

CHAPTER 1304
DEFINITIONS

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1304.01 GENERAL DEFINITIONS

For purpose of the Zoning Ordinance, certain words and terms used herein are defined as follows:

All words and terms stated in the present tense include the future; the singular includes the plural, unless the context requires otherwise; the masculine includes the feminine and neuter genders; the term "shall" is mandatory, not directory; the term "City" means the City of Niagara Falls, the terms "City Council, Board of Appeals, Planning Board, Chief Executive, City Administrator, Director of Planning and Economic Development, Department of Inspections, Director of Inspections, Zoning Officer, Corporation Counsel, City Clerk," and other designated boards and/or officers mean the respective boards and officers of the City of Niagara Falls designated; the term "person" includes an individual, corporation, partnership, firm, or other combination of persons; the term "lot" includes plot; the term "building" includes structure; the terms "occupied" and "used" as applied to any land or buildings shall be construed as though followed by the words "or intended, arranged, or designed to be occupied or used." Words not specifically defined shall have their ordinary dictionary meaning as in Webster's New International Dictionary; construction and building terms shall use New York State Uniform Building and Fire Code definitions.

1304.02 ACCESSORY BUILDING OR USE

A building or use subordinate to the principal building, or use on the same zoning lot as the principal building and customarily incidental to the use of such principal building or use.

1304.03 ALCOHOLIC BEVERAGE OR LIQUOR

As defined in the General Statutes.

1304.04 ALLEY

A passage or way open to public travel which affords generally a secondary means of vehicular access to abutting lots and is not intended for general traffic circulation.

1304.05 ALTERATION

Any change, rearrangement, or other improvement in the structural parts or in the exit facilities of an existing building or structure, or an enlargement thereof, whether by extension

on a site or by an increase in height, or moving from one location or position to another, or to change from one type of use to another.

1304.06 AUTOMOBILE REPAIR, MAJOR

General repair, rebuilding or reconditioning of engines, transmissions, motor vehicles, or trailers, such as collision service, body repair, and frame straightening, painting and upholstering, vehicle steam cleaning, and undercoating, or any activities defined in definition 1304.08 "Automobile Repair, Minor".

1304.07 AUTOMOBILE REPAIR, MINOR

Minor repairs, incidental replacement of parts and motor service to motor vehicles including small trucks, but not including any operation included in definition 1304.07 "Automobile Repair, Major".

1304.08 AUTOMOBILE SALES AREA

Any building, land area or other premises used for the display or sale of new or used automobiles, trucks, trailers, or boats, but not including any repair work other than warranty and other repair service conducted as an accessory use on such premises.

1304.09 AUTOMOBILE SERVICE OR GASOLINE STATION

Any building, land area, or other premises used or intended to be used for the retail dispensing or sales of automobile fuels, which activity may be accompanied by accessory uses such as sales of lubricants, tires, accessories or supplies, minor automobile repairs or a single-bay auto wash; provided however, that automobile wrecking, major automobile repairs, parking or storing of automobiles for hire, and the operation of more than one towing vehicle shall not be deemed permissible accessory uses of an automobile service station.

1304.10 AUTO WASH

Any building or premises, or portion thereof the use of which is devoted to the business of washing or waxing automobiles for a fee, whether by automated cleaning devices or otherwise.

1304.11 BASE FLOOD

The flood having a 1 percent chance of being equaled or exceeded in any given year.

1304.12 BASEMENT

A story partly below curb level but having at least one-half of its height, measured from floor to ceiling above the average finished grade of the ground adjoining the building.

1304.13 BED AND BREAKFAST

A private owner-occupied residence with one to nine guest rooms.

1304.14 BLOCK

Property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting streets and railroad right-of-way, canal, park, State Reservation, river channel, or un-subdivided acreage.

1304.15 BUFFER, BUFFER AREA, OR BUFFER STRIP

A strip of land free of any building, structure, or use other than natural woody growth, landscaping, fencing, or screening designed to shield or block noise, lights, or other nuisances.

1304.16 BUILDING

A structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any person, animal, process, equipment, goods, or materials of any kind or nature.

