences, hospitals, campgrounds, and noise sensitive buildings such as schools and places of worship.

For the purposes of this By-law, the definition of Point of Reception shall apply to shadow flicker.

PORCH or VERANDA means a roofed unenclosed structure, attached to a building with or without steps, consisting of a platform no greater than 2 m (6.56 ft) above grade, intended as an outdoor privacy area.

PORTABLE ASPHALT PLANT means a facility with equipment designed to heat and dry aggregate and to mix aggregate with bituminous asphalt to produce asphalt paving material, and includes stockpiling and storage of bulk materials used in the process. A portable asphalt plant is not of permanent construction, but is designed to be dismantled and moved to another location as required.

PORTE COCHERE means a covered structure that is supported by columns or piers which is attached to and extends from the entrance of a dwelling and which is open on at least two (2) sides and is intended for the parking of vehicles. The upper deck may be used as a balcony or enclosed as living space associated with the dwelling.

POSTAL OUTLET or COURIER SERVICE ESTABLISHMENT means a commercial establishment which provides postal and courier pick-up or drop-off services for letters and parcels to the public.

POWER GENERATION, ELECTRIC means the use of land, water, building or structure or part thereof for the generation of electric power.

PRINCIPAL MEANS OF ACCESS means the front architectural entrance to the building.

PRINCIPAL USE means the main use of a lot, building, or structure.

PRINTING AND BINDING ESTABLISHMENT means a commercial establishment or part thereof where the principal use is to furnish a service of printing, lithographing, publishing or binding of periodicals or other written material.

PRIVACY FENCE means a fence that will visually isolate, screen, conceal, or seclude objects, things, places, or people.

PRIVATE CLUB See *PRIVATE SOCIAL AND CULTURAL FACILITY*

PRIVATE LANE means a private access which affords access within a property and is not maintained by a public body and shall not include a lane, private road or a street.

PRIVATE ROAD means a private right-of-way over private property which affords access to abutting lots or dwellings and is not maintained by a public body and shall not include a lane, private lane or a street.

PRIVATE SOCIAL AND CULTURAL FACILITY or PRIVATE CLUB means any lot, building, or structure or part thereof intended for use by clubs, groups, or organizations for the purposes of providing for meeting places, social functions, regular membership gatherings, and recreation and athletic purposes.

PRO SHOP means a building or part thereof, where golf and related items or items related to an outdoor sports practice facility located on the site, are offered or kept for sale at retail and includes storage and repair areas and which retail area is limited to a maximum size of 92.9 m² (1000 ft²).

PROFESSIONAL OFFICE See *BUSINESS OFFICE*

PUBLIC AUTHORITY means any Federal or Provincial agency, school board, public utility commission, transportation commission, public library board, board of parks management, board of health, board of commissioners of police, or other board or commission or committee or local authority established or exercising any power or authority under any general or special statute of Ontario or Canada with respect to any of the affairs or purposes of the Municipality or any portion thereof, and includes any committee or local authority established by By-law of the Municipality or Ontario Power Generation Corporation or Hydro One.

PUBLIC HALL See *AUDITORIUM*

PUBLIC LIBRARY See *LIBRARY, PUBLIC*

PUBLIC MARKET See *MARKET, PUBLIC*

PUBLIC SERVICES means the use of buildings or structures and other related works necessary for supplying water, gas, electricity, sewage collection and treatment facilities and other services provided by a public authority.

PUBLIC USE or CIVIC USE means the use of any lot, building or structure or portion thereof for public use and shall include public parks, community or recreation centres, a cemetery, fire halls, police stations, ambulance stations, Town government offices, public works yard, public libraries, or post office including any building and facilities accessory thereto, but does not apply to essential infrastructure such as the provision of waterlines, sewer lines, road or utility lines provided by agencies such as gas, hydro, cable or the telephone company and does not include schools.

PUBLIC WASHROOM FACILITIES means a building or part thereof in which toilet and washing facilities are provided for use by the general public.

