

§ 215-1. Word usage and definitions.

A. Word usage. Unless the context otherwise indicates, the following definitions shall be used in the interpretation and construction of this chapter. Words used in the present tense include the future; the singular number shall include the plural and the plural the singular. The word "person" includes any individual, firm, association, partnership, corporation, syndicate, copartnership, trust or other legal entity; the word "lot" includes the word "plot"; the word "occupied" includes the words "designed or intended to be occupied"; the word "used" shall include the words "arranged, designed, constructed, altered, converted, rented, leased or intended to be used"; the word "may" is permissive.

B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING OR STRUCTURE — A building or structure, the use of which is customarily incidental to that of the principal building located on the same lot. When an accessory building is attached by a roof to a principal building or structure, it shall be considered a part thereof.**[Added 4-18-2005 by Ord. No. 5-05]**

ACCESSORY USE — A use of the land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.**[Added 4-18-2005 by Ord. No. 5-05]**

ADMINISTRATIVE OFFICER — The Zoning Officer.

AFFORDABLE — Having a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:93-7.4, or for housing developed in accordance with the third-round rules of the New Jersey Council on Affordable Housing, as defined by N.J.A.C. 5:94-7.**[Added 11-21-2005 by Ord. No. 30-05]**

AGRICULTURE — The growing of crops; raising or breeding of horses, sheep, dairy, poultry or other farm livestock; orchard, woodlot, reforestation, nursery or greenhouses; or other agricultural purposes. "Agricultural land" shall include open or wooded areas, ponds, brooks, swamps and meadows.

ALTERATIONS — A charge or rearrangement in the structural parts or in the existing facilities which alter the use of the building, or an enlargement, whether by extension of a side or by increasing in height or by moves from one location or position to another. The addition or expansion of dormers is to be considered an enlargement.

ANIMAL UNIT — Livestock nominally equivalent to a one-thousand-pound animal needing one acre more or less of area to sustain its needs. The animal unit would translate to one horse, one cow or cow with calf, two five-hundred-pound steers, five two-hundred-pound ewes, etc.**[Added 4-18-2005 by Ord. No. 5-05]**

APPLICANT or DEVELOPER — The legal or beneficial owner of a lot or of any land proposed to be included in the proposed development, including the holder of

an option or contract to purchase or other person having an enforceable proprietary interest in the land.

APPLICATION FOR DEVELOPMENT — The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to law.

APPROVING AUTHORITY — The Planning Board or the Board of Adjustment of Mendham, as the case may be.

APPROVING AUTHORITY, WIRELESS TELECOMMUNICATIONS TECHNOLOGY — The Planning Board or Board of Adjustment, as the case may be, shall be the approving authority for applications submitted under § 215-12.6. **[Added 5-5-2008 by Ord. No. 4-08]**

AUTOMOTIVE GASOLINE STATION — Any establishment servicing motor vehicles with fuel and oil, but not including repairs, changing of tires or any other replacement of accessory parts.

AUTOMOTIVE SALES AND SERVICES — Any establishment selling motor vehicles new and used, supplies and accessories and including service and repair facilities, but not solely the storage of vehicles.

AUTOMOTIVE SALES LOT — Any establishment with space for the sale and storage of new or used motor vehicles, but not including the dispensing of gasoline and fuel, service repairs or solely the storage of vehicles.

AUTOMOTIVE SERVICE STATION — Any establishment servicing motor vehicles with gas, oil, lubrication services, lubricants and other service work and vehicle maintenance supplies and parts and equipment not requiring extensive or prolonged mechanical work for installation. Service work regularly offered should be limited to oil changes, lubrication, minor tuneups, installation of batteries, tires, wiper blades and similar equipment, wheel balancing and alignment and the replacement of minor mechanical parts, such as hoses, spark plugs, ignition wiring, points, alternators, water pumps and similar parts not requiring major engine or drivetrain dismantling.

AWNING, CANOPY — A roof-like cover that projects from the wall of a principal or accessory building for the purpose of shielding a doorway or window from the elements. Awnings may be either fixed or retractable. **[Added 2-21-2023 by Ord. No. 01-2023]**

BUFFER — An area consisting of trees, shrubs, solid fencing, earth berm or a combination of all, so installed as to provide both a visual and an acoustical barrier between properties. Solid fencing may be substituted to meet only part of the requirement and must be supplemented with planting to soften the appearance.