1304.17 BUILDING, MAIN

A building in which is conducted the principal use of the lot on which it is situated.

1304.18 CAMPER PARK

A land or floor area occupied or designed for occupancy by one or more camper trailers designed for temporary, but not permanent occupancy. Additional regulations are specified in Chapter 1129, Camper Park.

1304.19 CELLAR

A building that is partly or entirely below grade, which has more than one-half of its height measured from floor to ceiling below the average finished grade of the ground adjoining the building.

1304.20 CLUB

A building, structure, or use operated by a non-profit recreational, fraternal, political, benevolent, or athletic organization on a not-for-profit basis for its members or guests accompanying them.

1304.21 CLUSTER DEVELOPMENT

Residential development of land on which the permitted dwelling units are concentrated on portions of the property with the remainder set aside as permanent open space.

1304.22 COMMERCIAL VEHICLE

A vehicle with a capacity of over three-fourths of a ton, used for business purposes.

1304.23 COMMUNITY FACILITY

A building or structure occupied by a public or non-profit private organization or group for recreational, social, or civic purposes, and containing no dwelling units, sleeping accommodations, or public merchandising facilities.

1304.24 COMPREHENSIVE PLAN

A document or series of documents prepared by the Planning and Economic Development Department and adopted by the Planning Board setting forth the development policies for the future of the City.

1304.25 CONDOMINIUM

An individually owned dwelling unit or commercial or industrial establishment within a larger development with an interest in common areas and facilities that service the entire development.

1304.26 COURT

An open space, unobstructed from ground to sky, other than a yard, which is on the same lot as and bounded in whole or in part by the walls of a building or buildings.

1304.27 COVERAGE

That area of the lot that is covered by the building area, and/or any accessory structures.

1304.28 DAY CARE CENTER

A facility duly permitted by the New York State Department of Social Services for the daytime care of seven or more children for less than ten hours each day whether or not for compensation.

1304.29 DECK

A porch like structure or portion of a structure, usually constructed of wood, with structural supports and having a height of more than 8 inches above ground level.

1304.30 DEPOSIT

For the purpose of these regulations with respect to the movement of earth material, shall include, but shall not be limited to, fill, grade, dump, place, discharge or emit.

1304.31 DORMITORY

Any dwelling in which more than three persons temporarily reside while enrolled as students at a local college or university.

1304.32 DRAINAGE

The controlled removal of surface water or ground water from land by drains, grading, or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development, to maximize ground water recharge, and to prevent or alleviate flooding.

1304.33 DRIVE-IN ESTABLISHMENT

Premises constructed to cater primarily to the motoring public, whether or not serving pedestrians as well, and used for the sale to the public of any product or service and/or providing curb and/or window service.

1304.34 DUMP

A lot or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose, of garbage, sewage, sludge, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

1304.35 DWELLING

A one-family dwelling, two-family dwelling, multiple dwelling, or dwelling group. It shall not be deemed to include automobile court.

1304.36 DWELLING, ONE-FAMILY

A detached building containing one dwelling unit only.

1304.37 DWELLING, TWO-FAMILY

A detached building containing two dwelling units only.

1304.38 DWELLING, MULTIPLE

A building or portion thereof containing three or more dwelling units.

1304.39 DWELLING GROUP

A group of two or more one-family, two-family, or multiple dwellings occupying a lot in one ownership, and having a yard in common.

1304.40 DWELLING UNIT (D.U.)

One or more rooms consisting of living, cooking, sanitary, and sleeping facilities arranged for the use of one family.

1304.41 EASEMENT

Authorization by one property owner for the use of all or a portion of his property by another person for a specific purpose.

1304.42 EXCAVATION

The digging out, extraction, regrading, or removal of earth, whether exposed or covered by water, so as to alter its contour.

