

**ACCESSORY APARTMENT:** An independent dwelling unit that has been added onto, or created within, a single-family dwelling.

**ACCESSORY USE –** A use of land or of a building or portions thereof that is clearly and customarily incidental and subordinate to the principal use and is located on the same lot with principal use including but not limited to swimming pools, garage, garden shed, dumpsters, and fences.

**ACCESSORY STRUCTURE:** A secondary structure on the same lot in the same ownership which is associated with the principal structure, and which is incidental and subordinate to the principal structure. An accessory structure is a detached subordinate building on a lot, the use of which is customarily incidental to that of the main or principal building such as, but not limited to playhouse, pool house, cabana, and garage. To have an accessory building on a lot there must be a principal building already in existence.

**ADIRONDACK PARK OR PARK -** land lying within the area described in subdivision one of section 9-0101 of the environmental conservation law including any future amendments thereto.

#### **ADULT USES**

**BOOKSTORE –** Having as a substantial or significant portion of its stock-in-trade books, magazines, publications, tapes, or films that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

**ADULT CABARET –** (1) Devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; (2) A cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators, or similar entertainers for observation by patrons.

**ADULT MOTION PICTURE THEATER –** A building, or part thereof, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

**AGRICULTURE -** any management of any land for agriculture; raising of cows, horses, pigs, poultry and other livestock; horticulture or orchards for commercial sale; including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds. See also NYS AML 25-AA definition of Farm Operation.

**AGRIBUSINESS -** any milk processing plant, feed storage supply facility, farm machinery or equipment sales and service facility; storage and processing facility for fruits, vegetables and other agricultural products or similar use directly and customarily related to the supply and service of an agricultural use.

**AGRICULTURAL STRUCTURE –** Any building or structure directly or customarily associated with an agricultural use, including barns, stables and farm stands, but not including fences, ponds or roads.

**AGRITOURISM –** Activities conducted on a farm and offered to the public, or to invited groups, for the sale of agricultural products, education, recreation or active involvement in the farm operation. An agri-tourism activity may be secondary to the primary farm use on a property. Agri-tourism activities may be

## Town of AuSable Draft Zoning Law Article XV September 16, 2016

conducted in an accessory building or structure. Agri-tourism activities include, but are not limited to on-farm bed and breakfasts, farm stay programs, u-pick operations, and pumpkin patches.

**AIRPORT** –An area of land that is used or intended to be used for the landing and takeoff of aircraft, and including its buildings and facilities, if any.

**ALTERATION** – As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**ANIMAL PROCESSING FACILITY/SLAUGHTERHOUSE** – a place where animals are butchered and/or processed for food.

**ANTENNA** – A system of electrical conductors that transmit or receive frequency waves. Such waves shall include, but not be limited to radio, television, cellular, paging, personal communication services, and microwave communications.

**APPLICANT** – A property owner or his duly authorized representative, as designated by an affidavit or authorization filed with the Town, who intends to undertake any development or other activity subject to these Regulations.

**ASSISTED LIVING FACILITY** – A multi-family dwelling including any land, building, complex of structures or business usually occupied by the elderly that provides rooms, meals, personal care and supervision of self-administered medication. It may provide other services such as recreation activities, financial services, and transportation intended solely for residents. An assisted living facility may be part of a continuous care senior facility or it may be a use independent of other such services.

**BANK** – Any land, building, complex of structures or business such as a bank and saving and loan, credit agency, investment company, broker and dealer of securities and commodities, and security and commodity exchange.

**BANNER** – Any temporary advertising device affixed to poles, wires or ropes, such as banners, pennants, streamers, wind operated propellers, string lighting or other similar advertising media, but not to include properly displayed flags of city, town, state or country or any message sign or flag.

**BASEMENT** – That portion of a building wholly or partly underground but having at least one half of its height above finished grade.

**BED AND BREAKFAST** – A business operated in a structure, which is used primarily for providing overnight accommodations to the public, even though the owner or manager lives on the premises. Airbnb is a company that runs on a marketplace platform model where it connects and matches hosts and travelers and enables transactions without owning any rooms itself. A dwelling used as a vacation rental by owners, such as but not limited to an ‘Airbnb’ shall be considered the same as any other kind of bed and breakfast. A bed and breakfast shall be considered an accessory use and not lodging if the following criteria are met:

- (1) the guest rooms are located within a structure that has been used as a single family dwelling for a period of five years or more prior to conversion to a bed and breakfast;

- (2) the single family dwelling is the owner's primary residence and at least one bedroom is reserved for the owner's exclusive personal use;
- (3) no meals (except breakfast) are served to paying guests and no meals are served to the general public;
- (4) in a structure containing more than three existing bedrooms, no more than 50 percent of the bedrooms and no more than five bedrooms total are available for paying lodgers;
- (5) the use also meets all the criteria of accessory use as defined in 9 NYCRR 570.3(b), except that no accessory structure or guest cottage shall be used as a bed and breakfast;
- (6) the sewage treatment system complies with all applicable New York State Department of Health and local standards; and
- (7) at least one off-street parking space is provided on premises for each room for rent.

**BILLBOARD** – A commercial sign equal to or greater than 100 square feet in size at a location other than the premises on which the sign is located.

**BUILDABLE AREA** – The net portion of the lot remaining after deducting all required setbacks from the gross area of the lot. Also, the area of a building or any projection therefrom, including attached overhangs, canopies, vestibules, porches, decks, attached garages, etc.

**BUILDING** – Any structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals or property. Unless otherwise specified there shall be only one principal building per lot.

**BUILDING ELEVATION** – A fully dimensioned drawing of the front, rear or side of a building showing features such as windows, doors, and relationship of grade to floor level.

**BUILDING FRONT/FACE** – The outer surface of a building, which is visible from any private or public street or highway.

**BUILDING HEIGHT** – The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest points of the roof, but not including chimneys, spires, mechanical penthouses, towers, tanks, and similar projections.

**BUILDING SETBACK** – The least horizontal distance permitted between a lot line and the nearest portion of any building on such lot.

**BUS TERMINAL** – Any premises for the storage or parking of motor-driven busses and the loading and unloading of passengers. Bus terminals may include ticket purchase facilities, restaurants and stores.

**CAMPGROUND, COMMERCIAL** – any area designed for transient occupancy by camping in tents, camp trailers, travel trailers, RV's, motor homes or similar facility designed for temporary shelter.

**CARPORT** – A roofed structure, with two enclosing walls, used for the storage of one or more automobiles.

**CELLAR** – A story partly underground and having one half (1/2) or more of its clear height below finished grade. A cellar shall not be counted as a story in determining the building height

CEMETARY – Property used for internment of the dead.