BUILDING — A combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof.¹

1. Editor's Note: The definition of "accessory building," which immediately followed this definition, was repealed 4-18-2005 by Ord. No. 5-05.

BUILDING FOOTPRINT — The area within the perimeter of a building measured at the foundation. It shall include roofed areas and any cantilevered portions of the building. The term "building footprint" shall not include open uncovered patios, decks, unroofed stoops or stairs or roof projections. It shall not include one-story open porches or porticos extending up to 12 feet zero inches from the exterior walls of a structure. Any portion extending more than 12 feet zero inches from the exterior walls shall be included in the building footprint. A "porch" or "portico" shall be defined as an outdoor roofed space attached to a structure without screens, walls or windows (rails are allowed). The porch or portico may have an occupiable deck as long as the roof deck does not have an enclosure of any kind beyond a rail around the perimeter. **[Added 6-17-2002 by Ord. No. 06-02; amended 7-15-2002 by Ord. No. 07-02]**

BUILDING HEIGHT — The vertical distance to the top of the highest point of the building measured from the average elevation of the proposed finished grade at each corner of the building next to the foundation. Building height shall include all roof-mounted appurtenant structures, fixtures and equipment, including but not limited to chimneys, antennas, HVAC equipment, tanks, cupolas, and similar projections. In the event that a building or part thereof does not have corners, the measurement shall be done in the manner prescribed above at minimum ten-foot intervals around the perimeter of the building. **[Amended 6-17-2002 by Ord. No. 06-02]**

BUILDING, PRINCIPAL — A building on a lot in which the principal use of that lot is conducted.

CERTIFICATE OF OCCUPANCY — A certificate issued by the Construction Official or designated representative upon completion of the construction of a new building or upon a change in the use of a building, which certifies that all requirements of this chapter or such adjustments thereof which have been granted by the appropriate agency and all other applicable requirements have been complied with.

CLINIC, MEDICAL OR DENTAL — Any place used for the administering of medical or dental treatment free or at a low cost; or any place used as an inpatient or outpatient medical or dental treatment center wherein certain medical and dental conditions and disorders are treated primarily through surgical intervention that is not commonly performed in normal, private medical or dental practice.

CLUB — A nonprofit corporation, organization or association of persons who are members thereof, which owns or leases a building or part thereof for the use of members or guests. Said club or lodge shall have been principally established for the promotion of a common objective and shall be distinctly not considered as a semipublic use. Food, meals and alcoholic beverages may be served as an incidental function of this use, provided that adequate facilities are present, and further provided that all federal, state and municipal laws are complied with.

COMPLETE APPLICATION — An application form completed as specified by this chapter and the rules and regulations of the approving authority and all accompanying documents required by this chapter for approval of the application

for development, including, where applicable, but not limited to a site plan or subdivision plat, provided that the approving authority may require such additional information not specified in this chapter or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the approving authority. An application shall be certified as complete immediately upon the meeting of all requirements specified in this chapter and shall be deemed complete as of the day it is so certified by the administrative officer for purposes of the commencement of the time period for action by the approving authority.

CONDITIONAL USE — A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this chapter and upon the approval thereof by the Planning Board.

DENSITY ZONING — A permitted reduction in lot size and lot area requirements in major subdivisions in which the density requirements, as to dwelling units per acre, are maintained and where all resulting undeveloped land within said subdivision is deeded to the Borough of Mendham for public purposes, the Board of Education of the Borough of Mendham for school purposes or to a homeowners' association composed of the individual owners of the homes and of said subdivision.

DEVELOPMENT — The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq. **[Amended 11-21-2005 by Ord. No. 30-05]**

DRAINAGE — The removal of surface water or groundwater from land by drains, grading or other means, and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage and the means necessary for water supply preservation or prevention or alleviation of flooding. **[Amended 6-7-1999 by Ord. No. 15-99]**

DRAINAGE RIGHT-OF-WAY — The lands required for the installation of stormwater sewers or drainage ditches or those required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood.