PUBLISHING ESTABLISHMENT See *PRINTING AND BINDING ESTABLISHMENT*

QUARRY means land or land under water from which consolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or structure on the excavation site.

RADIO STUDIO or TELEVISION STUDIO means a building or part thereof, used for the programming, production, office administration, broadcasting and related activities of radio and television studios.

REAR YARD See *YARD - REAR*

RECONSTRUCTION means the recreation of a building or structure on its original site based on historical evidence and documentation.

RECREATION CENTRE See *COMMUNITY CENTRE*

RECREATION TRAILS means an area of open space, publicly or privately owned, for the provision of participatory athletic, recreation or fitness facilities including, pedestrian / nature trails, bicycle trails, multi-use trails, fitness trails, nature trails for the disabled, and cross-country skiing trails.

RECREATIONAL USE means the use of land for parks, playgrounds, tennis courts, lawn bowling greens, indoor and outdoor skating rinks, athletic fields, golf courses, picnic areas, swimming pools, day camps, community centres, snow skiing and other recreational uses, together with accessory buildings and structures, but does not include a track for racing animals, motor vehicles, snowmobiles, all-terrain vehicles nor motorcycles.

RECREATIONAL VEHICLE means any vehicle, or portable structure designed to be towed or carried by a vehicle, which is used for temporary recreational travel and / or accommodation and shall include motor homes, camper trailers, converted buses, boats and boat trailers, snowmobiles and snowmobile trailers, personal watercraft and personal watercraft trailers.

RECREATIONAL VEHICLE PARK means a parcel of land containing two or more recreational vehicle sites which are used for temporary or seasonal occupancy by recreational trailers, recreational vehicles and tents and which is under single management and ownership and includes all accessory buildings and structures.

RECYCLING CENTRE means a lot, building, structure, or part thereof, where used material is separated and processed prior to shipment to others who will use those materials to manufacture new products, but does not include a salvage yard or wrecking yard.

REDEVELOPMENT means the removal of buildings or structures from a lot, or the creation of lots or change of land use, and the construction of new buildings or structures on the said lot, or the rehabilitation and renewal of an existing building or structure.

REFRESHMENT AREA means a part of a building where light lunches, snacks, baked goods and non-alcoholic beverages are prepared and offered for sale primarily for immediate consumption on the premises without the employment of waitpersons, and no commercial cooking facilities are allowed. The foods prepared shall reflect the agricultural market nature of the property and nothing shall prevent the preparation, including baking of baked goods, and the heating of soups and other components of light lunches.

REGIONAL ENVIRONMENTAL CONSERVATION AREA means environmental conservation areas including significant woodlands, significant wildlife habitat, significant habitat of species of concern, regionally significant life science ANSIs, other evaluated wetlands, significant valley lands, and publicly owned conservation lands.

REGULATORY, EROSION LIMIT See *EROSION LIMIT, REGULATORY*

REGULATORY, FLOOD LEVEL See *FLOOD LEVEL, REGULATORY*

REGULATORY, FLOOD PLAIN See *FLOOD PLAIN, REGULATORY*

RELIGIOUS INSTITUTION or CHURCH means a building including churches, synagogues, mosques, and rectories, owned or occupied by a religious organization or congregation and which is dedicated exclusively to worship and related social and charitable activities. Secondary uses may include a church hall, church auditorium, convent, monastery, office of a clergyperson, cemetery, church school, parish hall, day nursery or a parsonage.

RELIGIOUS RETREAT means the use of land for religious purposes and includes a place of worship, temporary sleeping accommodation and washroom facilities, and may include cooking facilities.

RENOVATION means the repair or strengthening of a building or structure to a safe condition, but shall not include its replacement.

RENTAL OUTLET means a commercial establishment where residential, industrial, and commercial equipment is kept for rental to the general public and includes such things as lawn and garden tools, bicycles, home furnishings, floor cleaning equipment, masonry tools, painting and decorating equipment, moving tools, plumbing tools, and power tools, and may include as a secondary use the sale of supplies necessary for the operation of said rental equipment.

