§ 489-aaaaaa. Definitions. When used in this title:

1. "Commercial construction work" means the construction of a new building or structure or the modernization, rehabilitation, expansion or improvement of an existing building or structure for use as commercial property.

2. "Commercial exclusion area" means an area as defined in subdivision four of section four hundred eighty-nine-gggggg of this title.

3. "Commercial property" means nonresidential property on which will exist after completion of commercial construction work a building or structure, or portion thereof, used for the buying, selling or otherwise providing of goods or services including hotel services, or for other lawful business, commercial or manufacturing activities; provided that property or portions of property dedicated to utility property shall not be considered commercial property for purposes of this title.

4. "Commissioner" means the commissioner of finance of a city that has enacted a local law pursuant to this title.

5. "Completion of construction," or "completion," when relating to new construction, means the earlier of the date on which the department of buildings of a city that has enacted a local law pursuant to this title issues a final certificate of occupancy, or when the department of finance has otherwise determined that construction is complete.

6. "Department" means the department of finance of a city that has enacted a local law pursuant to this title.

7. "Industrial construction work" means the construction of a new building or structure or the modernization, rehabilitation, expansion or improvement of an existing building or structure for use as industrial property.

8. "Industrial property" means nonresidential property on which will exist after completion of industrial construction work a building or

structure, or portion thereof, with at least seventy-five percent of the total net square footage of the property used or immediately available and held out for manufacturing activities involving assembling goods or the fabrication or processing of raw materials; provided that property or portions of property dedicated to utility property shall not be considered industrial property for purposes of this title.

9. "Manufacturing activity" means an activity involving the assembly of goods or the fabrication or processing of raw materials, but shall not include: (a) such activity when conducted for the purpose of retail sale on the premises; or (b) utility services.

10. "Minimum required expenditure" means the amount that an applicant must expend on construction work for a project in order to qualify for benefits as provided in this title.

11. "Mixed-use property" means property on which exists, or will exist upon completion of construction work, a building or structure used for both residential and nonresidential purposes.

12. "Renovation construction work" means the modernization, rehabilitation, expansion or improvement of an existing building or structure where such modernization, rehabilitation, expansion or improvement is physically and functionally integrated with the existing building or structure, or portion thereof, does not increase the bulk of the existing building or structure by more than thirty percent, and does not increase the height of the existing building or structure by more than thirty percent.

13. "Residential construction work" means any construction, modernization, rehabilitation, expansion or improvement of dwelling units other than dwelling units in a hotel.

14. "Restricted activity" means any entertainment activity that the department has identified in rules promulgated pursuant to a local law enacted pursuant to this title as an activity which, in the public interest, should not be encouraged through the benefits of this title.

15. "Retail purposes" means any activity that consists predominately of (a) the final sale of tangible personal property or services by a vendor as defined in section eleven hundred one of the tax law, (b) the sale of services that generally involve the physical, mental, and/or spiritual care of individuals or the physical care of the personal property of individuals, (c) retail banking services, or (d) the final sale of food and/or beverage by a vendor as defined in section eleven hundred one of the tax law, including the assembly, processing or packaging of goods, provided that sales of such tangible personal property or services are predominantly to purchasers who personally visit the facilities at which such sales are made or such property and services are provided. "Retail purposes" shall not include hotel uses as described in subdivision four of section four hundred eighty-nine-cccccc of this title.

16. "Temporary commercial incentive area boundary commission" means a commission as defined in section four hundred eighty-nine-gggggg of this title.

17. "Utility property" means property and equipment as described in paragraphs (c), (d), (e), (f) and (i) of subdivision twelve of section one hundred two of this chapter that is used in the ordinary course of business by its owner or any other entity or property as described in paragraphs (a) and (b) of subdivision twelve of section one hundred two of this chapter that is owned by any entity that uses in the ordinary course of business property and equipment as described in paragraphs (c), (d), (e), (f) and (i) of subdivision twelve of section one hundred two of this chapter, without regard to the classification of such property and equipment for real property tax purposes pursuant to section eighteen hundred two of this chapter, except that any such property and equipment used solely to serve the building to which they are attached shall not be deemed utility property. Notwithstanding any provision of this title to the contrary, peaking units shall not be considered utility property. For purposes of this title, "peaking unit" shall mean a generating unit that: (a) is determined by the New York independent system operator or a federal or New York state energy

regulatory commission to constitute a peaking unit as set forth in section 5.14.1.2 of the New York independent system operator's market administration and control area services tariff, as such term existed as of April first, two thousand eleven; or (b) has an annual average operation, during the calendar year preceding the taxable status date, of less than eighteen hours following each start of the unit; for purposes of calculating the annual average, operations during any period covered by any major emergency declaration issued by the New York independent system operator, northeast power coordinating council, or other similar entity shall be excluded. A "peaking unit" under this title shall include all real property used in connection with the generation of electricity, and any facilities used to interconnect the peaking unit with the electric transmission or distribution system, but shall not include any facilities that are part of the electric transmission or distribution system; it may be comprised of a single turbine and generator or multiple turbines and generators located at the same site. Notwithstanding any provision of this title to the contrary, a peaking unit shall be considered industrial property, provided however that the benefit period for a peaking unit shall be as set forth in paragraph (b-1) of subdivision three of section four hundred eighty-nine-bbbbbb of this title.