CHILD DAY CARE, IN-HOME – A facility in which child day care is provided on a regular basis to less than six (6) children for more than three hours per day per child for compensation and which is located within a residence. This does not include nursery schools, kindergartens or other facilities for which the purpose is primarily educational, recreational, or medical treatments. In House Child Day Care may be regulated by the State of New York.

CHURCHES AND PLACES OF WORSHIP – Any land, building, complex of structures, business or portion thereof, which by design and construction are primarily intended for use by groups or persons to conduct organized religious services and the accessory uses associated therewith. This shall include uses commonly known as churches, temples, mosques, parish houses, monasteries and convents. A special-purpose building that is architecturally designed and particularly adopted for the primary use of conducting formal religious services on a regular basis. Places of worship may also include secondary and associated uses such as schools, meeting halls, recreational facilities, day care, shelters, and kitchens.

CLASS A REGIONAL PROJECT AND CLASS B REGIONAL PROJECT - The land use and development and subdivisions of land listed and so characterized in section eight hundred ten.

CLEARCUTTING - Any cutting of all or substantially all trees over six inches in diameter at breast height over any ten-year cutting cycle.

CLINIC – Any land, building, complex of structures or business where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not usually lodged overnight.

COMMERCIAL CONSTRUCTION, EQUIPMENT STORAGE on OUTDOOR LOT – Any space outside a building used for the storage or keeping of (spacing)non-agricultural equipment, machinery, or vehicles, or part thereof, which are in active use by a construction contractor, landscaper, lawn mowing, tree service, logger and other similar activities.

COMMERCIAL USE - any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee other than any such uses specifically listed on any of the classification of compatible uses lists.

COMPREHENSIVE PLAN - A document that details an underlying purpose to control land uses for the benefit of the whole community based upon consideration of the community's problems and applying a general policy to obtain a uniform result and adopted pursuant to NYS Town Law 272-a.

CONDOMINIUM – A multi-family project of one family dwelling units, which may consist of one or more buildings wherein the real property title and ownership are vested in an owner having an undivided interest with others in the common usage areas and facilities which serve the project. Administration and maintenance of common usage areas and facilities must be provided for.

**CONCRETE MANUFACTURING AND MIXING PLANT** – Any land, building, complex of structures or business and facilities thereon used to process raw materials into concrete and to temporarily store ingredient raw materials.

**CONVENIENCE STORE** – A retail establishment of up to 5,000 square feet selling primarily food products, household items, newspapers and magazines, candy, beverages, and a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption. The intent of such a facility is to address transient or last minute needs, not supply a full complement of groceries and household supplies and may be associated with a gas station.

**CREMATORY** – An establishment containing a furnace for the cremation of deceased persons or pets.

**CRITICAL ENVIRONMENTAL AREA MEANS:** (1) in a hamlet area, wetlands; (2) in moderate intensity use, low intensity use, rural use and resource management areas: (i) wetlands, (ii) lands at elevations of 2,500 feet or more, (iii) lands within 1/8 mile of State lands classified wilderness, primitive or canoe by the State Land Master Plan, and (iv) lands within 1/4 mile of rivers navigable by canoe designated by section 15-2715 of the Environmental Conservation Law to be studied for inclusion in the wild, scenic and recreational rivers system; and (3) in rural use areas, lands within 150 feet of, and in resource management areas, lands within 300 feet of, the edge of the rights-of-way of State or Federal highways, or such county highways as may be designated as major travel corridors by rule or regulation of the agency or in an approved local land use program.

**CULTURAL FACILITY** – A location or structure for use and enjoyment by the public including a museum, theater, art gallery, botanical gardens or other facilities of a natural, historic, educational or cultural interest. A cultural facility may also include accessory uses such as but not limited to retail museum stores or restaurants. It shall include a museum and a performing arts center, which is any land, building, complex of structures, business or portion thereof for housing the visual and/or performing arts.

**CUSTOMARILY ACCESSORY USE, RESIDENTIAL OR COMMERCIAL** - a structure or use which commonly accompanies or is associated with the type of principal residential or commercial land use that is located on the same property. The Use Table 3.1a and 3.1b includes two subsets of customary accessory use based on size of structure – either less than or greater than 100 square feet of building footprint.

**CUT-OUT OR CUT-OUT LETTERS** – Any letters, numbers, emblems or symbols which are separately molded and attached to any surface for use as signage.

**DAY CARE CENTER** – A licensed facility for children, or the aged, infirmed or disabled adults, which is operated during a part of the day only, which provides supplementary care and protection of individuals who reside elsewhere. This does not include nursery schools, kindergartens for which the purpose is primarily educational, recreational, or medical treatments. A Child Day Care Center may not be located within a residence. Child Day Care Center Facilities are also regulated by the State of New York.

**DECK** – A structure attached to or adjoining a house, other principle building, or above ground swimming pool consisting of one or more planes constructed of wood, metal and/or other materials and located above the surface of the earth on or including a support system of footings and foundations, piers, pilasters, columns, posts, joist, stringers and beams or any of them, and including any railings or

open enclosure thereof and including any stairs, ramps or other devices connecting one level with another, with ground and/or with the adjoining structure.

DISTRICTS – An area, section or zone of the Town described on the accompanying zoning map and in which uniform requirements regulate the use of land and the height, bulk, density and setback of structures.

DRIVE-THROUGH USE – An establishment which is permitted in the district in which it is located that by design, physical facilities, services or packaging, procedures, encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

DWELLING – Any building with one or more rooms with provisions for living, cooking, sanitary and sleeping facilities arranged for the use of one family.

DWELLING, MULTI-FAMILY – A dwelling accommodating or designed to accommodate three or more families in separate dwelling units, including condominiums and apartment houses.

DWELLING, SINGLE FAMILY – A dwelling accommodating or designed to accommodate a single family in one dwelling unit.

DWELLIING, TWO FAMILY – A dwelling accommodation or designed to accommodate two families in two adjoining dwelling units, sometimes referred to as a duplex.

JUNK EQUIPMENT – Any equipment which is either abandoned, wrecked, stored, discarded, dismantled or partly dismantled, not in working order, and has remained unused for more than one year.

ERECT – To build, construct, re-erect, alter, display, replace, relocate, attach, hang, place, suspend, affix or excavate a building or structure.

ESSENTIAL SERVICES – Erection, construction, alteration, operation or maintenance by municipalities or public utilities of telephone, electrical, gas, water treatment or storage, pumping stations and similar facilities.