DRIVE-IN FACILITY — A facility which is designed to provide, either wholly or in part, service to customers while in their automobiles parked or standing upon the

premises.

DRIVEWAY — The accessway servicing a single residential or commercial building lot.

DWELLING, MULTIFAMILY — A building used or designed as a residence for three or more families living independently of each other and having separate utilities, separate cooking facilities and separate entrances, including apartment houses and garden apartments.

DWELLING, ONE-FAMILY — A detached building designed for or occupied exclusively by one family or for any other use of single-family dwellings protected by state statute. **[Amended 6-15-1998 by Ord. No. 14-98]**

DWELLING, TWO-FAMILY — A building designed for or occupied exclusively by two families living independently of each other and having separate utilities, separate cooking facilities and separate entrances.

DWELLINGS, TOWNHOUSE — Two or more single-family dwelling units which are attached to each other by a common wall, together with individual rear and front entrances. A townhouse unit may have a front and/or rear yard design as an integral part of each unit, or all townhouse units in a complex may share common outside facilities in conformance with an approved site plan. A townhouse dwelling unit has its own separate storage area and heating system and is considered to be an independent operating unit.

DWELLING UNIT — A house, trailer or other structure or a portion of any building or structure designed, arranged or used for living quarters for one or more persons living as a single housekeeping unit with cooking and bathroom facilities.

DWELLING UNIT DENSITY (RESIDENTIAL DENSITY) — The average number of dwelling units, regardless of unit size, per acre of ground in a given location or area.

DWELLING UNITS, MARKET-RATE — Housing units not restricted to low- and moderate-income households that may sell at any price determined by a willing seller and a willing buyer. **[Added 11-21-2005 by Ord. No. 30-05]**

EATING ESTABLISHMENT — Includes restaurant, delicatessen, luncheonette, sandwich shop or tavern.

ENCROACH — To break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a setback. **[Added 2-21-2023 by Ord. No. 01-2023]**

ENCROACHMENT — Any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into the setback. **[Added 2-21-2023 by Ord. No. 01-2023]**

ENVIRONMENTAL COMMISSION — A municipal advisory body created pursuant to P.L. 1968, c. 245 (N.J.S.A. 40:56A-1 et seq.).

EROSION — The detachment and movement of soil or rock fragments by water, wind, ice and gravity.

FACADE — The total wall surface, including door and window areas, of a building's face. Each wall surface shall be considered a separate facade.

FAMILY — One or more persons occupying a premises and living as a single housekeeping unit with shared cooking and bathroom facilities. Nothing herein contained shall be deemed to interfere with or restrict the placement of children in a group home pursuant to N.J.S.A. 40:55D-66(c) or any other use of single-family dwellings protected by state statute. All commercial residences, nonfamilial institutional uses (except for community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill and community residences for persons with head injuries), boarding homes and other such occupancies shall be excluded from one-family zones. **[Amended 6-15-1998 by Ord. No. 14-98]**

FARM — An area of land which is actively devoted to agricultural or horticultural use which occupies no less than five acres, exclusive of the land upon which the farmhouse is located, and such additional land, in conformance with the minimum lot size of the residential zone in which the farm is located, as may actually be used in connection with the farmhouse as provided in N.J.S.A. 54:4-23.3, 54:4-23.4, 54:4-23.5 and 54:4-23.11.

FENCE — A vertical structure erected as a barrier, enclosure or screening and extending or suspended between posts or other supports; or a stone or rock wall. As used in this chapter, the term "fence" shall include the term "wall." **[Added 6-7-1999 by Ord. No. 17-99; amended 12-2-2002 by Ord. No. 10-02]**

FINAL APPROVAL — The official action of the approving authority taken on a preliminarily approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guaranties properly posted for their completion or approval conditioned upon the posting of such guaranties, which, in the case of subdivision, shall be filed with the proper county recording officer.