1304.43 EXEMPT ACTION

Any one of the following (applicable to Chapter 1332 of this Zoning Ordinance relating to Environmental Quality Review):

1. Enforcement or criminal proceedings or the exercise of prosecutorial discretion in determining whether or not to institute such proceedings.
2. Ministerial actions.
3. Maintenance or repair involving no substantial changes in existing structure or facility.
4. With respect to the requirements of Subdivision 2 of Section 8-0109 of Article 8 of the Environmental Conservation Law; actions requiring a certificate of environmental compatibility and public need under Articles VII and VIII of the Public Service Law and the consideration of, grant or denial of any such certificate.
5. Actions undertaken or approved prior to the effective date(s) of Article 8 of the Environmental Conservation Law; and action shall be deemed to be undertaken or approved prior to such date(s) if, in the case of construction activities, a contract for substantial construction activities has been entered into or if, in the case of an action involving federal participation, either a draft environmental impact statement or a negative declaration has been duly prepared under the National Environmental Policy Act of 1969.
6. Actions which are immediately necessary on a limited emergency basis for the protection or preservation of life, health, property, or natural resources.

1304.44 FAMILY

One or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

1304.45 FAMILY DAY CARE HOME

A home duly permitted by the New York State Department of Social Services in which care is provided for three to six children for less than ten hours each day for compensation.

1304.46 FAST FOOD RESTAURANT

Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, usually served in paper, plastic, or other disposable containers, for consumption either within the restaurant building, elsewhere on the premises, or for carry-out, for consumption off the premises.

1304.47 FENCE

A structure designed of any material or combination of materials erected to enclose, separate, screen, or buffer areas of land.

1304.48 FILLING

The process of depositing clean fill such as soil, sand, gravel, rock, or clay.

1304.49 FLOOD PLAIN AREA

The relatively flat area or low lands adjoining the channel of a river, stream, watercourse, canal, or any body of stranding or tidal water, which has been or may be covered by flood water.

1304.50 FLOOD HAZARD AREA

The maximum area of the flood plain which is likely to be flooded by a one-hundred year flood, or any area for which mudslides can reasonably be anticipated.

1304.51 FLOOD PROOFING

Any combination of structural and non-structural additions, changes, or adjustments to properties and structures, primarily for the reduction or elimination of flood damage to lands, water and sanitary facilities, structures and contents of buildings.

1304.52 FLOOD, ONE-HUNDRED YEAR

A flood of such magnitude as may reasonably be expected to be equaled or exceeded on an average of once every one-hundred years; the term also means that level of flooding having a 1 percent probability of occurrence in any year.

1304.53 FLOOR AREA, GROSS

The sum of the gross horizontal areas of the several floors of the building or buildings, measured from the interior faces of exterior walls or from the center line of walls separating two buildings. In particular the floor area of a building or buildings shall include:

1. Basement space.
2. Elevator shafts and stairwells at each floor.
3. Floor space for mechanical equipment.
4. Penthouses.
5. Attic space (whether or not a floor has actually been laid) providing structural headroom of 7 feet, 6 inches or more.
6. Interior balconies and mezzanines.
7. Enclosed porches.
8. Accessory uses, not including space for accessory off-street parking. However, the floor area of a building shall not include:
9. Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
10. Elevator and stair bulkheads, accessory water tanks, and cooling towers.
11. Uncovered steps.
12. Terraces, breezeways, and open spaces.
13. Accessory off-street parking spaces.

1304.54 FLOOR AREA, LIVABLE

All spaces within the exterior walls of a dwelling unit exclusive of garages, breezeways, unheated porches, cellars, heater rooms, and basements having a window area of less than 20 percent of the square foot area of the room. Usable floor area shall be deemed to include all spaces not otherwise excluded above such as: principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any rooms within the dwelling unit, and all attic space having a clear height of at least 5 feet from finished floor level to pitch of room rafter with a clear height of 7 feet, 6 inches from finished floor level to ceiling level over 50 percent of the area of such attic space.

1304.55 FLOOR AREA RATIO (FAR)

The ratio of the floor area of a building divided by its lot area.

1304.56 FRATERNITY OR SORORITY HOUSE

A residence occupied and maintained by and for the exclusive use of fraternity or sorority affiliated with a recognized institution of higher learning.

1304.57 FRONTAGE

Linear distance of a lot along the street line.