EXCAVATION - Any excavation from which less than 1,000 tons or 750 cubic yards, whichever is less, of ore, sand, gravel, clay, stone, loam, humus or topsoil within a period of twelve (12) successive calendar months produced for sale or exchange or for commercial, industrial or municipal use or for use other than on the property from which the material is extracted. (Soil mining shall also include any activity requiring a permit from DEC pursuant to Article 23 of the Environmental Conservation Law.) Mineral extraction and mineral extraction accessory uses are not included in the definition of excavation.

MINERAL EXTRACTION - Any excavation from which 1,000 tons or 750 cubic yards or more, of ore, sand, gravel, clay, stone, loam, humus or topsoil within a period of twelve (12) successive calendar months produced for sale or exchange or for commercial, industrial or municipal use or for use other than on the property from which the material is extracted. (Soil mining shall also include any activity requiring a permit from DEC pursuant to Article 23 of the Environmental Conservation Law.)

Town of AuSable Draft Zoning Law Article XV September 16, 2016

MINERAL EXTRACTION STRUCTURE - any mine hoist; ore reduction, concentrating, sintering or similar facilities and equipment; administrative buildings; garages or other main buildings or structures used for mineral extraction.

FAMILY – An individual, or two (2) or more persons related by blood, marriage or legal adoption, or a group of not more than (6) persons who are not so related living together as a single housekeeping unit.

FARM ANIMAL, LARGE – Any breed or variety of alpaca, buffalo, cow, camel, deer, donkey, elk, emu, goat, horse, mule, ostrich, reindeer, sheep or swine.

FARM ANIMAL, SMALL – Any breed or variety of fowl or poultry, as well as any fur bearing animal.

FARM STAND, NON-PERMANENT, SEASONAL PRODUCE STAND – A temporary wagon, booth or stall from which produce and farm products are sold to the general public.

FARM RETAIL, PERMANENT – An operation from which produce and farm products are sold to the general public in a permanent structure, whether or not sales take place seasonally or year-round.

FARM WORKER HOUSING – Dwelling units located on an active farm which are as accessory to the agricultural use and are occupied by employees of the farm or members of the farm household and their guests. Farm worker housing may consist of single or multi-family dwellings or buildings, including single or double-wide trailers and mobile homes, and/or apartments. Farm worker housing shall be located on the same parcel as the agricultural use and may not be subdivided from the agricultural use. Farm worker housing may not be rented to persons not primarily employed on the farm on which it is located.

FENCE – An artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas. A vegetated hedge is not a fence.

FIREWOOD – Trunks and branches of trees and bushes, but not including leaves, needles, vines or brush smaller than three (3) inches in diameter.

FLAG LOT – A lot not meeting minimum frontage requirements and where access to the public road is by a private right-of-way or driveway.

FLOOD PLAIN – A land area adjoining a river, stream, watercourse, ocean, bay or lake which is susceptible to flooding.

FLOOR AREA, HABITABLE – The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy of the conduct of business.

FORESTRY - any management, including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skidways, landings, fences and forest drainage systems.

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

## Town of AuSable Draft Zoning Law Article XV September 16, 2016

**FUEL DISTRIBUTION AND STORAGE FACILITY** – A facility designed for the commercial storage and dispensing of fuel oil, gasoline, kerosene or other dry, liquid, pellet or powdered fuel or chemical products in tanks with an individual capacity of more than 10,000 gallons. Fuel Storage Facilities may not provide for retail sale.

**FUNERAL HOME** – An establishment used for the storage and preparation of the deceased for burial or cremation and the display of the deceased and rituals connected therewith prior to burial or cremation. A Funeral Home may not include a crematory.

**FUR BEARING ANIMAL** – Any breed or variety of badger, ferret, guinea pig, mink, muskrat, otter, rabbit, raccoon, skunk, or opossum.

**GAME PRESERVE** – An area of land in which game, fish, etc. is protected for private use in hunting or fishing.

**GARAGE, PRIVATE** – A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and that is not a separate commercial enterprise available to the general public.

**GARAGE, PUBLIC** – Any land, building, complex of structures, business or portion thereof other than a private customer or employee garage of private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

**GARAGE SALE (YARD SALE)** – An event not to exceed three days in duration during a 12-month period, in a residential district, during which primarily second hand goods are sold to the public by the owner of the residence. Garage sales are permitted in all zones.

**GAS COMPRESSOR STATION** – An industrial facility used to raise the pressure of natural gas during its extraction, transport, and storage.

**GASOLINE STATION** – Any land, building, complex of structures or business, or portion thereof, that is used or designed to be used for the sale of gasoline, oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof or the use of mechanical car washing equipment. It includes one or more pumps where fuel is drawn from underground storage tanks and measures and dispensed to motor vehicles for retail sale.

**GAZEBO** – A freestanding, roofed, usually open-sided structure providing a shady resting place.

**GENERAL CONTRACTORS AND BUILDERS, OFFICE**- A room or group of rooms used for the conducting the business for those in the building and construction trade.

**GENERAL CONTRACTORS AND BUILDERS OFFICE, AS A HOME OCCUPATION** – An office used in the operation involved in the building trade or by a construction contractor.

**GENERAL AND PROFESSIONAL: GOVERNMENT OFFICES, HEALTH AND SOCIAL SERVICES CLINIC OR OFFICE**– A building or portion thereof used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include auxiliary services for office workers.

## Town of AuSable Draft Zoning Law Article XV September 16, 2016

It does not involve the sale of goods, or the keeping of stock in trade. Professional offices include, but are not limited to doctors, dentists, surgeons, attorneys, architects, engineers, planners, psychologists, and chiropractors. General offices are those that support the operations of a business, industry or government entity and generally furnished with desks, tables, files and communication equipment.

GLARE - The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual clarity and visibility.

GOLF COURSE – Any land, building, complex of structures or business laid out for playing the game of golf including tees, greens, fairways, and hazards and that may include a clubhouse or shelter and a driving range. This term shall not include those uses commonly known as miniature golf courses.

GRADING - The leveling of land for site development purposes including construction of roads, building construction, drainage areas and parking.

GROUP HOME – A nonprofit or for-profit group home for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services and transportation.

GUEST COTTAGE - not more than one residential structure which is associated with a single family dwelling and which:

- (1) is used only on an occasional basis;
- (2) is used only by guests of the resident(s) of the single family dwelling;
- (3) is not for rent or hire separately from the single family dwelling;
- (4) contains one-half or less of the enclosed floor space of the associated single family dwelling or 2,000 square feet, whichever is less; and
- (5) otherwise meets the definition of accessory structure.