REPAIR SERVICE means a commercial establishment used for the provision of maintenance or repair services for goods or equipment, excluding motor vehicles and major recreational vehicles and equipment.

REQUIRED YARD See *YARD, REQUIRED*

RESEARCH AND DEVELOPMENT ESTABLISHMENT means a building or structure or part thereof which is principally used for research, data collection and manipulation, and/or technical development of information or devices for application in a scientific discipline.

RESIDENCE, RETIREMENT means a residence providing accommodation primarily for retired persons or retired couples, where each private suite or living unit has a separate private bathroom and separate entrance from a common hall, but where common facilities for the preparation and consumption of food are provided, and common lounges, recreation rooms and medical facilities may also be provided.

RESIDENTIAL UNIT means a set of self-contained habitable rooms located in a building or structure that is used or intended for use as a residential premises which contains kitchen and bathroom facilities that are intended for the exclusive use of the unit and has a private means of egress to the outside of the building or structure, or from a common hallway or stairway inside the building or structure in which it is located.

RESTAURANT or EATING ESTABLISHMENT means a commercial establishment with seating and tables for public use, where food is prepared and offered for retail sale to the public for immediate consumption either on or off the premises, including a donut shop or licensed dining lounge, but does not include the sale of prepackaged food or beverages requiring no further preparation. A minimum of twenty-five (25 %) of the gross floor area shall be devoted to seating and tables for public use.

RESTAURANT, DRIVE-IN means a restaurant which does not contain a dining room but where it is intended that patrons consume food within their vehicles while parked on the lot where the restaurant is located.

RESTAURANT, DRIVE-THROUGH means a restaurant where patrons order and purchase their food from their vehicles and then drive away to consume the food elsewhere, and may be secondary to an establishment that offers sit-down service on the premises as well.

RESTAURANT OUTDOOR PATIO See *OUTDOOR PATIO RESTAURANT*

RESTAURANT, TAKE-OUT means a commercial establishment where food is prepared, packaged and offered for sale or sold to the public for consumption off the premises of the establishment, and may include delivery of food to the public, and also may include a small area (less than ten per cent (10%) of the permitted gross floor area) for food consumption on the premises and shall include an ice cream parlour.

RESTORATION means the recovery of the forms and details of a property or building as it appeared at a particular time by removing work of intervening periods and where necessary, replacing or reproducing missing elements.

RETAIL STORE means a building or part of a building where goods, wares, merchandise, substances, articles or things are offered for sale at retail directly to the public and includes limited storage of such goods, wares, merchandise, substances, articles or things on the premises to service such store, does not include a convenience store, department store, home improvement centre, restaurant, take-out restaurant, grocery store or retail warehouse.

RETAIL WAREHOUSE means a large scale single purpose retail facility having a minimum gross lease-able area of 2,000 m² serving a regional trade area and storing and displaying products in a warehouse format.

RIDGE LINE means the summit line of a roof or the line on which the rafters meet.

RIGHT-OF-WAY or EASEMENT means any right, liberty or privilege in or along or under land, which a person or corporation may have with respect to any land that is legally described in a registered deed or instrument.

RIVER OR STREAM VALLEYS means river or stream valleys that have depressional features associated with a river or stream, whether or not they contain a watercourse, the limits of which are determined in accordance with the following rules:

- Where the river or stream valley is apparent and has stable slopes, the valley extends from the stable top of bank, plus 15 m (49.2 ft), to a similar point on the opposite side.
- Where the river or stream valley is apparent and has unstable slopes, the valley extends from the predicted long term stable slope projected from the existing stable slope or, if the toe of the slope is unstable, from the predicted location of the toe of the slope as a result of stream erosion over a projected 100-year period, plus 15 m (49.2 ft), to a similar point on the opposite side.
- Where the river or stream valley is not apparent, the valley extends the greater of:

- (1) The distance from a point outside the edge of the maximum extent of the flood plain under the applicable flood event standard, to a similar point on the opposite side; and ,
- (2) The distance of a predicted meander belt of a watercourse, expanded as required to convey the flood flows under the applicable flood standard, to a similar point on the opposite side.