FLOOR AREA — The sum of the gross horizontal areas in a building enclosed by an exterior wall, excluding open porches, balconies, stairwells and elevator shafts, equipment rooms, crawl spaces, patios, carports or loading areas and all floors below the first or ground floor. Attached garages and interior vehicle parking areas shall be included in calculating floor area. **[Added 2-18-1997 by Ord. No. 1-97]**

FRONT YARD — A space extending across the full width of a lot between the sideline of the traveled way of any street and the nearest part of the principal building on the lot. Stoops, steps, and unroofed terraces and balconies projecting not more than 60 inches from a building, including portico roofs or awnings covering stoops or steps, shall not be construed as part of the building, unless such a projection is being added to a building that is already nonconforming with respect to its front yard setback. **[Added 4-18-2005 by Ord. No. 5-05; amended 6-3-2013 by Ord. No. 6-13]**

GARAGE, PRIVATE — An accessory building or part of a principal building used only for the storage of motor vehicles as an accessory use. In a residential

zone, a garage is intended for and used for storing privately owned motor vehicles, boats and trailers and personal belongings of the family or families resident in the principal residential use on the lot.

GOVERNING BODY — The Mayor and Borough Council of the Borough of Mendham.

HEALTH CLUBS AND RECREATIONAL FACILITIES — Facilities primarily devoted to the preservation, maintenance, encouragement or basic development of physical fitness or physical well-being through physical exercise; or establishments/facilities devoted to the development of a particular physical skill, or activity or enjoyment of one specific sport including, but not limited to, aerobic centers, children's gyms or play spaces; martial arts schools; dance schools; gymnastics schools; weight control centers; metabolic or nutrition centers or single-sport facilities (e.g., swim clubs, tennis clubs or racquetball clubs).**[Added 8-11-2020 by Ord. No. 09-2020]**

HISTORIC SITE — Any building, structure, area or property that is significant in its history, architecture, archaeology or culture and has been so designated in the application for the Mendham Historic District National Register of Historic Sites.

HOME OCCUPATION — An individual craft or skill, such as dressmaking, millinery, cooking, pottery or a teacher giving lessons to one pupil at a time, conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes.

HOMESTEAD — That portion of an agricultural, horticultural or residential parcel of land actually utilized for the residence building(s) and for domestic and residential purposes (e.g., children's play area, home garden, recreational space, or finished, landscaped areas).**[Added 4-18-2005 by Ord. No. 5-05]**

HOUSE — A building designed and equipped for occupancy as a residential dwelling unit.

HOUSEHOLD PET — A domestic animal which is tamed, associated with family life, and accustomed to living within a residential domicile in space shared with the human residents.**[Added 4-18-2005 by Ord. No. 5-05]**

INTERESTED PARTY — In an administrative proceeding before a municipal agency, any person, whether residing within or without Mendham Borough, whose right to use, acquire or enjoy property is affected by any action taken under this chapter or whose rights to use, acquire or enjoy property under this chapter or under any other law of this state or the United States have been denied, violated or infringed by an action or failure to act under this Code.

LIVESTOCK — Animals, other than household pets, normally associated with agricultural or similar uses, including horses, cattle, sheep, or other domesticated, nonhousehold animals.**[Added 4-18-2005 by Ord. No. 5-05]**

LOT — A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

LOT AREA — An area of land which is determined by the limits of the lot lines bounding the area and shall be expressed in terms of square feet. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area.

LOT, CORNER — A lot at the junction of and fronting on two or more intersecting streets when the interior angle of intersection does not exceed 135°. All lot lines that front on a street shall be considered front lot lines. The lot line generally parallel to the rear of the building shall be considered the rear lot line. In the case of a building facing toward the interior angle rather than solely on one street frontage or the other, there shall be no side lot line, and any lot line other than those considered front lot lines shall be considered to be rear lot lines. On corner lots, principal buildings shall be set back from each street bordering the corner lot at least the minimum front setback applicable to the zone district where the property is located. Corner lots on collector, major or arterial streets shall have driveway access only to the street of lesser traffic classification. **[Amended 4-18-2005 by Ord. No. 5-05]**

LOT COVERAGE — The proportion of the area of a lot, expressed as a percent, that is covered by the maximum horizontal cross section of a building or buildings, including accessory buildings, and all other improvements, such as driveways, walkways, patios and pools.

LOT DEPTH — The shortest horizontal distance between the street line and the nearest part of a rear lot line. The greater frontage on a corner lot shall be its depth.