HEALTH AND SOCIAL SERVICES CLINIC OR OFFICE – A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions. It also includes establishments that provide support to medical professionals and their patients, such as medical and dental laboratories, blood banks, oxygen and miscellaneous types of medical supplies and services.

HEIGHT, BUILDING – The vertical distance measured from the lowest point of original or finished grade or the base of any supporting fill to the highest point of the building including chimney height but exclusive of steeples, antennas, and other appurtenances.

HISTORIC LANDMARK – Any building, structure or site designated as historic by the National Register of Historic Places, and/or included in a recognized historic district. This is to include both national and the State of New York Registers.

HOME OCCUPATION, MINOR - A business activity resulting in a product or service for financial gain, conducted wholly or partly within a dwelling unit or accessory structure as a non-residential use that is secondary and subordinate to the use of the dwelling for living purposes and which does not change the residential character of the dwelling unit or vicinity. The enterprise is conducted by an owner/operator

who must reside on the premises and does not employ more than two persons, in addition to the owner/operator and any other family participants in the home occupation who reside on the premises. Exterior evidence of this secondary use, if present at all, is limited to a small sign or lawn plaque. Few customers, clients, or other business associates enter the premises daily. The business does not store business products, equipment or vehicles outside. The enterprise normally produces only household quantities and types of waste and does not involve delivery truck visits or other traffic beyond that expected of a typical residence.

HOME OCCUPATION, MAJOR – A business activity resulting in a product or service for financial gain, conducted wholly or partly within a dwelling unit or accessory structure as a non-residential use that is secondary and subordinate to the use of the dwelling for living purposes and which does not change the residential character of the dwelling unit or vicinity. The enterprise is conducted by an owner/operator who must reside on the premises and does not employ more than four persons, in addition to the owner/operator and any other family participants in the home occupation who reside on the premises. A sign is likely to be present. Other exterior evidence of this secondary use includes customers, clients, and other business associates entering the premises daily; storage of business products, waste, equipment, or vehicles is required regardless of the number of employees; and delivery truck visits or other traffic beyond that expected of a typical residence may occur.

HOME USE OF DOMESTIC FARM ANIMALS – The keeping and care of farm animals for personal use, and not for sale.

HORSE STABLE OR RIDING ACADEMY – Any land, building, complex of structures, business or portion thereof where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and where horses may be hired for riding. Riding and training activities that are directly related to and incidental to the boarding and raising of horses, including riding lessons for persons who own or have a long-term lease from the farm owner for the horse that is boarded at the farm and used for such activities, are part of the farm operation. Horse shows for horses either boarded at or owned by the farm operation, which are not open to the general public, are also part of the farm operation. A riding academy is not considered to be an agricultural activity under the New York State AML. A riding academy generally offers riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding.

HOSTEL – An establishment providing transient, overnight accommodations, typically characterized by low cost, shared use of a self-service kitchen, common areas, sleeping rooms, and bathroom facilities. They typically have dormitory-style accommodations. A hostel with > 20 beds shall be considered a hotel or lodging.

HOTEL AND MOTEL – Any land, building, complex of structures or business offering transient accommodations to the general public and which may provide additional services, such as restaurants, meeting rooms, entertainment and recreation facilities.

IMPERVIOUS SURFACE - Any man-made material, such as pavement used in parking lots or driveways, or any building or other structure on a lot, that does not allow precipitation and melted snow to penetrate into the soil.

INDUSTRY, HEAVY – Heavy industries are not permitted in any zoning district in AuSable. These uses are any use or activity, which generates significant volumes of smoke, odors, noise, or polluting wastes.

Examples of “heavy industry” which are intended to be included in this definition are: chemical manufacturing; exploration for natural gas; extraction of natural gas; natural gas processing facilities (as defined elsewhere in this Law) and/or compressor stations; exploration for crude oil; extraction of crude oil; oil refineries; coal mining; coal processing; and steel manufacturing. It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to the activities identified in the examples.

Generic examples of uses not intended to be included in the definition of “heavy industry” are: milk processing plants; dairy farms; office and communications uses; garment factories; woodworking and cabinet shops; automobile repair shops; wineries and breweries; warehouses; equipment repair and maintenance facilities; parking lots and parking garages; light manufacturing or light industrial facilities (as defined elsewhere in this Law); agriculture; and surface gravel and sand mining. It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to those activities identified in the examples.

JUNKYARD - any open lot or area for the dismantling, storage or sale, as parts, scrap or salvage, of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials or other discarded material.

JUNK CAR YARD – Pursuant to NYS GML §136, a junk car yard is “. . . any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles . . .”

KEEPING OF FARM ANIMALS, OUTSIDE OF NYS AGRICULTURAL DISTRICT- The keeping and care of farm animals outside of any area not included in the certified New York State Agricultural District as officially mapped by the New York State Department of Agriculture and Markets and Clinton County.

KEEPING OF FARM ANIMALS, WITHIN A NYUS AGRICULTURAL DISTRICT- The keeping and care of farm animals in any area not included in the certified New York State Agricultural District as officially mapped by the New York State Department of Agriculture and Markets and Clinton County.

KENNEL – Any land, building, complex of structures, business or portion thereof on/in which dogs or other domesticated small animals are commercially housed, groomed, bred, boarded, trained or sold.

LIGHTING DEVICE – Any light, string of lights, or group of lights located or arranged so as to cause illumination.

LIGHT MANUFACTURING AND ASSEMBLY – A use in which a product is manufactured but the manufacturing process and facility have minimal impact on the property where the manufacturing takes place and almost none on adjacent properties, with qualities including:

## Town of AuSable Draft Zoning Law Article XV September 16, 2016

- \*No creation of noise, vibration, light, odor, dust, smoke, or other air pollution noticeable at or beyond the property line;
- \*No change to the character of the surrounding neighborhood;
- \*Adequate screening of outside storage of goods, materials, or equipment;
- \*Signs limited in size;
- \*No chemical, metal, or hazardous waste, or potential contamination of surface or groundwater;
- \*Adherence to all applicable commercial design and other standards cited in this zoning law.

LIVABLE SPACE – The aggregate of the area of all habitable rooms within the dwelling unit excluding garages, breezeways, cellars, porches and decks.

LODGING – See Hotel and Motel.

LOT – A parcel of land devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and customary accessories and open spaces belonging to the same.

LOT, CORNER – A lot or parcel of land abutting on two or more streets at their intersection or on two parts of the same street forming an interior angle of less than 135 degrees.