1304.58 FUNERAL HOME

A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

1304.59 GARAGE, PRIVATE

An accessory building or part of a main building used only for the storage of motor vehicles as an accessory use, provided that no business, occupation, or service is conducted for profit therein.

1304.60 GARAGE, PUBLIC

Any garage other than a private garage, available to the public, operated for gain, and which is used for temporary storage of automobiles or other motor vehicles (also ramp).

1304.61 GARAGE, STORAGE

A building or part thereof used for only the storage and minor servicing of vehicles for remuneration, in which all such storage and servicing is conducted entirely within the building, and in which there is no sale of gasoline or other motor vehicle fuel, or oil or other lubricating substance, or of motor vehicle accessories, except incidental to the storage of motor vehicles and entirely within the building and with no sign pertaining to such sale visible outside the building.

1304.62 GASOLINE STATION

Any area of land, including structures thereon, or any building or part thereof that is used for the sale of gasoline or other motor vehicle accessories, and which may or may not include facilities for lubricating, washing, or otherwise servicing motor vehicles, but not including the painting thereof by any means.

1304.63 GRADE, FINISHED

Natural surface of the ground, or surface of the ground after completion of any change in contour.

1304.64 GRADING

Any excavating, grubbing, filling (including hydraulic fill), or stockpiling of earth, or any combination thereof, which results in a change of contour or elevation.

1304.65 GROSS VEHICLE WEIGHT

The weight of a commercial vehicle plus its maximum load carrying capacity designated by the manufacturer and shown on the vehicle registration.

1304.66 HEIGHT OF BUILDING

The vertical distance to the level of the highest point of the roof surface, if the roof is flat or inclines not more than 1 inch vertical or 1 inch horizontal, or to the mean level between the eaves and the highest point of the roof if the roof is of any other type, measured as follows:

1. If the building adjoins the front property line or is not more than 10 feet distant therefrom measured at the center of the front wall of the building from the established grade of the curb; or if no grade has been officially established and no curb exists, measured from the average level of the finished ground surface across the front of the building.
2. If the building is more than 10 feet from the front property line measured from the average level of the finished ground surface adjacent to the exterior walls of the building. Where the finished ground surface is made by filling, the level of such finished ground surface, for the purpose of this definition, shall not be deemed to be more than 3 feet above the established grade of the curb.

1304.67 HISTORIC PRESERVATION

The following series of definitions relate to historic district and landmark preservation:

- a) Commission: The Historic District and Landmark Preservation Commission of the City of Niagara Falls, New York.
- b) Exterior Architectural Feature or Exterior Feature: the architectural style, design, general arrangement, and components of all of the outer surfaces of an improvement, as distinguished from interior surfaces including, but not limited to, the kind, color, and texture of the building material and the type and style of all windows, doors, lights, signs, other fixtures, and plantings appurtenant to such improvement.
- c) Improvement: any building, structure, place, work of art, sign, planting site, or other object constituting a physical betterment of real property or any part of such betterment.
- d) Historic District: any area which contains places, sites, structures, or buildings which have a special character and ambiance or historical value or aesthetic interest and which represent one or more periods of styles of architecture of an era of history and which cause such area to constitute a distinct section of the City and is so designated by the City Council under the provisions of this Zoning Ordinance.
- e) Landmark: any place, structure, or building of historical value or aesthetic interest by reason of its antiquity or uniqueness of architectural design or as part of the development, heritage, or cultural characteristics of the city, county, state, or nation.
- f) Landmark and Historic District Map: a map to be developed by the Planning and Economic Development Department identifying the location of all landmarks, landmark sites, and historic sites.

- g) Landmark Site: a parcel or part thereof on which is situated a landmark and any abutting parcel or part thereof constituting part of the premises on which the landmark is situated.
- h) Styles of Architecture: style recognized by one of the following organizations:
- The National Register of Historic Places
 - Historic American Buildings Survey
 - Historic American Engineering Record
 - National Park Service of the U.S. Department of the Interior
 - Division of Historic Preservation, NYS Office of Parks and Recreation
 - National Trust for Historic Preservation
 - Society of Architectural Historians

1304.68 HOME OCCUPATION

Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. The conducting of a clinic, hospital, tourist home, animal hospital, or any similar use, shall not be deemed to be a home occupation.