LOT, FLAG — A lot not meeting minimum frontage requirements and where access to the public road is by a narrow access strip. The front line of a flag lot, exclusive of the access strip (for yard and setback purposes), shall be that line most close in proximity and most closely parallel to the associated street. **[Added 4-18-2005 by Ord. No. 5-05]**

LOT FRONTAGE — The horizontal distance between side lot lines measured along the street line. The minimum lot frontage shall be the same as the lot width, except that on curved alignments with an outside radius of less than 500 feet, the minimum distance between the side lot lines measured at the street line shall not be less than 80% of the required minimum lot width. In the case of a corner lot, either street frontage which meets the minimum frontage required for that zone may be considered the lot frontage.

LOT LINE — The boundary line of a parcel of land as shown on a certified filed map or as defined by a filed map, or both. A lot line shall not be considered valid unless legally subdivided.

LOT LINE, REAR — Every lot must have a rear lot line. Said rear lot line shall be generally parallel to the street line, including a curved street line, and shall be at least as long as 50% of the required lot width.

LOT WIDTH — The straight and horizontal distance between side lot lines at setback points on each side lot line measured an equal distance back, horizontal from the street line. The minimum lot width shall be measured at the minimum required building setback line. Where side lot lines are not parallel, the minimum lot width at the street line shall be not less than 80% of the required minimum lot

width. The lesser frontage of a corner lot shall be its width.

MAINTENANCE GUARANTY — Any security which may be accepted by a municipality for the maintenance of any improvements required by this chapter, including but not limited to surety bonds, letters of credit under the circumstances specified in N.J.S.A. 40:55D-53.5 and cash.**[Amended 6-7-1999 by Ord. No. 15-99]**

MAJOR SUBDIVISION — Any subdivision not classified as a minor subdivision.

MASTER PLAN — The composite of one or more written or graphic proposals for the development of Mendham duly adopted by the Mendham Planning Board.

MINOR SUBDIVISION — Any subdivision of land for the creation of not more than three lots fronting on an existing approved public street, provided that such subdivision does not involve a planned development, does not involve any new street, does not involve the extension of any off-tract improvement, the cost of which is to be prorated pursuant to N.J.S.A. 40:55D-42, and does not adversely affect the development of the remainder of the parcel or adjoining property or conflict with any provision or portion of the Master Plan or this chapter, provided further that in the event that more than one minor subdivision from any tract of land is submitted within a five-year period from the date of approval of the first minor subdivision, then said subsequent subdivision shall be construed as a major subdivision and processed accordingly. Notwithstanding the foregoing, the Planning Board may construe and process the same as a minor subdivision if the prior subdivision was either a conveyance of a small parcel of land (less than a building lot) between adjoining property owners primarily for the purpose of straightening or correcting boundaries or a conveyance of a parcel of land to any government, governmental agency or public utility which possesses the power of eminent domain.

NURSING HOME — A facility for two or more convalescent or aged people which may include kitchen facilities, recreation areas and similar necessary adjunct uses for patient care.

OFF SITE — Located outside the lot lines of the lot in question but within the property of which the lot is a part, which is the subject of a development application, or on a contiguous portion of a street or right-of-way.

OFF TRACT — Not located on the property which is the subject of a development application nor on a contiguous portion of a street or right-of-way.

ON SITE — Located on the lot in question.

ON TRACT — Located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

OPEN SPACE — Any parcel or area of land or water essentially unimproved and set aside, dedicated, designed or reserved for public or private use or enjoyment or for use and enjoyment by owners and occupants of land adjoining or neighboring such open space, provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are

designed to be incidental to the natural openness of the land.

OVERHANG — The part of a roof or wall that extends beyond the façade of a lower wall.**[Added 2-21-2023 by Ord. No. 01-2023]**

PARKING SPACE — An off-street space available for the parking of a motor vehicle 10 feet wide and 20 feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto, except that all parallel off-street parking spaces shall be 10 feet wide and 22 feet long. Handicapped spaces shall be 12 feet wide and 20 feet long.

PATIO, TERRACE — A level, landscaped, and/or surfaced area directly adjacent to a principal building and not covered by a permanent roof.**[Added 2-21-2023 by Ord. No. 01-2023]**

PERFORMANCE GUARANTY — Any security which may be accepted by Mendham, including cash, provided that not more than 10% of the total performance guaranty may be required in cash.