LOT DEPTH – The mean horizontal distance between the front and rear lines of a lot.

LOT LINE, COMMON – A lot line shared between two (2) adjoining uses.

LOT LINE, FRONT – In the case of a lot abutting upon only one street is the line separating such lot from such street.

LOT LINE, REAR – That lot line which is opposite and most distant from the front lot line.

LOT LINE, SIDE – That lot line not a front lot line or a rear lot line.

MANUFACTURED HOME – Factory-built housing constructed after June 15, 1976 in accordance with the federal building code, administered by the Department of Housing and Urban Development (HUD) and which requires the approval of HUD.

MANUFACTURED HOME, SINGLE-WIDE - A dwelling unit, transportable in one section, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is 700 or more of square feet, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. A recreational vehicle is not included in this definition.

MANUFACTURED HOME, SINGLE-WIDE 10-YEARS OLD OR NEWER - A single-wide manufactured home that has been manufactured within and including 10 years from the application date.

MANUFACTURED HOME, SINGLE-WIDE MORE THAN 10 YEARS OLD - A single-wide manufactured home that has been manufactured more than 10 years from the application date.

MANUFACTURED HOME, DOUBLE-WIDE - A dwelling unit, transportable in two sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is a minimum of 700 or more square feet, and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes

the plumbing, heating, air-conditioning and electrical systems contained therein. A recreational vehicle is not included in this definition.

MANUFACTURED HOME THAT IS MODULAR OR PANELIZED - A factory-fabricated, New York State code approved, transportable building unit designed to be a permanent structure with a basement or foundation. Modular and Panelized homes are treated as single family dwellings.

MANUFACTURED HOIME SINGLE OR DOUBEL WIDE SPECIFICALLY FOR FARMWORKER HOUSING - see farmworker housing.

MANUFACTURED HOME PARK – A site containing spaces with required improvements and utilities that are leased for the long-term placement of two or more single-wide or double-wide manufactured houses. The site may include services and facilities for the residents.

MANUFACTURING – Any business process whereby the nature, size or shape of an article is changed into a product which generally shall be a finished product which ordinarily would not be stockpiled in an outdoor storage area.

MARINA – A facility for the storing, servicing, fueling, berthing, and securing of boats and which may include eating, sleeping, and retail facilities for owners, crews, and guests.

MEAN HIGH WATER MARK – The average annual high-water level of a body of water.

MEMBERSHIP CLUB – A structure used primarily by an organization with pre-established formal membership requirements, bylaws, and with the objective of promoting the interests of its members. Includes clubs oriented for recreational or athletic purposes that are not open to the general public, and that are not conducted primarily for financial gain. For purposes of this Law, clubs shall include lodges, fraternal organizations, mutual benefit societies, and other like organizations.

MIXED USE COMMERCIAL/RESIDENTIAL BUILDING - a residential dwelling located in the same building that contains nonresidential uses and where all nonresidential uses in a mixed-use dwelling shall front the street.

MOBILE HOME – A type of manufactured housing constructed prior to the adoption of the US HUD code that includes any vehicle or similar portable structure, with or without a foundation or wheels, jacks, skirting, wood, steel, brick or masonry block supports, designed or constructed to be towed or otherwise transported to its resting site, and which is further designed to permit occupancy for dwelling or sleeping purposed. The term mobile home shall also include the term house trailer. A mobile home is a type of manufactured home but is not considered a single-family dwelling.

MUSEUM – Any land, building, complex of structures, business or portion thereof open to the public, used for education and display of matters of a historical, scientific, technological, natural or similar nature.

MOTOR VEHICLE AND EQUIPMENT REPAIR – Any land, building, complex of structures or business with facilities for servicing and detailing of motor vehicles and other mechanical equipment. This shall not include rebuilding or reconditioning, collision services, body and fender work, painting, or any dismantling or disassembly of frame and exterior parts. Motor vehicle sales also includes the use of any

land, building, complex of structures or other premise for the display, rental, lease or sale of farm equipment, machinery, boats, trailers, recreational vehicles or industrial machinery, including any rental, lease, preparation or repair work conducted as an accessory use.

MOTOR VEHICLE SALES, (LICENSED) –. The licensed use of any land, building, complex of structures or other premise for the display, sale, rental or lease of new or used motorcycles, passenger cars or light trucks, including any detailing, preparation or repair work conducted on the vehicle or body work as an accessory use.

NOISE - An undesired audible sound that interferes with the enjoyment and use of property. For purposes of this law a decibel level exceeding 55 dB measured at the property boundary shall be a nuisance noise.

NON-CONFORMING LOT – A lot existing at the time of enactment of this law or any amendment thereto, which does not conform to the area regulations of the district or zone in which it is situated.

NON-CONFORMING USE – A use of land existing at the time of enactment to this law and which does not conform to the regulations of the district or zone in which it is situated.

NURSERY and GREENHOUSE – Any land, building, complex of structures or business for the growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs as well as the sale of garden tools, fertilizers, and similar accessory and ancillary products to the general public or for wholesale. A greenhouse includes a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale. This term shall include commercial nurseries and commercial gardens.

NURSERY SCHOOL OR PRESCHOOL - Any place, however designated, operated for the purpose of providing daytime care or instruction for two or more children from two to five years of age inclusive, and operated on a regular basis, including kindergartens, day nurseries, and day care centers.

ONE FAMILY DWELLING - see Dwelling

OPEN SPACE RECREATION USE - any recreation use particularly oriented to and utilizing the outdoor character of an area including a snowmobile, trail bike, jeep or all-terrain vehicle trail; cross-country ski trail; hiking and backpacking trail; bicycle trail; horse trail; playground, picnic area, public park, public beach or similar use. An open space recreation is not the same as an outdoor recreation use.

OPEN SPACE –land left in a natural state for conservation and agricultural purposes or for scenic purposes, devoted to the preservation of distinctive ecological, physical, visual, architectural, historic, geologic or botanic sites. It shall also mean land left in a natural state and that is devoted to active or passive recreation. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, used for playgrounds or manicured recreational lands such as ball fields, lawns, or occupied by any structure except agricultural buildings. Open space may be included as a portion of one or more large lots provided the lot(s) are greater than 5 acres in size, and are contiguous to form a larger un-fragmented open space area, or may be contained in a separate open space lot but shall not include private yards within 50 feet of a principal structure.