ROAD See *STREET*

ROAD ALLOWANCE means land held under public ownership for the purpose of providing a street.

ROOF, FLAT means a roof which is not pitched and the surface of which is parallel to the ground.

ROOF, GABLE means a ridged roof forming a gable at both ends of the building.

ROOF, GAMBREL means a gabled roof with two slopes on each side, the lower slope steeper than the upper slope.

ROOF, HIP means a roof with sloping ends and sides.

ROOF, MANSARD means a roof with two slopes on each of four sides, the lower slope steeper than the upper slope.

ROOF, SHED means a roof with one slope.

Refer to the illustrations at the end of this By-law.

ROOM means a singular space within a building comprised of a floor, a ceiling and walls that is capable of being occupied and used by a person(s). It may include such features as closets, cupboards and private sanitary facilities (an ensuite) a sitting area and only one sleeping area. A sleeping area is an area within a room that contains a bed(s) and is not separated by walls containing doors.

ROOMER or BOARDER means a person other than the lessee, tenant, owner or person related thereto, who rents living accommodation within a dwelling unit, without separate cooking facilities or a separate entrance and where lodging is provided for compensation for a term of not less than 28 days.

SALVAGE YARD means a lot, including an associated building, structure, or part thereof, used for wrecking, dismantling, storing or selling used goods, wares or materials including, but without limiting the generality of the foregoing, rags, bones, bottles, metals, clothing, furniture, paper, machinery, building materials and vehicles and parts thereof and where such materials are bought, sold exchanged, baled, packed, disassembled or handled for further use.

SATELLITE DISH or SATELLITE ANTENNA means a parabolic or spherical antenna which receives television or microwave transmissions or other signals from satellites or other devices.

SCHOOL means an establishment providing educational services and instructional courses for students within the context of the elementary and secondary curriculum of the Province, a college or university and may include a day care centre, but shall not include a commercial school or trade school.

SCHOOL, COMMERCIAL OR TRADE SCHOOL means a school operated by one or more persons for gain or profit.

SCHOOL, PRIVATE means an establishment, operated under the jurisdiction of a private board or trustees or governors, a religious organization or a charitable institution, that provides educational services and instruction equivalent to those offered in a place of instruction maintained and operated under the jurisdiction of the government authority where instruction is given and may include residence buildings for staff and students, provided that such buildings are on the same lot as the place of instruction.

SCHOOL OF RESTORATION ARTS means a facility under the jurisdiction of a private, non-profit board of directors where the primary function is to teach conservation, assessment and heritage restoration skills relating to internal and external elements of heritage properties with a maximum of forty (40) students at any one time.

SCREENING or SCREEN means a continuous fence, wall, compact evergreen hedge or combination thereof, supplemented with landscape planting that would effectively screen the property or portion thereof which it encloses.

SEASONAL HOME GROWN PRODUCE STAND See *AGRICULTURAL STAND*

SEASONAL RESIDENTIAL DWELLING See *COTTAGE*

SECOND-HAND GOODS SHOP means a commercial establishment where used items such as clothes, jewellery, watches, antiques, clocks, flatware, tableware, furniture, house furnishings, or other household or personal effects are sold and may include a pawnbrokers shop, but shall not include a flea market, antique sales store or the storage or sale of building materials and fixtures, vehicles, automobile parts or accessories, scrap material, paper, or other such second-hand or salvaged materials.

SECOND UNIT or ACCESSORY / BASEMENT APARTMENT or SECONDARY SUITE or INLAW FLAT means a self-contained residential unit with a separate entrance, washroom, kitchen, and living area within a single detached, semi-detached or townhouse dwelling or within an accessory building such as a detached garage, carriage house or laneway garages. *(as added by 4316AH-13)*

SECONDARY APARTMENT means a second dwelling unit either in or added to an existing single detached dwelling, for use as an independent living facility with provisions within the secondary apartment for cooking, eating, sanitation, and sleeping. Such a dwelling unit is a secondary use to the main dwelling.

