

Informational List of Definitions used in the APA Act or Regulations

Consolidated list of APA Definitions Compiled 8/3/2011

§ 802. Definitions

§ 570.3 Definitions used in these regulations.

"Adirondack park" or "park" means land lying within the area described in subdivision one of section 9-0101 of the environmental conservation law including any future amendments thereto.

"Adirondack Park local government review board" or "review board" means the board established in section eight hundred three-a.

"Agency" means the Adirondack park agency created by section eight hundred three of this article.

Agency member means an agency member or designee.

"Accessory use" means any use of a structure, lot or portion thereof that is customarily incidental and subordinate to and does not change the character of a principal land use or development, including in the case of residential structures, professional, commercial and artisan activities carried on by the residents of such structures.

"Accessory structure" means any structure or a portion of a main structure customarily incidental and subordinate to a principal land use or development and that customarily accompanies or is associated with such principal land use or development, including a guest cottage not for rent or hire that is incidental and subordinate to and associated with a single family dwelling.

"Agricultural service use" means 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 use" means any management of any land for agriculture; raising of cows, horses, pigs, poultry and other livestock; horticulture or orchards; 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.

"Agricultural use structure" means any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agriculture use.

"Approved local land use program" means any local land use program approved by the agency under section eight hundred seven.

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Bed and breakfast means a tourist accommodation located within a single family dwelling or multiple family dwelling.

Boathouse means a covered structure with direct access to a navigable body of water which (1) is used only for the storage of boats and associated equipment; (2) does not contain bathroom facilities, sanitary plumbing, or sanitary drains of any kind; (3) does not contain kitchen facilities of any kind; (4) does not contain a heating system of any kind; (5) does not contain beds or sleeping quarters of any kind; (6) does not exceed a single story in that the roof rafters rest on the top plate of the first floor wall, and all rigid roof surfaces have a minimum pitch of four on twelve, or, alternatively, one flat roof covers the entire structure; and (7) has a footprint of 1200 square feet or less measured at the exterior walls (or in the absence of exterior walls, at the perimeter of the roof), and a height of fifteen feet or less. For the purpose of this definition, the height of a boathouse shall be measured from the surface of the floor serving the boat berths to the highest point of the structure. The dimensional requirements specified herein shall not apply to a covered structure for berthing boats located within the Lake George Park, provided the structure is built or modified in accordance with a permit from the Lake George Park Commission and is located fully lakeward of the mean high-water mark of Lake George.

"Campground" means any area designed for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter.

(1) Campground means any area designed and in fact used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter, without structural additions to or removal of wheels from vehicles admitted.

(2) For the purpose of this definition, *camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter* shall not include any single vehicle exceeding eight feet in width or 35 feet in length or vehicles, including a trailer or semi-trailer or any combination exceeding eight feet in width or a total of 55 feet in length, nor shall any campground permit structural additions to or removal of wheels from vehicles admitted or furnish all-weather water supply or sewage disposal connections at individual sites.

"Character description, policies, purposes and objectives of a land use area" means those land use area character descriptions, policies, purposes and objectives of the land use and development plan contained in subdivision three of section eight hundred five.

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Chief elected officer" means in the case of a city, the mayor thereof; in the case of a town, the supervisor thereof; and in the case of a village, the mayor thereof.

Chief elected officer means a town supervisor or a village mayor.

Class A regional project" and **Class B regional project**" means the land use and development and subdivisions of land listed and so characterized in section eight hundred ten.

Classification of compatible uses lists" means the land use and development plan's lists of primary uses and secondary uses for the land use area contained in subdivision three of section eight hundred five.

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

(1) **Clearcutting** means any cutting of trees over six inches in diameter at breast height over any 10-year cutting cycle where the average residual basal area of such trees after such cutting is less than 30 square feet per acre, measured within the area harvested.

(2) Provided, however, that where regeneration is assured by stand conditions such that after such cutting the average residual basal area of trees at least one inch in diameter at breast height is at least 30 square feet per acre, measured within the area harvested, a clearcut will not be deemed to have taken place unless the average residual basal area of trees over six inches in diameter at breast height is less than 10 square feet per acre, similarly measured.