**OUTDOOR HUNTING, FISHING & SHOOTING CLUB OR PRESERVE, FOR GROUP OR COMMERCIAL USES –** Wholly enclosed lands where the release and taking of game animals, fishing, target practice or skeet shooting is allowed. All lands used for a hunting preserve must be one contiguous block with the boundaries posted with appropriate signs in accordance with State Environmental Conservation Law section §11-2111 (Posting; service of notice), and shall be a minimum of 250 acres. It shall also include membership clubs oriented to hunting, fishing or shooting such as but not limited to rod and gun clubs.

**OUTDOOR WOOD FURNACE –** Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space. A wood boiler must be a model that is approved by the Environmental Protection Agency.

**OVERLAY DISTRICT -** A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone. Overlay zones deal with special situations that are not appropriate to a specific zoning district or apply to several districts.

**PARKING –** The standing of a vehicle, whether occupied or not, otherwise then temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

**PARKING SPACE –** A space for the parking of a motor vehicle within a public or private parking area.

**PENNANTS –** Any advertising device affixed to poles, wires or ropes, such as banners, pennants, streamers, wind operated propellers, string lighting or other similar advertising media, but not to include properly displayed flags of city, town, state or country or any message sign or flag.

**PERMIT –** Certification by the Town Zoning Enforcement Officer that a proposed land use activity has received all necessary approvals and is in compliance with this Ordinance.

**PERMITTED USE BY RIGHT -** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district and for which no review by the Planning Board is required. However, a building permit issued by the Building Inspector may be required.

**PERSON –** Any individual, firm, partnership, association, corporation, company, institution or organization of any kind.

**PIPELINE–** A line of pipe connected to valves and other control devices, for conducting fluids, gases, or finely divided solids to be used by dwellings and businesses within the Town of AuSable.

**PIPEYARD–** A pipeyard is a parcel of land, or part of a parcel of land used to store, cut, bend, fit, or prepare pipes used as part of a pipeline.

**PORCH –** A roofed-over structure projecting from the wall or walls of a main structure, whether or not open to the weather. It shall be deemed to be a part of the building.

**PORTABLE OUTDOOR STORAGE CONTAINER –** transportable units designed and used primarily for temporary storage of building materials, household goods, personal items and other materials for use on a limited basis on residential property.

## Town of AuSable Draft Zoning Law Article XV September 16, 2016

**PREEXISTING LAND USE OR DEVELOPMENT OR PREEXISTING USE** means any land use or development, including any structure, lawfully in existence prior to the adoption of this Zoning Law. For the purposes of this definition, lawfully means in full compliance with all applicable laws, rules and regulations, including possession of and compliance with any permit or other approval required under the Public Health Law, the Environmental Conservation Law, or any local or other governmental regulation.

**PRINCIPAL BUILDING OR STRUCTURE:** A building or structure in which is conducted the principal or main use of the lot on which it is located.

**PRINCIPAL USE:** The main activity conducted on a lot.

**PUBLIC AND PRIVATE SCHOOL** - Any land, building or complex of structures authorized by the state to award degrees in courses of study.

**PUBLIC USE BUILDING**—A building used for public purposes by any department or branch of town, county, state or federal government including libraries post offices, police and sheriff sub-stations, jail, and rescue or fire stations.

**RECREATION, INDOOR** – Any building, complex of structures, business or portion thereof designed and equipped for the conduct of indoor sports and leisure time activities and educational activities.

**RECREATION, OUTDOOR** - Any land or portion thereof designed and equipped for the conduct of outdoor sports and leisure time activities and educational activities. An outdoor recreation use may also have one or more structures accessory to that use, such as but not including a clubhouse, garage, or storage shed.

**RECREATION COMMERCIAL** – An indoor or outdoor recreation facility operated as a business and open to the public for a fee. This shall also include any land, building, complex of structures or business offering or providing facilities for, and instruction in, general health, physical fitness and controlled exercises such as, but not limited to mini-golf, racquet ball, hand ball, martial arts, weight lifting, calisthenics, aerobic dancing, tennis and basketball. Such use may also provide swimming, saunas and steam baths.

**RECREATION TRAILS, NON-MOTORIZED** – A network of trails designed for non-motorized recreational use.

**RECREATIONAL VEHICLE OR CAMPING TRAILER** –Any vehicle used or arranged for temporary living or sleeping purposes, either mounted on wheels and drawn by a power-driven vehicle, or such type of temporary living within the vehicle.

**RECREATIONAL VEHICLE PARK** – A campground used for or allowing use of a portable vehicular structure or RV designed as a temporary dwelling for travel, recreational and vacation use.

**RECYCLING FACILITY** – Land and buildings used for the commercial collection, separation, temporary storage and reshipment of solid waste materials.

## Town of AuSable Draft Zoning Law Article XV September 16, 2016

**RESORT** – An area of land on which is located a hotel or group of buildings containing living and sleeping accommodations hired out for compensation, which has a public lobby serving guests and contains one or more dining rooms and recreation facilities. These are self-contained uses that attempt to provide for all or most of a vacationer's wants while remaining on the premises, such as food, drink, lodging, sports, entertainment, and shopping.

**RESTAURANT** – Any land, building, complex of structures, business or portion thereof where food and/or drink, including alcoholic beverages, are prepared, served, and consumed primarily within the principal building.

**RETAIL, STORE AND SHOP** – Establishments engaged in the selling or rental of goods or merchandise (usually to the general public for personal use or household consumption or use, although, they may also serve businesses and institutional clients) and in rendering services incidental to the sale of such goods.

**RIGHT-OF-WAY** – The right of a vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give use to danger of collision unless one grants precedence to another.

**ROAD, PUBLIC** – a dedicated public street or highway.

**ROAD, PRIVATE** – a private way which affords the principal means of access to abutting properties from a public road.

**ROOF LINE** – The profile of a roof.

**ROOMING HOUSE/TOURIST HOME** – A dwelling unit or part of a dwelling unit in which, for compensation, lodging and meals are provided for transient use. Airbnb is a company that runs on a marketplace platform model where it connects and matches hosts and travelers and enables transactions without owning any rooms itself.

**SAWMILL** – An operation using a mill, whether using a portable or permanent saw, to produce lumber products from raw uncut timber obtained onsite or offsite to be sold for commercial purposes.

**SAWMILLS, PERMANENT-** A mill or machine used for the processing of lumber from raw uncut timber obtained onsite or offsite to be sold for commercial purposes. A commercial sawmill may use portable sawmill equipment on-site.

**SCHOOL, PRIVATE** – Any land, building complex of structures, business or portion thereof which meets state requirements for a) elementary, secondary or higher education and which does not secure the major part of its funding from any governmental agency, or b) a training facility offering instruction in a trade, sport, or hobby such as, but not limited to kayak school, welding school, or art classes. A parochial school which is controlled by a church or religious organization and that provides a full-time day instruction and meets the state requirements for education shall also be considered a private school.