PERSONAL SERVICE — As used to describe a type of business enterprise, a service performed on or closely related to the physical person, such as barbering, custom tailoring, manicuring, shoeshining and the like.

PLAN — The proposal for the development of land, including a plat of subdivision; all covenants relating to use; location and bulk of buildings and other structures; intensity of use or density of development; public or private streets, ways and parking facilities; open space; and public facilities. The phrase "provisions of the plan," shall mean the written and graphic materials referred to in this definition.

PLANNED COMMERCIAL DEVELOPMENT — Any area of minimum contiguous size, as specified in this chapter, to be developed as a single entity containing one or more structures with appurtenant common areas to accommodate retail or office uses, or both.

PLAT — A map or maps of a subdivision or site plan pursuant to the provisions of this chapter.

PRELIMINARY APPROVAL — The conferring of certain rights prior to final approval after specific elements of a development plan have been agreed upon by the approving authority and the applicant.

PRELIMINARY FLOOR PLANS AND ELEVATIONS — Architectural drawings prepared during early and introductory stages of the design of a project, illustrating in a schematic form its scope, scale and relationship to its site and immediate environs.

PROFESSIONAL OFFICE — The office of an accountant, architect, attorney, dentist, engineer, physician, planner, realtor or such similar use as interpreted by the Zoning Board of Adjustment.

PUBLIC AREAS — Includes public parks, playgrounds, trails, paths and other recreational areas; other public open spaces; scenic and historic sites; and sites for schools and other public buildings and structures.

REAR YARD — A space extending across the full width of a lot between the rear lot line and the nearest part of any building on the lot. Stoops, steps, terraces and balconies projecting not more than 60 inches from a building shall not be construed as part of the building unless such projections are roofed.**[Added 4-18-2005 by Ord. No. 5-05]**

RELIGIOUS CAMPUS — A campus under the ownership or control of a single entity containing the living quarters of a religious order and other buildings and structures as required for the administrative, spiritual, and health needs and well-being of the members of the religious order and ancillary functions, including religious retreat accommodations and housing for support staff, including caretakers, within the permitted density limits of the zone district.**[Added 12-7-2015 by Ord. No. 7-15]**

RESUBDIVISION — The further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.**[Amended 6-7-1999 by Ord. No. 15-99]**

SEDIMENTATION — The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

SETBACK — The minimum horizontal distance between the street, rear or side lot lines and the closest part of any building. When two or more lots under one ownership are used, the exterior property lines so grouped shall be used in determining setbacks. The front setback shall be measured from any future right-of-way line as adopted in the Master Plan. The term "setback" is synonymous with "required setback" and shall mean a line beyond which a building or structure is not permitted to extend.

SIDE YARD — A space extending from the rear yard to the front yard between either side lot line and the nearest part of any building on the lot. Stoops, steps, terraces and balconies projecting not more than 60 inches from a building shall not be construed as part of the building unless such projections are roofed.**[Added 4-18-2005 by Ord. No. 5-05]**

SIGN — Any device, structure or object, including painted wall signs for visual communication, that is used for the purpose of advertising the property or establishment upon which the display is exhibited. See § 215-8 of this chapter.

SKETCH PLAN — The sketch design of a subdivision or site plan of sufficient accuracy to be used for the purposes of discussion and classification and meeting the requirements of this chapter.

SOLAR PANEL SYSTEM — An elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power and/or heat, and includes flat plate or tubing, focusing solar collectors, or photovoltaic solar cells which shall be limited to the roof of a building or structure and shall not include ground-mounted systems.**[Added 11-18-2013 by Ord. No. 11-13]**

STORE, RETAIL — A building or portion thereof used for sales and display of goods for use or consumption by the purchaser.

STREAM RIGHT-OF-WAY — The distance or width located on both sides of a stream or watercourse which has been dedicated, deeded or granted by easement to any government agency for stream right-of-way or which has been indicated in an officially adopted stream improvement program.