1304.69 HOSPITAL

Includes sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home, and any other place for the diagnosis, treatment, or other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments, including the treatment of substance abuse and alcohol rehabilitation.

1304.70 HOTEL

A building containing rooms designed to be used or which are used, rented, or occupied for sleeping purposes by transient guests and where only a general kitchen and dining room may be provided within the building or in an accessory building. The word hotel includes the word motel, motor lodge, motor hotel, motor court, inn, tourist court, or similar names.

1304.71 HOUSE TRAILER

Any portable or mobile vehicle used or designed to be used for living or camping purposes.

1304.72 INSTITUTIONAL CARE RESIDENCES

The following are series of definitions of various types of residential uses that are designed to assist in the care and/or rehabilitation of persons who are wards of the State:

1. Agency Community Residence: a transitional or long term non-institutional residence for persons of twenty-one years or over who do not require hospitalization but who are unable to function adequately in their own home or other completely independent living environment, which is operated by, or sponsored by, or subject to the approval of a public social service or mental hygiene agency authorized by the New York State Department of Social Services.
2. Agency Group Home: a non-institutional home set up in theory, size, appearance, and structure to bear the general character of a family unit in a relatively permanent household headed by a householder or householders for not less than seven nor more than twelve placed, committed, or boarded minors under the age of twenty-one, which is operated or sponsored by or subject to the approval of public social service agency or private nonprofit child caring agency, authorized by the New York State Department of Social Services.
3. Family Care Home: a private home authorized by the New York State Department of Social Services providing residential care for up to six mentally disabled persons who are no longer in need of inpatient care and treatment, but who are not yet capable of functioning adequately in their own homes or in other living arrangements.
4. Intermediate Care Facility: a public or private home for adults, or other facility approved by the New York State Department of Health, to provide health related care and services to persons who because of their physical or mental condition require institutional care and services, but who do not require the level of service provided in a hospital or skilled nursing care facility.

1304.73 JUNKYARD

A lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of wastepaper, rags, scrap metal, or other material; or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running conditions and for the sale of parts thereof. The placing, parking, storing, or permitting to be placed, parked, or stored in view of any public highway of more than two dismantled or unregistered and inoperative motor vehicles on any piece of property for more than one day or if on the premises of a legally established garage or repair shop for a period of more than thirty days shall be deemed to constitute the operation of a junkyard on said premises.

1304.74 KENNEL OR CATTERY

Any building or lot where four or more dogs or cats are raised and/or boarded for the purpose of sale, breeding, training, or exhibition, or are boarded for a fee, or are sheltered for humanitarian reasons.

1304.75 KITCHEN

A room, place, or space within a structure equipped for the preparation and/or cooking of food.

1304.76 LINE, STREET

The dividing line between the street and the lot.

1304.77 LIVESTOCK

Animals kept, raised, or offered for sale on a farm.

1304.78 LOADING SPACE

Any off-street space available for the loading or unloading of goods, not less than 15 feet wide, 25 feet long, and 14 feet high, and having direct usable access to a street or alley, except that where one such loading space has been provided, any additional loading space lying along side, contiguous to and not separated from such first loading space need not be wider than 12 feet.

1304.79 LOT

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

1304.80 LOT AREA

The total horizontal area included within lot lines.

1304.81 LOT, CORNER

A lot at the junction of and abutting on two or more intersecting streets when the interior angle of intersection does not exceed 135 degrees.

1304.82 LOT, DEPTH

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

1304.83 LOT, FLAG

A lot located in such a position that it is to be to the rear of some other lot fronting on the same street and served by means of access.

1304.84 LOT, INTERIOR

A lot other than a corner lot.

1304.85 LOT LINE

A boundary of a lot.

1304.86 LOT LINE, FRONT

The street line along the principal street on which the lot abuts.

1304.87 LOT LINE, SIDE

The lines separating the lot from the immediately adjacent lot.