(3) Rules with respect to agency jurisdiction and review of clearcutting are set forth in section 573.7 of this Title.

Commercial sand and gravel extraction" means any extraction from the land of more than fifty cubic yards in any two year period of sand, gravel or topsoil (1) for the purpose of sale or use by persons other than the owner of the land or (2) for the purpose of use by any municipality.

Commercial use" means 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.

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Community housing means a dwelling unit (i) not exceeding one thousand five hundred square feet of floor space each (excluding the first floor of a garage), (ii) located on one contiguous parcel, (iii) located within a moderate intensity use or low intensity use land use area, (iv) located within three miles of a hamlet land use area and not closer than one-tenth mile of a shoreline of a lake, pond or navigable river or stream, or located within one mile of the location of the following post offices on the enactment date of this subdivision and not closer than one-tenth mile of a shoreline of a lake, pond or navigable river or stream: Athol, NY 12810; Brantingham, NY 13312; Gabriels, NY 12939; Hoffmeister, NY 13353; Hulett's Landing, NY 12841; Kattskill Bay, NY 12844; Paul Smiths, NY 12970; Piseco, NY 12139; Sabael, NY 12864; Wanakena, NY 13695; White Lake, NY 12786; and (v) limited in perpetuity by deed or other legal instrument enforceable by a third party and the state of New York to primary single family dwellings for persons with one hundred twenty per centum or less of the area median income, adjusted for family size, as defined by the United States department of housing and urban development for the county in which such project is located; provided however, that each dwelling unit shall constitute a separate lot, parcel or site for purposes of agency jurisdiction pursuant to subparagraph one of paragraph (b) and subparagraph one of paragraph (a) of subdivision two of section eight hundred ten of this article. [Added July 15, 2011]

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. The rivers to be studied are listed in Appendix Q-6 of these regulations;
- (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.

Customarily incidental means, for purposes of the definitions of accessory use and accessory structure, a structure or use which commonly accompanies or is associated with the type of principal land use that is located on the same property.

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"Development considerations" means the development considerations of the land use and development plan contained in subdivision four of section eight hundred five.

Development considerations means the list of factors relating to the potential for undue adverse impact upon the resources of the Adirondack Park contained in section 805(4) of the Adirondack Park Agency Act and section 574.5 of this Title and considered by the agency in reviewing a class A or class B regional project. Certain of the development considerations are further defined for this purpose in section 574.5 of this Title.

Dock means a floating or fixed structure that: (1) extends into or over a lake, pond, or navigable river or stream from only that portion of the immediate shoreline or boathouse necessary to attach the floating or fixed structure to the shoreline or boathouse; (2) is no more than eight feet in width; or in the case of interconnected structures intended to accommodate multiple watercraft or other authorized use, each element of which is no more than eight feet in width; and (3) is built or used for the purposes of securing and/or loading or unloading water craft and/or for swimming or water recreation.

"Existing land use or development" or **"existing use"** means any land use or development in existence at any given time.

"Existing subdivision of land" or **"existing subdivision"** means any subdivision in existence at any given time.

"Forestry use" means 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.

"Forestry use structure" means any barn, shed, garage, research, educational or administrative building or cabin directly and customarily associated with forestry use.

Freshwater wetland or wetland means wetlands as defined in subdivision (ak) of this section.

"Group camp" means any land or facility for seasonal housing and recreational, educational or business related use by private groups or semi-public groups, such as a boy scout camp, fraternal lodge or university or college conference center.