**SCHOOL, PUBLIC** – Any land, building, complex of structures, business or portion thereof providing full-time day instruction and a course of study which meets the requirements of the New York State Education Law.

## Town of AuSable Draft Zoning Law Article XV September 16, 2016

**SELF-STORAGE FACILITY-** A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.

**SENIOR CITIZEN HOUSING –** One or more multifamily housing units designed for and used by people aged 55 years and older. Housing may be in any style including detached and attached dwelling units, apartments, and residences, offering private and semi-private rooms.

**SENIOR COMMUNITY, CONTINUING CARE –** An age-restricted development that provides a continuum of accommodations and care, from independent living to long-term care, and enters into contracts to provide lifelong care in exchange for the payment of monthly fees and an entrance fee. It is distinguished from other types of mixed residential development is that it is 1) a contract for lifelong care; 2) has a monthly maintenance fee; 3) and has a substantial entrance fee. A continuing care senior community could include an assisted living facility.

**SERVICE BUSINESS –** Establishment that is primarily engaged in providing assistance, as opposed to products, to individuals, businesses, industry, government, and other enterprises and that are primarily engaged in providing services such as involving the care of a person or his or her personal goods or apparel such as but not limited to cleaning and laundry facilities, beauty shops, funeral services, or domestic services, and banking or financial services.

**SETBACK, FRONT –** the required open unoccupied space between the edge of the road and the front of the main structure, but except when along shorelines, does not include porches, entrance steps and other similar structures on the front of the main structure. The APA does include porches and steps and other similar structures during the consideration of shoreline setbacks.

**SETBACK, BACK –** The required open unoccupied space measured from the rear lot line to the nearest part of the main or accessory structure.

**SETBACK, SIDE –** The required open unoccupied space measured from the side lot lines to the nearest part of the main or accessory structure.

**SHOPPING CENTER–** Any land, building, complex of structures or business with one (1) or more business units adjoining or on the same lot

**SHORELINE** that line at which land adjoins the waters of lakes, ponds, rivers and streams within the Adirondack Park at mean high water.

**SHORELINE LOT -** any lot (1) within or adjoining the mean high water mark of a wild, scenic or recreational river, or (2) located within 100 feet of such mean high water mark or within any applicable setback distance of this Part, whichever is greater.

**SIGN –** Any object, device, display, or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct, or attract attention to an object, person, organization, business, product, service, event or location.

**SIGN, ACCESSORY –** Any sign related to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located.

## Town of AuSable Draft Zoning Law Article XV September 16, 2016

**SIGN, ANIMATED** – Any sign or an intermittent or flashing circuit or the movement of any light used in connection with any sign, such as a blinking, traveling, flaring or changing degree of intensity.

**SIGN, ATTACHED** – A sign fastened to the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign.

**SIGN, AWNING** – Any visual message incorporated into an awning.

**SIGN, CHANGEABLE COPY** – A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

**SIGN, CONSTRUCTION** – A temporary sign erected on the parcel on which construction is taking place, limited to the duration of the construction, indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owner, financial supporters, sponsors, and similar individuals or firms having a major role or interest with respect to the construction of project.

**SIGN, FREE-STANDING** – A sign, supported by one (1) or more components, that is not attached to a building(s) and that is either pole mounted or ground mounted.

**SIGN, GROUND** – A freestanding sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground.

**SIGN, MESSAGE** – A sign or flag which contains a message other than an advertising message, such as one supporting the military, not-for-profit or similar organization.

**SIGN, POLE**- A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is 6 feet or more above grade.

**SIGN SUSPENDED** – A sign hanging down from a marquee, awning, porch or another sign.

**SITE PLAN** – The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands and waterways, landscaping and open spaces, walkways, means of ingress and egress, circulation, utilities, structures and buildings, signs, lighting, berms, buffers and screening devices, surrounding development, and any other information require for the Planning Board to make an informed decision on an application.

**SKILLED NURSING HOME** - A building with sleeping rooms where persons are housed or lodged and furnished with meals and round-the clock nursing care for hire. See also Senior Housing.

**SOLAR ARRAY** - A complete system intended for the collection, inversion, storage, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structures, generators/turbines, water and energy storage and distribution systems, storage, maintenance and/ or other accessory buildings, inverters, combiner boxes, meters, transformers, and all other mechanical structures. Solar arrays may be mounted on the roof or ground-mounted on supports or pedestals.

**SOLAR ARRAY FOR RESIDENTIAL, AGRICULTURAL OR BUSINESS USE, ROOF MOUNTED**- A solar array that is permanently mounted on a roof of any dwelling, garage, or similar permanent structure.

**SOLAR ARRAY FOR RESIDENTIAL, AGRICULTURAL OR BUSINESS USE, GROUND MOUNTED-** A solar array that is permanently mounted on poles or other structures attached to the ground.

**SOLAR, COMMERCIAL FARM** – an energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, designed and intended to supply energy solely into a utility grid for sale elsewhere to the general public.

**SOLAR, RESIDENTIAL, AGRICULTURAL OR BUSINESS USE** - Any solar array or energy system contained on a single lot or roof mounted that cumulatively meets all of the following provisions:

- (a) Is an accessory use or structure, designed and intended to generate energy primarily for a principal use located on site.
- (b) Produces up to ten kilowatts (kW) per hour of energy which serve the building to which they are attached or connected, and do not provide energy for any other buildings beyond the lot. Solar energy systems located on a farm operation (as per AML §301(11) definition of that term) and located in a New York State Agricultural District can produce up to 110% of the farm's needs as per the Department of Agriculture and Markets guidance document.
- (c) If ground mounted, residential, agricultural or business use solar array must meet all district setbacks.

**SPECIAL USE PERMIT** – A discretionary approval that may be granted under the provisions of this Ordinance and which when granted authorizes a specific use to be made of a specific property, subject to compliance with all terms and conditions imposed on the approval.

**SQUARE FEET OF FLOOR SPACE OF A BUILDING** - the area in square feet measured from the exterior walls of a structure, including the sum total of all floor areas, and including all attached covered porches and covered decks, and all other attached components with a roof or cover. The area shall also include any finished attic or basement. For the purpose of this definition, a finished basement or attic is one which contains walls, flooring, and ceiling suitable for use as a bedroom, living room, playroom or office area, or if a non- residential use, suitable for storage, work area, or office.