SECONDARY USE means uses secondary to the principal use of the property, including but not limited to, home occupations, home industries, and uses that produce value-added agricultural products from the farm operation on the property.

SEMI-DETACHED DWELLING See *DWELLING, SEMI-DETACHED*

SENIOR CITIZEN APARTMENT BUILDING means a building consisting of three (3) or more dwellings designed and intended to be occupied by senior citizens, access to each of which is obtained through a common entrance or entrances from the street level; and the occupants of which obtain access to their dwelling units through the use of common halls.

SENSITIVE LAND USE means any building or associated amenity area (indoor or outdoor) where humans may be adversely affected by adjacent industrial-type land uses, including but not limited to residential uses, day care centres, churches, schools and playgrounds.

SERVICE ESTABLISHMENT means a commercial establishment associated with the provision of a non-personal service or trade including a plumber's shop, painter's shop, carpenter's shop, electrician's shop, or contractor's shop which provide an installation service, and may include areas for indoor product storage and display, but shall exclude automobile uses, a contractor's yard or a photocopying and blueprinting shop.

SETBACK means the minimum horizontal distance, measured at a right angle between a lot line and the nearest part of any building or structure.

SETBACK FROM TOP OF BANK means the horizontal distance from the point of the slope or bank where the downward inclination of the land begins or the upward inclination of the land levels off to the nearest point of any main wall of any building or structure.

SETBACK FROM WATER means the horizontal distance between the normal or controlled high water mark of any navigable waterway and the nearest part of any main wall of any building or structure.

SETBACK LINE means a line, the location of which is defined in this By-law, the purpose of which is to establish the closest points to a street line at which a building or structure or vertical projection thereof may be located or is located.

SHOPPING CENTRE means a building or group of buildings on an individual lot containing a group of commercial establishments which is planned, designed, and developed as a

unit and may be enclosed and having an off-street parking area, loading area, open space and other shared facilities provided on the site.

SIDE YARD See *YARD - SIDE*

SIGHT LINE means the unobstructed view along a street while traveling, with a 91.4 m (300 ft.) sight line being a safe unobstructed distance.

SIGHT TRIANGLE or CORNER SIGHTLINE TRIANGLE means the triangular space formed by two intersecting street lines and a line drawn from a point in one street line to a point in the other street line, each such point being 6 m (19.68 ft) measured along the street line from the point of intersection of the street lines for all non-residential zones. For local streets in residential zones, the site line triangle shall mean the triangular space formed by two intersecting street lines and a line drawn from a point in one street line to a point in the other street line, each such point being 3 m (9.84 ft) measured along the street line from the point of intersection of the street line. *(as amended by 4316O-11)*

SITE PLAN means a scaled drawing clearly showing the relation between the lot lines and the uses, buildings or structures existing or proposed on a lot, including such details as parking areas, driveways, walkways, landscaped areas, lighting, existing and proposed grading, on-site servicing, building areas, minimum yards, building heights, floor areas, densities and areas for special uses.

SINGLE DETACHED DWELLING See *DWELLING, SINGLE DETACHED*

SMALL MOTOR EQUIPMENT SALES AND SERVICE ESTABLISHMENT means a commercial establishment used for the retail sale, assembly and servicing of small motorized equipment which shall include, but not necessarily be limited to, lawn mowers, snow blowers, generators, pumps, outboard motors and related parts and accessories.

SPECIAL EVENTS *deleted by 4316AR-13. See EVENT, SPECIAL*

SPECIALTY RETAIL STORE means a commercial establishment which offers for sale or rent one merchandise line or a limited number of closely related merchandise lines and, without limiting the generality of the foregoing, may include such establishments as a book store, art store, framing store, florist shops, etc., but shall not include a convenience store, grocery store, department store or auto-oriented department store.

STORE, RETAIL See *RETAIL STORE*

STOREY means that portion of a building or structure which is situated between the surface of any floor and the surface of the floor next above it, or any portion thereof and, if there is no floor above it, that portion between the surface of any floor and the ceiling above it.