STREET — Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway; or which is shown upon a plat heretofore approved pursuant to law; or which is approved by official action as provided by law; or which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of the Planning Board and the grant to such Board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines. **[Amended 6-7-1999 by Ord. No. 15-99]**

STREET, RESIDENTIAL — A street or portion thereof which is located in a residential zone.

STREET RIGHT-OF-WAY — That line determining the limit of the highway rights of the public.

STRUCTURE — A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

SUBDIVISION — The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions if no new streets are created: divisions of land found by the Planning Board or subdivision committee thereof appointed by the Chairperson to be for agricultural purposes where all resulting parcels are five acres or larger in size; divisions of property by testamentary or intestate provisions; divisions of property upon court order, including but not limited to judgments of foreclosure; consolidation of existing lots by deed or other recorded instrument; and the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the Tax Map or atlas of the municipality. The term "subdivision" shall also include the term "resubdivision." **[Amended 6-7-1999 by Ord. No. 15-99]**

TOURIST HOME — A dwelling unit in which overnight accommodations are provided or offered for transient guests for compensation.

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. ²

2. Editor's Note: The definition of "accessory use," which immediately followed this definition, was repealed 4-18-2005 by Ord. No. 5-05.

USE, NONCONFORMING — A use of a building or land that does not conform to or is not specified with the provisions of this chapter for the zone in which it is located.

USE, PERMITTED — A use of a building or land, as specified and in conformity with the provisions of this chapter, in the zone in which it is located.

USE, PRINCIPAL — A use which is the major use of the lot. In any residential zone, a dwelling on a lot shall be deemed the principal use of that lot.

USE, PUBLIC — Any use of land or structures thereon which is owned or leased and used by the federal, state, county or municipal governments.

USE, RESIDENTIAL — The use of a building as a dwelling unit.

WIRELESS TELECOMMUNICATIONS ANTENNA (WT ANTENNA) — Any antenna of any type of design which is or may be used for the delivery of wireless telecommunications, except for any radio antenna, dish antenna or satellite receiving station as may be regulated elsewhere in Chapter 215. **[Added 5-5-2008 by Ord. No. 4-08]**

WIRELESS TELECOMMUNICATIONS COMPOUND (WT EQUIPMENT COMPOUND) — The area which houses any combination of WT equipment. **[Added 5-5-2008 by Ord. No. 4-08]**

WIRELESS TELECOMMUNICATIONS EQUIPMENT (WT EQUIPMENT) — Any building, structure or equipment, including, without limitation, transmitters, power sources or other equipment, except antennas or towers, which are or may be used for the delivery of wireless telecommunications. **[Added 5-5-2008 by Ord. No. 4-08]**

WIRELESS TELECOMMUNICATIONS FACILITIES (WT FACILITIES) — Collectively, any WT antennas, WT equipment, WT equipment compound and WT towers. **[Added 5-5-2008 by Ord. No. 4-08]**

WIRELESS TELECOMMUNICATIONS SERVICE PROVIDER (WT SERVICE PROVIDER) — Any person, business organization or other entity of any kind, whether public or private, which seeks to install, operate or maintain any combination of WT technology within the boundaries of the Borough of Mendham or which already operates or maintains such WT technology as of the effective date of this Ordinance No. 4-08. **[Added 5-5-2008 by Ord. No. 4-08]**

WIRELESS TELECOMMUNICATIONS TECHNOLOGY (WT TECHNOLOGY) — Any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC-licensed commercial wireless telecommunications services, including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed. It does not include any amateur radio facility that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas nor does it include noncellular telephone services. Collectively, the term refers to all wireless technology antennas, equipment,

compounds and towers.[Added 5-5-2008 by Ord. No. 4-08]

WIRELESS TELECOMMUNICATIONS TOWER (WT TOWERS) — A vertical structure which is or may be used to support any WT antenna or other WT equipment, whether freestanding or attached to any existing structure.[Added 5-5-2008 by Ord. No. 4-08]

YARD — An open space that lies between a lot line and the principal or accessory building, as the case may be, nearest to the lot line. The minimum required yard as set forth in the chapter shall be unoccupied and unobstructed by any structure from the ground upward, except as specifically provided in this chapter (e.g., fences, as permitted). The minimum required yards are equivalent to the respective minimum required setbacks. At front and rear corners of lots, side yard setbacks must be observed, as well as the applicable front or rear yard setbacks.[Added 4-18-2005 by Ord. No. 5-05]