1304.88 LOT LINE, REAR

The lot line which is generally opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front lot line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

1304.89 LOT OF RECORD

A lot which is part of a subdivision recorded in the office of the City or County Clerk, or a lot or parcel described by metes and bounds which has been so recorded prior to the effective date of this Zoning Ordinance or any amendment thereof that would affect such lot.

1304.90 LOT, THROUGH

A lot which is not a corner lot and which has two street lines.

1304.91 LOT, WIDTH

The distance between the side lot lines measured across the required front yard minimum setback line parallel with the street.

1304.92 MANUFACTURING

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

1304.93 MARINA

Any premises containing one or more piers, wharfs, docks, moorings, bulkheads, buildings, slips, or basins primarily for the docking, launching, mooring, storage, and servicing of boats for compensation.

1304.94 MEMBERSHIP CLUB

An unincorporated association of persons for common social purpose, or an association incorporated under the membership association law and which association or membership corporation is not conducted for profit, and is not a part of, related to, or associated with a profit making venture and which managed by officers or directors, serving without pay and chosen or elected directly by members who form such an association or membership club.

1304.95 MINISTERIAL ACTION

An action performed upon a given state of facts in a prescribed manner imposed by law without the exercise of any judgment or discretion as to the propriety of the action, such as the grant of a dog license.

1304.96 MOBILE HOME

A modular unit built on a chassis with body width exceeding 10 feet and body length exceeding 32 feet, originally manufactured and designed to be used as a family housekeeping unit with or without a permanent foundation.

1304.97 NON-CONFORMING BUILDING

A building which contains a use permitted in the district in which it is located but which does not conform with one or more district regulations respecting lot area, width, or depth; front, side, or rear yards; Maximum Height; lot coverage; or landscaping, screening, or fencing requirements.

1304.98 NON-CONFORMING LOT OF RECORD

A lot of record which does not conform with lot requirements for any permitted use in the district in which it is located.

1304.99 NON-CONFORMING USE

A use, whether a building or land or both, which does not conform to the regulations respecting permitted uses as set forth in this Zoning Ordinance for the district in which it is situated, but which lawfully existed prior to the enactment of this Zoning Ordinance of any revision or amendment thereto, and which is maintained after the effective date of this Zoning Ordinance or such revision or amendment.

1304.100 NURSERY

An establishment where woody or herbaceous plants are grown for sale, including a structure for the sale of such merchandise.

1304.101 NURSERY SCHOOL OR PRESCHOOL

A place providing or designed to provide daytime care or instruction by an individual, association, corporation, institution, or agency, whether or not for compensation or reward, for seven or more children from the age of two to five years inclusive, away from their homes for more than two and one-half hours but less than ten hours per day.

1304.102 OFFICE, GENERAL

A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government but excluding those associated with the medical profession.

1304.103 OFFICE, MEDICAL

A room, group of rooms, or facilities used for conducting the affairs of those associated with the medical profession.

1304.104 OPEN SPACE

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

1304.105 PARKING LOT

An off-street, ground level area used for the temporary parking of more than four motor vehicles and available to the general public, or to accommodate employees, clients, customers, or residents, but not including private driveways.

1304.106 PARKING SPACE

An area for the temporary storage of a motor vehicle located in other than a public street or other public way and having a width or not less than 9 feet and a length of not less than 18 feet and having a permanent means of access to a public street or public alley without requiring passage through another parking space.

1304.107 PARKING AREA

An open area, other than a street, used for the temporary parking of more than four automobiles and available to the public whether free, for compensation, or as an accommodation for clients or customers.

1304.108 PARKING, PRIVATE

A space or accessory building provided on site with the main use as part of the required off-street parking and that the storage space does not exceed that for the following number of vehicles:

- For any one-family dwelling: three passenger vehicles.
- For any other dwelling: passenger vehicles equal in number to the number of dwelling units in the dwelling.
- For any other use: no limitation.

1304.109 PARTY WALL

A wall common to and separating two buildings, constructed of non-combustible material, with a fire resistance rating of not less than two hours.

1304.110 PLACE OF WORSHIP

A building which is intended for the conducting of religious services and which is maintained and controlled by a religious body organized to sustain public worship and recognized as such for non-profit status by the Internal Revenue Service.