Guest cottage means not more than one residential structure which is associated with a single family dwelling and which:

- (1) is used only on an occasional basis;

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(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 2000 square feet, whichever is less; and

(5) otherwise meets the definition of accessory structure

Hunting and fishing cabin and private club structure means a cabin, camp or lean-to or other similar structure designed and used only for occasional occupancy and primarily for hunting, fishing, and similar purposes that (i) is a one-story structure but may include a sleeping loft; (ii) is built on posts or piers and does not have a permanent foundation; (iii) is served by a sanitary pit privy or chemical toilet and does not have a conventional, on-site wastewater treatment system; (iv) does not have pressurized or indoor plumbing (this prohibition does not preclude a kitchen sink with appropriate grey water leach pit); and (v) is not connected to any public utilities (such as electric, phone, cable, water or sewer systems).

Immediate family means parents, children, brothers and sisters, grandparents, grandchildren and spouses. The term includes members of a family, whether by adoption or blood relation, and includes half-blood members.

"Industrial use" means any manufacturing, production or assembly of goods or materials, including any on site waste disposal area directly associated with an industrial use. This term does not include mineral extractions, private and commercial sand and gravel extractions, sawmills, chipping mills, pallet mills and similar wood using facilities.

"In existence" means (a) with respect to any land use or development, including any structure, that such use or development has been substantially commenced or completed, and (b) with respect to any subdivision or portion of a subdivision, that such subdivision or portion has been substantially commenced and that substantial expenditures have been made for structures or improvements directly related thereto.

Involving wetlands means any activity which is a regulated activity as defined in section 578.3(n) of Agency regulations.

"Junkyard" means 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.

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"Land" means the earth, on or below the surface of the ground, including water and air above, the flora and fauna.

"Land use or development" or "use" means any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure. Land use and development shall not include any landscaping or grading which is not intended to be used in connection with another land use, or ordinary repairs or maintenance or interior alterations to existing structure or uses.

"Land use and development plan" or "plan" means the Adirondack park land use and development plan prepared by the Adirondack park agency as directed by law, approved by the agency on March three, nineteen hundred seventy-three, adopted in subdivision one of section eight hundred five, including the plan map, and any amendments thereto, the provisions of the plan as contained in subdivisions three and four of section eight hundred five and sometimes referred to as the "provisions of the plan", and any amendments thereto, and the shoreline restrictions contained in section eight hundred six, and any amendments thereto.

Land use and development plan or plan means the Adirondack Park land use and development plan prepared by the agency and adopted in section 805(1) of the Adirondack Park Agency Act, including the plan map; the provisions of the plan as contained in section 805(3) and section 805(4) of the Act and sometimes referred to as the provisions of the plan; and the shoreline restrictions contained in section 806 of the Act.

"Land use areas" means the six types of land use areas of the land use and development plan delineated on the plan map and provided for in subdivision three of section eight hundred five.

Large-scale projects means those projects which, because of (1) a substantial amount of land or number of lots, (2) a lengthy construction time, (3) technical complexities, or (4) any other reason, the requirement of furnishing all final detailed engineering and planning information and other detailed data necessary for the issuance of a permit for development of the project at any one time may be unduly burdensome.

"Local government" means any city, town or village whose boundaries lie wholly or partly within the Adirondack park, except that such term shall not include in the case of a town that portion thereof within any incorporated village.

Local government means any town or village whose boundaries lie wholly or partly within the Adirondack Park, except that such term

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shall not include that portion of a town within any incorporated village.

"Local land use program" means any comprehensive land use and development planning and control program undertaken by a local government that includes local land use controls, such as zoning and subdivision regulations and a sanitary code, and governs land use and development and subdivision of land within the entire jurisdiction of the local government.

Local land use program means any comprehensive land use and development planning and control program undertaken by a local government that includes local land use controls, including zoning and subdivision regulations and a sanitary code, and governs land use and development and subdivision of land within the entire jurisdiction of the local government.