STOREY, ONE-HALF means the portion of the building situated wholly or in part within the roof and in which there is sufficient space to provide a height between finished floor and

finished ceiling of at least 2.3 m (7.54 ft) over a floor area equal to at least fifty per cent (50%) of the areas of the floor next below.

STORM WATER MANAGEMENT FACILITIES means open space intended for the temporary surface storage of storm water during and after a rainfall.

STREET means the right-of-way of a public street, road or highway which affords the principal access to abutting lots and does not include a lane, private lane, or a private road or an unopened road allowance.

STREET LINE means the limit of the road allowance and is the dividing line between a lot and a street.

STRUCTURE means anything constructed, erected, or built permanently or temporarily, and which is fixed to or resting on or in the ground, or to a building, or floated or suspended in a water body or on its bed.

SUITE or SUITE OF ROOMS means rooms that are common to each other (adjacent and interconnected) and served with one or more entrances and capable of being occupied and used by person(s). These rooms may include such features as closets, cupboards and private sanitary facilities (an ensuite), sitting areas and sleeping areas.

SWIMMING POOL, ABOVE GROUND and INGROUND means a privately owned outdoor body of water constructed for swimming, diving or bathing which has a possible water depth of greater than 0.6 m (2 ft).

TAKE-OUT RESTAURANT See *RESTAURANT, TAKE-OUT*

TANDEM PARKING SPACE See *PARKING SPACE, TANDEM*

TAVERN means a building where alcoholic beverages are sold to be consumed on the premises and shall include such buildings operating or liable to be licensed under the *Liquor License Act*, but does not include an adult entertainment establishment or a body rub parlour.

TAXI ESTABLISHMENT means a commercial establishment used as a dispatch office or for the parking of taxis not engaged in transporting persons or goods.

TELECOMMUNICATION SERVICES means the provision of telephone and other telecommunication services to the public and may include satellite communication services, telephone communication services, telephoto services, teletype services, tickertape services, or broadband services.

TELEVISION STUDIO See *RADIO STUDIO*

TEMPORARY BUILDING means a building and structure, including a mobile home, incidental to and accessory for the lawful construction work, and which is used only for so long as the same are necessary for construction work to continue, and if a building permit has been issued for its use.

TENT AND TRAILER CAMPGROUND or CAMPGROUND means a parcel of land providing overnight or short term accommodation for trailers, motor homes, and tents, but not a mobile home dwelling, and includes services and facilities normally incidental and subordinate to such a use including common washroom lavatory and bathing facilities, indoor and / or outdoor recreation areas, picnic areas and an entrance kiosk.

THEATRE See *COMMERCIAL ENTERTAINMENT ESTABLISHMENT*

THEATRE - OUTDOOR means an outdoor stage or structure used for the presentation of the performing arts or music.

THE COMMONS See *COMMONS, THE*

TOP-OF-BANK means the point of the slope where the downward inclination of the land begins, or the upward inclination of the land levels off.

TOTAL DEVELOPABLE AREA means the total area of the property less the area occupied by key natural heritage features and key hydrologic features, including any related vegetation protection zone.

TOWN means the Corporation of the Town of Niagara-on-the-Lake.

TOWNHOUSE BLOCK means a group of townhouses within a plan of subdivision within a municipal block.

TRAILER means a vehicle so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by a motor vehicle and capable of being used for the temporary living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked up or that its running gear is removed, and does not include a mobile home.

TRANSPORTATION DEPOT means a lot, building, structure, or part thereof, used for the dispatch, storage, and maintenance of vehicles, excluding trucks, but shall not include an automobile service station, automobile sales or rental outlet, or taxi establishment.

TRANSPORTATION TERMINAL means a building and / or lot where buses or trains, airplanes or boats pick up and discharge fare-paying passengers, with or without secondary business offices, retail stores, or restaurants.