1304.111 PLANNED RESIDENTIAL DEVELOPMENT (PRD)

A development planned as a single unit having a unified site design and consisting of a mix of residential units and open spaces, and related uses and facilities.

1304.112 PORCH OR TERRACE

Unenclosed portion of a residential structure extending outward from, or abutting an exterior wall, with or without a roof.

1304.113 PRINCIPAL USE

The primary use of a lot.

1304.114 PRIVATE PROPRIETARY HOME FOR ADULTS

A private facility operated for the purpose of providing suitable care for two or more adults who, though not requiring medical or nursing care, do require, in addition to lodging and board, the services of attendants to assure their safety and comfort and to enable them to be bathed, dressed, fed, and to move about.

1304.115 PRIVATE SCHOOL

Any building or group of buildings which use meets the State of New York's requirements for primary, secondary, or higher education and which is not operated by the City or State.

1304.116 PROFESSIONAL OFFICE

Office for person or persons whose vocation or occupation requires advanced training and licensing in a liberal art or science.

1304.117 RECREATION FACILITY

A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

1304.118 RECREATION VEHICLE

A vehicle, towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary living, recreation, or sporting purposes. The term recreational vehicle shall include,

but not be limited to, travel trailer, pick up campers, camping trailer, converted trucks and buses, boat and ski-mobile trailers, and similar vehicles. When a recreation vehicle is used as defined, it shall be located in a designated camper park.

1304.119 RESTAURANT, STANDARD

Any establishment whose principal business is the preparation of foods, frozen desserts, or beverages to the customer in a ready to consume state, and whose design or principal method of operation includes one or both of the following characteristics:

- Customers, normally provided with an individual menu, are served their foods, frozen desserts, or beverages by a restaurant employee at the same table or counter where said items are consumed.
- A cafeteria type operation where foods, frozen desserts, or beverages generally are consumed within the restaurant building.

1304.120 SATELLITE EARTH STATION

An accessory structure capable of receiving or sending, for the sole benefit of the principal user radio or television signals from a transmitter/receiver, or transmitter relay located in planetary orbit.

1304.121 SCHOOL

An institution providing full-time day instruction and a comprehensive course of study in elementary and/or secondary education which meets the requirements of the New York State Education Law.

1304.122 SHOPPING CENTER

A tract of land, with buildings, planned as a whole, intended for three or more retail establishments, with common accessory parking on the same site.

1304.123 SIGHTSEEING AGENCY

An agency as defined in Chapter 375, Sightseeing Agencies, Attendants, Drivers, Guides, and vehicles.

1304.124 SIGN

Any advertisement, announcement, direction, or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any land or on any other structure, or produced by printing or painting on or posting or placing any printed, lettered, pictured, figured, or colored material on any building, structure, or surface.

1304.125 SITE PLAN

A plan that indicates the proposed development and use of land or structures.

1304.126 SKILLED NURSING HOME OR CONVALESCENT HOME

A facility operated for the purpose of providing lodging, board, and nursing care to sick, invalid, infirm, disabled, or convalescent persons for remuneration.

1304.127 SPECIAL PERMIT USE

A use of property that is basically appropriate to a given zoning district, but which may be incompatible in some locations within the district and therefore is not permitted by right everywhere within such district. A special permit use, therefore, is one which is allowable only when facts and conditions specified in this Zoning Ordinance as those upon which the use is permitted are found to exist.

1304.128 STORY

Portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. A basement shall be counted as a story if its ceiling is more than 5 feet above the level from which the height of the building is measured, or if it is used for business purposes, or for dwelling purposes by other than a janitor or watchman.

1304.129 STORY, HALF

A story with at least two opposite exterior sides meeting a sloping roof not more than 2 feet above the floor of such story.

1304.130 STREET

A public way or private thoroughfare which affords legal access to abutting property.

1304.131 STREET, ARTERIAL, OR MAJOR

A roadway used to move traffic into, through, and out of major portions of the City designed for heavy traffic.