"Major public utility use" means any electric power transmission or distribution line and associated equipment of a rating of more than fifteen kilovolts which is one mile or more in length; any telephone inter-exchange or trunk cable or feeder cable which is one mile or more in length; any telephone distribution facility containing twenty-five or more pairs of wire and designed to provide initial telephone service for new structures; any television, cable television, radio, telephone or other communication transmission tower; any pipe or conduit or other appurtenance used for the transmission of gas, oil or other fuel which is one mile or more in length; any electric substation, generating facility or maintenance building and any water or sewage pipes or conduits, including any water storage tanks, designed to service fifty or more principal buildings. Any use which is subject to the jurisdiction of the public service commission pursuant to article seven or article eight of the public service law or other prior approval by the public service commission under the provisions of the public service law is not a major public utility use or a use for the purposes of this article except for the shoreline restrictions in which case the bodies having jurisdiction over such uses under such article or other provisions shall have the authority of the agency or a local government under this article.

(1) *Major public utility use* means any electric power transmission or distribution line and associated equipment of a rating of more than 15 kilovolts which is one mile or more in length; any telephone inter-exchange or trunk cable or feeder cable which is one mile or more in length; any telephone distribution facility containing 25 or more pairs of wire and designed to provide initial telephone service for new structures; any television, cable television, radio, telephone or other communication transmission tower; any pipe or conduit or other appurtenance used for the transmission of gas, oil or other fuel which is one mile or more in length; any electric

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substation, generating facility or maintenance building and any water or sewage pipes or conduits, including any water storage tanks, designed to service 50 or more principal buildings.

(2) Any use which is subject to the jurisdiction of the Public Service Commission pursuant to article seven or eight of the Public Service Law or other prior approval by the Public Service Commission pursuant to the Public Service Law is not a major public utility use for the purpose of these regulations except for the shoreline restrictions in which case the bodies having jurisdiction over such uses under such article or other provisions shall have the authority of the agency or a local government under these regulations.

Marina means any facility providing boat docks or moorings for a fee or other consideration and often offering supply, storage, repair and other services.

"Master plan for management of state lands" means the master plan for management of state lands referred to in section eight hundred sixteen.

Material detrimental reliance means, for the purposes of applying 9 NYCRR 571.5, that the recipient of a jurisdictional determination has completed significant project components, or expended significant sums of money or otherwise taken significant actions in furtherance of the project, based upon a written formal jurisdictional determination issued by those Agency staff members identified in 9 NYCRR 571.5(b) and would experience a substantial adverse economic effect if the jurisdictional determination were reversed.

(2) Procedures for determining mean high water marks are set forth in section 571.3 of these regulations.

"Mineral extraction" means any extraction, other than specimens or samples, from the land of stone, coal, salt, ore, talc, granite, petroleum products or other materials, except for commercial sand, gravel or topsoil extraction; including the construction, alteration or maintenance of mine roads, mine tailing piles or dumps and mine drainage.

"Mineral extraction structure" means any mine hoist; ore reduction, concentrating, sintering or similar facilities and equipment; administrative buildings; garages or other main buildings or structures.

"Mobile home" means any self-contained dwelling unit that is designed to be transported on its own wheels or those of another vehicle, may contain the same water supply, sewage disposal and electric system as immobile housing and is used for either permanent or seasonal occupancy. A dwelling unit that is constructed in sections and

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transported to and assembled on the site is not considered a mobile home.

"Mean high water mark" means the average annual high water level.

"Mobile home court" means a parcel of land under single ownership which is designed and improved for the placement of two or more mobile homes upon units thereof.

"Multiple family dwelling" means any apartment, town house, condominium or similar building, including the conversion of an existing single family dwelling, designed for occupancy in separate dwelling units therein by more than one family.

(1) *Multiple family dwelling* means an apartment, town house, condominium, cooperative or similar building, including the conversion of an existing single family dwelling, designed for occupancy in separate dwelling units therein by more than one family.

(2) *Multiple family dwelling* shall also include any such building containing two or more separate dwelling units used on a time-sharing, leased time or other similar basis whereby more than one person, group of persons or family has a legal right of occupancy at differing times.

"Municipality" means any municipal corporation, district corporation or public benefit corporation as such terms are defined in section three of the general corporation law, and any agency or instrumentality of the foregoing, except that the term public benefit corporation shall not include any such corporation any member of which is appointed by the governor.

"New land use or development" or **"new land use"** means any land use or development that is not a preexisting use.