§ 215-29. Supplementary height and bulk limitations. [Added 8-7-1989 by Ord. No. 17-89; 9-5-1989 by Ord. No. 20-89; 6-7-1999 by Ord. No. 15-99; 6-7-1999 by Ord. No. 17-99; 12-18-2000 by Ord. No. 21-00; 12-2-2002 by Ord. No. 10-02; 3-16-2009 by Ord. No. 1-09; 2-19-2013 by Ord. No. 1-13]

A. Accessory buildings.

- (1) No accessory building shall be over two stories high in any zone, and accessory buildings erected within between five and 12 feet of a party lot line shall not be over one story high.
- (2) No accessory building shall be located within 10 feet of a wall of a main building unless attached thereto.

B. Fences.

- (1) A solid, or a partially open, fence under 2 1/2 feet in height may be erected in any portion of a lot.
- (2) Except as provided in § 215-14I(3), a fence equal to or in excess of 2 1/2 feet in height, but not to exceed four feet in height, may be constructed in any front yard or any yard that abuts either a public or private street, provided that it is not solid and that at least 20% of the overall area of the entire fence, uniformly distributed, both horizontally and vertically throughout the fence area, is open. For purposes of this Subsection B, "front yard" shall be defined as the area extending across the full width of a lot and lying between the front lot line of the property and the nearest point of the foundation of the principal structure on the lot, regardless of how "front yard" may be elsewhere defined in this chapter.
- (3) Except as provided in § 215-14I(3), within all residence zones, no fence more than six feet in height shall be erected within any rear or side yard setback, as set forth in § 215-28, provided that neither the side nor the rear yard abuts a public or private street.

- (4) Fences up to eight feet in height are permitted where the purpose of the fence is to screen electrical substations from neighboring properties.
- (5) The height of a fence shall be measured from the grade at the base of the fence at any given location to the highest point of the fence structure.
- (6) All fences permitted under this section shall be situated on a lot in such a manner that the finished side shall face adjacent properties and adjacent public or private streets.
- (7) No fence shall be erected within the Borough without a permit having first been obtained from the Zoning Officer. The permit fee shall be as set forth in Chapter 102, Fees.
- (8) The Zoning Officer and the Borough Administrator are authorized to enforce the provisions of this Subsection B.
- (9) In all zones, nonperimeter mesh or wire enclosures not thicker than 18 gauge and not exceeding four feet in height in a front yard or any yard abutting a public or private road, or eight feet in height in a rear or side yard not abutting a public or private street, erected for the sole purpose of seasonal protection of trees, shrubs or plantings, are not subject to the provisions of Subsection B(3) and (6) above.
- (10) No fence may be installed on private property in the Borough that is in violation of § 147-7, which prohibits fences composed of or containing any materials harmful to humans or animals. Such harmful materials include, but are not necessarily limited to, barbed wire, razor wire, low-visibility wire, piano wire, embedded glass and sharp metal points. Electrically charged fences are also prohibited unless they meet each of the following standards:
 - (a) All electrical equipment used in the fence shall carry the label of Underwriters' Laboratories or the Industrial Commission of Wisconsin.
 - (b) The fence shall be installed and operated according to the National Electrical Code and applicable state regulations.
 - (c) Any electric fence that abuts a public or private street must be set back at least 50 feet from the front lot line or from any public or private street.

C. Mechanical equipment pads. **[Added 2-16-2016 by Ord. No. 2-16]**

- (1) This subsection shall apply only to properties improved with one- and two-family dwellings as of February 16, 2016.
- (2) Notwithstanding the existing lot coverage on a property that is the subject of this subsection, the construction of a single pad for new mechanical equipment (air-conditioning compressor, heat pump, standby generator, etc.) shall be permitted up to an area of 12 square feet.
- (3) The area of the pad shall be included in all future calculations of lot coverage

for zoning and stormwater management purposes for any project other than the mechanical pad that is the subject of this subsection. This includes any project for an addition to or reconstruction of the existing dwelling and any project for other accessory structures (pools, patios, sheds, etc.) on the subject property.