1304.132 STREET, COLLECTOR/MINOR/LOCAL/SERVICE

A roadway whose major purpose is to provide direct access to properties.

1304.133 STRUCTURE

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

1304.134 STRUCTURAL ALTERATION

Any change in the supporting members of a building.

1304.135 SWIMMING POOL

An outdoor water pool which is intended to be used for swimming or bathing. An outdoor water pool shall, for the purposes of this Zoning Ordinance, be construed to mean any swimming pool, tank, depression, or excavation in any material, dike, or berm constructed, erected, excavated, or maintained, which will cause the retention of water to a greater depth than 18 inches or having a plane surface area of water greater than 100 square feet. Definition includes in-ground as well as above-ground swimming pools.

1304.136 TEMPORARY USE

A use established for a fixed period of time with the intent to cease such use upon the expiration of the time period.

1304.137 TOURIST BOOTH

Any structure upon any plot of land used for the reservation or sale of sightseeing tours. This definition shall not apply to any sale of tours located in a hotel/motel lobby without outside advertising and without the granting of a special permit.

1304.138 TOURIST HOME, GUEST HOME, ROOMING HOUSE, BOARDING HOUSE OR LODGING HOUSE

A building that was in existence at the time of the adoption of this Zoning Ordinance and in which no exterior alterations or additions have been made since that time, which building is

used primarily as a dwelling in which sleeping accommodations in not more than nine rooms are provided for permanent, transient, or seasonal guests either with or without the furnishing of meals therefore, when provision of such accommodations is auxiliary and secondary to the use of the building as a dwelling.

1304.139 TOWN HOUSE (ALSO ROW HOUSE)

One of several units in a building, which unit is designed for and occupied exclusively as a residence for not more than one family living independently of any other family, separated from other units by a party wall or walls, and erected on a lot intended to be held in the form of a condominium or in single and separate ownership from any adjoining units.

1304.140 TRAILER CAMP

A land or floor area occupied or designed for occupancy by one or more trailers or camp cars for living purposes. Additional regulations are specified in Chapter 1127, Trailer Camp.

1304.141 URBAN RENEWAL PLAN

A plan for use of land within an officially designated Urban Renewal Area.

1304.142 USABLE OPEN SPACE

An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than 25 percent is roofed for shelter purposes only, the minimum dimension of which is 40 feet, and which is available and accessible to all occupants of the building or buildings on the said lot for purposes of active or passive outdoor recreation. Accessory building roof space may be substituted for ground space, provided such space is available and accessible to all the said occupants.

1304.143 USE

The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. Permitted use, or its equivalent, shall not be deemed to include any non-conforming use.

1304.144 USE, ACCESSORY

A use which is customarily incidental and subordinate to the principal use of a lot or a building, and located on the same lot therewith.

1304.145 VETERINARY CLINIC

An animal hospital, or any facility for the medical care and/or treatment of animals, including shelters and related facilities, but shall not be construed to mean an animal kennel.

1304.146 YARD

An open space of uniform width or depth on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line, and is unoccupied and unobstructed from the ground upward except for the certain features specified in Chapter 1327. In measuring a yard, as hereinafter provided, the line of a building shall be deemed to mean a line parallel to the nearest lot line, drawn through the point of a building or the point of a group of buildings nearest to such lot line, exclusive of the respective yard dimensions or as being permitted to extend into any front, side, or rear yard, respectively, and the measurement shall be taken at right angles from the line of the building to the nearest lot line.

1304.147 YARD, FRONT

A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building.

1304.148 YARD, LINE

A line drawn parallel to a street or lot line at a distance equal to the respective yard dimension required by this Zoning Ordinance.

1304.149 YARD, REAR

A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

1304.150 YARD, REQUIRED

Any yard measured between a line drawn parallel to a street or lot line at a distance equal to the respective minimum yard dimension required by this Zoning Ordinance.

1304.151 YARD, SIDE

A yard between the side line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot line, as may be.

1304.152 ZONING MAP, OFFICIAL

The map delineating the boundaries of districts, and along with the zoning text shall comprise the City of Niagara Falls Zoning Ordinance.