"New subdivision of land" or **"new subdivision"** means any subdivision of land that is not a preexisting subdivision.

"Official Adirondack park land use and development plan map" or **"plan map"** means the map portion of the land use and development plan on file at the headquarters of the Adirondack park agency as required in subdivision one of section eight hundred five.

Official Map means the Adirondack Park Land Use and Development Plan Map which depicts the private land use areas as identified, updated and filed pursuant to section 805 of the Adirondack Park Agency Act and which is maintained in an electronic format at the headquarters of the Adirondack Park Agency.

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"Open space recreation use" means 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.

(1) *Open space recreation* use means 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.

(2) A use involving filling of wetlands or substantial construction or land disturbance is not an open space recreation use.

"Optional shoreline clustering provisions" means those provisions set forth as an alternative to the shoreline restrictions in section eight hundred six.

"Overall intensity guidelines" means the overall intensity guidelines for development for the various land use areas of the land use and development plan as contained in subdivision three of section eight hundred five.

Overall intensity guidelines means the following guidelines for development of the private land use areas of the park:

<i>principal Land use area</i>	<i>Approximate number of buildings per square mile</i>
Hamlet	No guideline
Moderate intensity use	500
Low intensity use	200
Rural use	75
Resource management	15
Industrial use	No guideline

"Person" means any individual, corporation, partnership, association, trustee, municipality or other legal entity, but shall not include the state or any state agency.

"Preexisting land use or development" or **"preexisting use"** means any land use or development, including any structure, lawfully in existence prior to August one, nineteen hundred seventy-three, provided, however, that with respect to any land use or development exempt from the agency's interim project review powers under

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subdivision thirteen of section eight hundred fifteen until June one, nineteen hundred seventy-three, such date shall be substituted herein for August one, nineteen hundred seventy-three. For the purposes hereof, "lawfully" means in full compliance with all applicable laws, rules and regulations, including, without limitation, possession of and compliance with any permit or other approval required under the public health law, the environmental conservation law, any local or other governmental regulation.

Preexisting land use or development or preexisting use means any land use or development, including any structure, lawfully in existence prior to August 1, 1973. 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.

"Preexisting subdivision of land" or "preexisting subdivision" means any subdivision or portion of a subdivision lawfully in existence prior to August one, nineteen hundred seventy-three, provided, however, that with respect to any subdivision or portion of a subdivision exempt from the agency's interim project review powers under subdivision thirteen of section eight hundred fifteen until June one, nineteen hundred seventy-three, such date shall be substituted herein for August one, nineteen hundred seventy-three. For the purposes hereof, "lawfully" means in full compliance with all applicable laws, rules and regulations, including, without limitation, possession of and compliance with any permit or other approval required under the public health law, the environmental conservation law, any local or other governmental regulation.

Preexisting subdivision of land or preexisting subdivision means any subdivision or portion of a subdivision lawfully in existence prior to August 1, 1973. For the purposes of this definition, *lawfully* shall have the meaning set forth in subdivision (11) of this section.

"Principal building" means any one of the following:

- a. a single family dwelling constitutes one principal building;
- b. a mobile home constitutes one principal building;
- c. a tourist cabin or similar structure for rent or hire involving three hundred square feet or more of floor space constitutes one principal building;
- d. each dwelling unit of a multiple family dwelling constitutes one principal building;

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- e. each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure, and each tourist cabin or similar structure for rent or hire involving less than three hundred feet of floor space, constitutes one-tenth of a principal building.
- f. each commercial use structure and each industrial use structure in excess of three hundred square feet constitutes one principal building, except that for a commercial use structure which involves the retail sale or rental or distribution of goods, services or commodities, each eleven thousand square feet of floor space, or portion thereof, of such commercial use structures constitutes one principal building.
- g. all agricultural use structures and single family dwellings or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families, will together constitute and count as a single principal building;
- h. up to four community housing dwelling units which qualify pursuant to subdivision seventeen-a of this section and are located on a contiguous parcel meeting the overall intensity guidelines constitute one principal building [added July 15, 2011];
- i. any other structure which exceeds twelve hundred fifty feet of floor space constitutes one principal building [renumbered July 15, 2011];
- j. a structure containing a commercial use which is also used as a single family dwelling constitutes one principal building[renumbered July 15, 2011].