**STEEP SLOPE** – Land areas where the slope exceeds 20% as measured by rise over run.

**STREETLINE** – the limit of the street width or highway right-of-way, whichever is greater.

**STRUCTURE** - any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, single family dwellings, mobile homes, signs, tanks, fences and poles, and any fixtures, additions and alterations thereto.

**SUBDIVISION REGULATIONS** – The Subdivision Regulations of the Town of AuSable.

**SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either a) before the improvement or repair is started, or b) if the structure has been damaged and is being restored, before the damage occurred.

**SWIMMING POOL** – any body of water, or receptacle of water, having a capability of a depth of 18 inches or more at any point, used or intended to be used for swimming, bathing, or wading and permanently installed or constructed either above or below ground.

TEMPORARY USE – An activity conducted for a specified limited period of time.

TELECOMMUNICATIONS TOWER – (1) a parcel of land containing a tower, sending and receiving antennas attached to the tower and a structure containing electronic equipment; (2) a Federal Communications Commission (FCC)-licensed facility, designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various wireless communication devices and equipment. This definition applies to all personal wireless services covered in the Federal Telecommunications Act of 1996.

TELECOMMUNICATIONS FACILITY THAT IS CO-LOCATED ON EXISTING STRUCTURE- The use of the same telecommunications tower or structure to carry two or more antennas for the provision of wireless services by two or more persons or entities.

TOWNHOUSE – A dwelling designed to accommodate a single family in a single dwelling unit, the walls on one or two sides of which are in common with the walls of adjoining dwellings, and are party or lot line walls. A townhouse can be a rental unit or a condominium form of ownership.

TRAFFIC CONTROL DEVICES – All signs, signals, markings and devices placed or erected by authority of a public body or persons having jurisdiction for the purpose of regulating.

UNTREATED LUMBER – Dry wood which has been milled and dried by which has not been treated or combined with any petroleum product, chemical, preservation, glue, adhesive, stain, paint or other substance.

UTILITY SUB-STATION, PUBLIC UTILITY – Any structure or building containing electronic transformers, switch boxes, or similar devices used in the movement of electricity, gas, heat, steam, communication, water, sewage collection, or other similar utility services.

PUBLIC UTILITY - A closely regulated enterprise with a franchise for providing to the public, a utility service deemed necessary to the public health, safety, and welfare including all uses deemed to be a public utility by New York State. Other uses may be a public utility if they provide a service that is essential to the public health, safety and general welfare, are regulated by a government agency, are granted an exclusive or near exclusive franchise for a specific geographic area, and are required to provide service to all who apply within their franchised area. USE VARIANCE – The authorization by the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VACATION RENTAL BY OWNER - A single-family dwelling that is rented for transient use to non-owners. Vacation rentals shall be considered the same as a bed and breakfast for purposes of this local law.

VETERINARY AND ANIMAL CARE SERVICES – Any land, building, complex of structures or business providing health services and medical or surgical care to animals suffering from illness, disease, injury, deformity and other abnormal conditions, including related facilities such as laboratories and boarding facilities. It also includes the boarding of animals for short-term care incidental to the animal hospital use.

**WAREHOUSE** – A building or part of a building no larger than 20,000 square feet including existing structures such as barns, for storing of goods, wares, and merchandise. A public warehouse is used primarily for the storage of goods and materials and is available to the general public for a fee. Private warehouse is a building used for the storage of goods and materials for a particular commercial establishment. A wholesale warehouse is the storage of materials in structures for subsequent resale to distributors or retail dealers or outlets.

**WASTEWATER** - any sewage, septic or other liquid wastes.

**WATER WELL DRILLING AND EXTRACTION** – The mechanical drilling, including use of hydro-fracturing solely to obtain potable water sources. Water well drilling and extraction is regulated depending on the use (residential or commercial) and by the quantity of water being extracted (less than or greater than 100,000 gallons per day).

**WETLAND** – Any land which is annually subject to periodic or continual inundation by water, commonly referred to as a bog, swamp, or marsh, which is either (a) one acre or more in size, or (b) located adjacent to a body of water, including a permanent stream with which there is free interchange of water at the surface (in which case there is no size limitation).

**WHOLESALE BUSINESS INCLUDING DISTRIBUTION** – Establishments primarily engaged in selling merchandise to other businesses or acting as agents or brokers and buying merchandise for, or selling merchandise to such other businesses. When a business sells directly to the general public, it shall be considered a retail establishment.

**WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM ACT** - Title 27 of Article 15 of the Environmental Conservation Law.

**WIND TOWER** – Any mechanism designed for the purpose of converting the kinetic energy of wind into electrical or mechanical energy.

Wind Tower, for Residential, Agriculture or Business Use:

1. When not used in connection with farm operation, a wind tower is defined as a single wind turbine with a generating capacity of 27.5 kW or less designed solely for on-site power consumption except that unused or excess power may be sold to an electrical utility company in accordance with the provisions of Section 66-l of the New York State Public Service Law.
2. When used in connection with “farm operation” as such is defined in Section 301, subdivision 11 of the New York State Agriculture and Markets Law (NYSAML), a wind tower is considered an on-farm building and is further defined as a single wind turbine designed solely for on-site power consumption as governed by the NYSAML and/or Section 66-l of the New York State Public Service Law.

**WIND TOWER HEIGHT** - The height from the original grade of the land to the highest point of any part of the wind turbine including the top of the blade when it is in the vertical position.

**WINERY, DISTILLERY, BREWERY** – An establishment involving the fermenting, blending, bottling and retail sales of wine, beer or other alcoholic drinks. This law regulates winery, distillery and breweries

## Town of AuSable Draft Zoning Law Article XV September 16, 2016

depending on whether they are located within or outside of a certified New York State Agricultural District as per official maps from the New York State Department of Agriculture and Markets or Clinton County.

**YARD** – The space on a lot not occupied by a building.

**YARD, FRONT** – A yard between the front lot line and the front line of a building extended to the side lot lines of the lot.

**YARD, REAR** – A yard between the rear lot line and the rear line of the principal building extended to the side lot line(s) of the lot.

**YARD, SIDE** – A yard between the principal building and a side lot line and extending from the front yard to the rear yard, excluding the front and rear yards.

**ZONING CERTIFICATE OF COMPLIANCE** – A certificate issued by the Zoning Officer stating that a structure or the use thereof is in compliance with this Law.

**ZONING ENFORCEMENT OFFICER** – The official designated to administer and enforce this Code also referred to herein as Zoning Officer, Enforcement Officer, or Codes Enforcement Officer.