TRUCKING OPERATION means a lot, building, structure, or part thereof, where trucks, trailers or containers are loaded or unloaded, stored or parked for remuneration or from which

trucks or containers are dispatched as common carriers or where goods are stored temporarily for further shipment or where other fleet vehicles are stored or parked.

UNENCLOSED means a space that is open and not enclosed by walls, windows or a combination thereof on at least one (1) side and may or may not be covered.

UNDERTAKING ESTABLISHMENT See *FUNERAL HOME*

USE when used as a noun, means the purpose for which any lot, building, structure or premises, or part or combination thereof, is arranged, designed or intended to be used or is occupied and “uses” shall have a corresponding meaning. “Use” when used as a verb, or “to use” shall include anything done or permitted by the owner or occupant of any lot, building, structure or any part thereof, directly or indirectly or by or through any trustee, tenant, servant or agent acting for or with the knowledge and consent of the owner or occupant, for the purpose of making use of the said lot, building structure or any part thereof.

VACATION APARTMENT means an “Apartment Dwelling” or a “Residential Unit” above a business on a commercially zoned property that is rented for periods up to 28 consecutive days for use as temporary accommodation and used as an occasional or seasonal residential dwelling for recreation, rest or relaxation, but not occupied continuously as a principle residence. When occupied continuously as a principal residence (i.e. for more than 28 days), a “Vacation Apartment” can be used as an “Apartment Dwelling” or as a “Residential Unit” in accordance with Section 6.48. A “Vacation Apartment” is not a “Villa” or a “Cottage Rental”. *(added by 4316AI-13, OMB decision PL130581, December 5, 2013)*

VEGETATION PROTECTION ZONE means a vegetated buffer area of grass surrounding a key natural heritage feature or key hydrologic feature within which only those land uses permitted within the feature itself are allowed. The width of the vegetation protection zone is to be determined when new development or site alteration occurs adjacent to a key natural heritage feature or key hydrologic feature, and is to be of sufficient size to protect the feature and its functions from the impacts of the proposed change and associated activities that will occur before, during, and after construction, and where possible, restore or enhance the feature and / or its function.

VEHICLE, COMMERCIAL See *COMMERCIAL VEHICLE*

VEHICLE, INOPERABLE means an unlicensed motor vehicle with or without the wheels, chassis, etc. removed.

VEHICLE, MOTOR means an automobile, truck or other vehicle, including motorized construction equipment or farm equipment, motor home, motorcycle, snowmobile, boat, recreational vehicle, and also including a trailer or farm implement or any other device which is capable of being driven, propelled or drawn by any kind of power, but shall not include a bicycle or any other device powered solely by means of human effort.

VEHICLE, RECREATIONAL See *RECREATIONAL VEHICLE*

VERANDA See *PORCH*

VETERINARY CLINIC or ANIMAL HOSPITAL means a building or part thereof used by a qualified veterinarian(s) and their associated staff and services for the purpose of consultation, diagnosis, treatment of animals, but does not have outdoor kennels or indoor boarding facilities except for overnight stays for animal recovery.

VETERINARY OFFICE means a building or structure, wherein animals may be diagnosed, groomed and treated by a registered veterinarian, which shall not include facilities for the boarding of animals.

VIDEO RENTAL means a commercial establishment, used for the rental of videos and equipment but does not include an adult entertainment store. Secondary uses may include the sale of videos and accessories or snack foods, restricted to a maximum of twenty-five per cent (25%) of the gross floor area.

VILLA means the commercial use of a single detached dwelling unit with four or more bedrooms than may be rented for periods up to 28 consecutive days for use as temporary accommodation and used as an occasional or seasonal residential dwelling for recreation, rest or relaxation, but not occupied continuously as a principle residence. When occupied continuously as a principal residence (i.e. for more than 28 days), a "Villa" can be used as an "Single Detached Dwelling". A "Villa" is not a "Cottage Rental".
(added by 4316AI-13, OMB decision PL130581, December 5, 2013)

WALKWAY means open space, publicly or privately owned, for use by the public and may include a waterfront pathway which is located adjacent to or in close proximity to a water body.