An accessory structure does not constitute a principal building.

Principal building means any one of the following:

- (1) a single family dwelling or mobile home constitutes one principal building;
- (2) a tourist cabin or similar structure for rent or hire involving 300 square feet or more of floor space constitutes one principal building;
- (3) each dwelling unit of a multiple family dwelling, including each separate dwelling unit used on a time-sharing, leased time or other similar basis whereby more than one person, group of

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persons or family has a legal right of occupancy at differing times, constitutes one principal building;

(4) each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure, and each tourist cabin or similar structure for rent or hire involving less than 300 square feet of floor space, constitutes one tenth of a principal building;

(5) each commercial use structure and each industrial use structure in excess of 300 square feet constitutes one principal building, except that for a commercial use structure which involves the retail sale or rental or distribution of goods, services or commodities, each 11,000 square feet of floor space or portion thereof of such commercial use structure constitutes one principal building;

(6) all agricultural use structures and single family dwellings or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families, will together constitute and count as one principal building;

(7) any other structure which exceeds 1,250 square feet of floor space constitutes one principal building;

(8) a structure containing a commercial use which is also used as a single family dwelling constitutes one principal building.

An accessory structure does not constitute a principal building.

"Private sand, gravel or topsoil extraction" means any extraction from the land of sand, gravel or topsoil for the purpose of use, but not sale, by the owner of the land or any extraction for the purpose of sale of less than fifty cubic yards in any two year period.

"Project" means any new land use and development or subdivision of land that is subject to the review jurisdiction of either the agency or local government under this article.

"Project sponsor" means any person making application to the agency, or a local government for the review of a project.

Project sponsor means any person having a legal interest in property, including a landowner, tenant, mortgagee, contract vendee, or optionee, and who makes application to the agency or a local government for the review of a project proposed on such property.

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"Public or semi-public building" means any component building of a college, school, hospital, animal hospital, library, place of worship, museum, research center, rehabilitation center or similar facility, or a municipal building.

"Public utility use" means any public utility use, equipment or structure which is not a "major public utility use." A public utility use does not include any use which is subject to the jurisdiction of the public service commission pursuant to article seven or article eight of the public service law.

Retaining wall means a permanent structure of cribbing, wood, masonry, stone, concrete or other material that supports a mass of soil.

Rivers project means those new land uses, developments or subdivisions of land requiring a permit pursuant to section 577.5 of these regulations.

"Shoreline" means that line at which land adjoins the waters of lakes, ponds, rivers and streams within the Adirondack park at mean high water.

"Shoreline restrictions" means those restrictions upon land use and development or subdivisions of land as contained in section eight hundred six.

Shoreline restrictions means those restrictions upon land use and development or subdivision of land contained in section 806 of the Adirondack Park Agency Act and Part 575 of these regulations.

"Single family dwelling" means any detached building containing one dwelling unit, not including a mobile home.

"Ski center" means any trail or slope for alpine skiing; including lifts, terminals, base lodges, warming huts, sheds, garages and maintenance facilities, parking lots and other buildings and structures directly and customarily related thereto.

Square feet of floor space of a building shall be 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.

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Square footage of a structure other than a building shall be the exterior area of the structure, measured in either the elevation (face) or plan (top) view, whichever is larger.

"State" means the state of New York.

"State agency" means any department, bureau, commission, board or other agency of the state, including any public benefit corporation any member of which is appointed by the governor.

State Land Master Plan means the master plan for the management of State lands referred to in section 816 of the Adirondack Park Agency Act.

"Structure" means 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.

(1) Structure means 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.

(2) For the purpose of Part 577 of these regulation pertaining to wild, scenic and recreational rivers, "structure" is defined in section 577.2(u) thereof.

"Subdivision of land" or "subdivision" means any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed. Subdivision of land shall not include the lease of land for hunting and fishing and other open space recreation uses.

(1) Subdivision of land or subdivision means any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person

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controlled by, under common control with or controlling such person, of by any group or persons acting in concert as part of a common scheme or plan. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed.

(2) Subdivision includes, but is not limited to:

(i) residential subdivisions, which may include surveyed lot lines, building sites, roads, utilities, water and sewerage facilities, and the like:

(ii) subdivisions where land is divided into sites by lease, license or separate occupancy without any formal conveyance of fee title or other interest in realty, such as the granting of permission for emplacement of a number of mobile homes, or the construction of a single family dwelling or mobile home on a lot already containing an existing single family dwelling or mobile home.

(iii) subdivisions consisting of land transfers for nonresidential purposes, such as large-scale bulk land sales;

(iv) subdivisions not pursuant to a filed plat, such as the division of a farm or forested tract into parcels of acreage larger than conventional homesite lots, whether or not construction is planned.

(3) The mere filing of maps, plats or plans required by statute, or entering into a contract of sale or other agreement where possession of or title to land is not actually or constructively transferred, shall not be considered the undertaking of a subdivision. *Undertake* is further defined in subdivision (fff) of this section.

(4) Subdivision of land shall not include the lease of land for hunting and fishing and other open space recreation uses.

"Tourist accommodation" means any hotel, motel, resort, tourist cabin or similar facility designed to house the general public.

"Tourist attraction" means any man-made or natural place of interest open to the general public and for which an admittance fee is usually charged, including but not limited to animal farms, amusement parks, replicas of real or fictional places, things or people and natural geological formations.

(1) Undertake means commencement of a material disturbance of land, including the commencement of road construction, grading, the installation of utilities, clearing of building sites,

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excavation (including excavation for the installation of foundations, footings and septic systems), or commencement of landscaping or any other material disturbance of land preparatory or incidental to a proposed land use or development or subdivision.

(2) Undertake also means in the case of a subdivision to execute and to deliver any contract, mortgage or conveyance which actually or constructively transfers possession of or title to land.

(3) Preliminary field survey work unaccompanied by more than minimal vegetative clearing necessary for such purposes, the digging of soil test pits, the performing of soil percolation test and other minor site inspections, the staking of lots or the securing of other approvals or permits required by law, shall not be considered undertaking a project.

"Waste disposal area" means any area for the disposal of garbage, refuse and other wastes, including sanitary landfills and dumps, other than an on-site disposal area directly associated with an industrial use.

"Watershed management or flood control project" means any dam, impoundment, dike, rip rap or other structure or channelization or dredging activity designed to alter or regulate the natural flow or condition of rivers or streams or the natural level or condition of lakes or ponds. Any such project for which a permit or approval is required prior to commencement from the department of environmental conservation is not a watershed management or flood control project or a use for the purposes of this article.

Watershed management or flood control project means any dam, impoundment, dike, riprap or other structure or channelization or dredging activity designed to alter or regulate the natural flow or condition of a river or permanent or intermittent stream or the natural level or condition of the lake or pond. Any such project for which a permit or approval is required prior to commencement from the Department of Environmental Conservation is not a watershed management or flood control project or a use for the purpose of these regulations.

"Wetlands" means any land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp or marsh which are 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.

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(1) Wetlands or freshwater wetlands means any land annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp or marsh, which is (i) one acre or more in size, or (ii) 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.

(2) Open waters immediately adjacent to a wetland and lands entirely surrounded by a wetland will be considered part of the wetland if these areas are essential to the preservation of the wetland vegetation.

(3) The definition of *wetlands* is stated in technical terms in section 578.3(k) of these regulations. Lands will not be considered wetlands unless they also meet that definition.

(4) Procedures for determining the existence of wetlands are set forth in section 571.2 of these regulations.

Wetlands project means those activities in freshwater wetlands or adjacent areas requiring a permit pursuant to section 578.2 of these regulations.