WALL FACE means the outside wall of a building at grade.

WAREHOUSE means a building or structure, or part thereof, which is used primarily for the storage of goods or materials and which may include as a secondary use, a wholesale establishment.

WAREHOUSE, RETAIL See *RETAIL WAREHOUSE*

WASTE DISPOSAL SITE means a place where garbage, refuse or domestic or industrial waste is disposed or dumped.

WATER FEATURE 1 means portion of a watercourse in a natural form with the ability to sustain a fish habitat, and may include municipal drains and irrigation channels.

WATER FEATURE 2 means a portion of a watercourse with the ability to contribute to fish habitat, but also includes municipal drains and irrigation channels.

WATER SUPPLY means a distribution system of underground piping and related storage, including pumping and purification appurtenances, owned and operated by the Regional Municipality of Niagara for public use.

WATER BODY means any bay, lake, Lake Ontario, Niagara River, Welland Canal or the Hydro Reservoir but excludes a municipal drain or irrigation channel.

WATERFRONT PATHWAY See *WALKWAY*

WEATHER CANOPY means a permanent, unenclosed roof structure erected for the purpose of sheltering vehicle fuel pumps and pump islands from the weather.

WETLANDS mean lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case, the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four major types of wetlands are swamps, marshes, bogs and fens.

WHOLESALE ESTABLISHMENT means a building, structure, or part thereof, used for the storage or distribution of goods in large bulk or quantity to a business or person other than the end user or consumer.

5.511 *(as deleted by 4316J-11)*

5.512 *(as deleted by 4316J-11)*

5.513 *(as deleted by 4316J-11)*

WINERY PRODUCTION FACILITY means a building used for the processing of locally grown grapes and fruit for wine and includes tank and barrel storage, bottling facilities and a retail area. The retail area for selling of wine produced on-site shall be limited to 93 sq. m. (1000 sq. ft.) of floor area.

WOODLANDS mean areas that provide environmental and economic benefits to both the private landowner and the general public, such as erosion prevention, hydrological and nutrient cycling, clean air and the long-term storage of carbon, provision of wildlife habitat, outdoor recreational opportunities, and the sustainable harvest of a wide range of woodland products. Woodlands include woodlots or forested areas and vary in their level of significance at the local, regional, and provincial levels and are a minimum of 2 ha in the urban areas and 4 ha outside the urban areas.

WRECKING YARD means an area of land licensed by the Ministry of the Environment and the Regional Niagara Police Services Board for the storage and processing of wrecked vehicles.

YARD means that part of a lot extending from a lot line into the lot to the nearest wall of a main building and measured at right angles to the lot line and which space is open, uncovered or unoccupied from the ground to the sky except for such accessory buildings or structures or uses as are specifically permitted elsewhere in this By-law. Yard distances shall be measured from the foundation wall or in the case of a covered porch, balcony or veranda, from the front face of the covered porch, balcony, or veranda.

YARD - FRONT means a yard that extends across the full width of a lot measured at right angles to the front lot line. Front yard depth means the least horizontal dimension between the front lot line of the lot and the nearest part of any building or structure on the lot.

YARD - REAR means a yard that extends across the full width of a lot, (or in the case of a corner lot extending from the exterior side yard abutting a street to the side lot line), measured at right angles to the rear lot line. Rear yard depth means the least horizontal dimension between the rear lot line of the lot and the nearest part of any building or structure on the lot.

YARD - SIDE means a yard that extends from the front yard to the rear yard measured at right angles to the side lot lines. Side yard depth means the least horizontal dimension between the side lot line of the lot and the nearest part of any building or structure.

YARD - SIDE, EXTERIOR means a yard that extends from the front yard to the rear lot line measured at right angles to the side lot line abutting a street line.

Refer to the illustrations at the end of this By-law.

YARD, REQUIRED means the minimum yard required by the provisions of this By-law.

YARD SALE See *GARAGE SALE*

ZONE means an area delineated on the Zoning Map Schedule and established and designated by this By-law for one or more specific uses.