

## SECTION 12.0 DEFINITIONS (still coded so you can see new)

For the purpose of this By-law certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural; the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered," to be used or occupied; the words "building," "structure," "lot," "land," or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the Subdivision Rules and Regulations shall have the meanings given therein unless a contrary intention clearly appears.

Accessory: A building, structure or use which is subordinate to, and the use of which is customarily incidental to, and is located on the same lot with the principal building, structure or use to which it is accessory.

**Adult Entertainment Establishments:** Shall include and be defined as follows:

**Adult Bookstore:** An establishment having as a substantial or significant portion of its stock in trade printed matter, books, magazines, picture periodicals, motion picture films, video cassettes, or coin operated motion picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "sexual conduct" as that term is defined in G.L. c. 272, s. 31; "Sexual Devices" or an establishment having for sale sexual devices which shall mean any artificial human penis, vagina or anus or other device primarily designed, promoted or marketed to physically stimulate or manipulate the human genitals, pubic area or anal area, including: dildos, penisators, vibrators, penis rings, erection enlargement or prolonging creams or other preparations or an establishment with a segment or section devoted to the sale or display of such materials.

**Adult Motion Picture Theater:** An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "sexual conduct" as defined in G.L. c. 272, s. 31, for observation by patrons therein.

**Adult Mini Motion Picture Theater:** An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to "sexual conduct" as defined in G.L. c. 272 s. 31 (as defined below) for observation by patrons therein.

**Adult Live Entertainment Establishments:** Establishments which feature live entertainment which consists of entertainers engaging in "sexual conduct" or "nudity" as defined in G.L. c. 272, s. 31.

**Agriculture:** The cultivation of ground for purpose of producing fruits and vegetables

for the use of man and beast, or the act of preparing the soil, sowing and planting seeds, dressing plants and removing crops, and includes aquaculture, horticulture, silviculture, viticulture, and raising or feeding of cattle and other livestock.

**Assisted Living Residence:** A residential development subject to certification by the executive office of elder affairs under G.L. c. 19D and 651 CMR 12.00.

**Boarder:** An individual other than a family member occupying a dwelling unit who, for consideration, is furnished sleeping accommodations, meals, and may be provided personal care or other services, but excluding guests at a bed and breakfast.

**Building:** A structure having a roof (including an awning or similar covering) adapted to permanent or continuous occupancy for assembly, business, education, industrial, institutional, residential or storage purposes. The term "building" shall be construed where applicable as if followed by the words "or portion thereof".

**Building height:** The distance from the mean pre-construction grade to the highest point of the roof excluding projections of unoccupied lanterns, turrets or other architectural elements.

**Business or Professional Office:** A business establishment, which does not offer a product or merchandise for sale to the public but offers a professional service to the public. However, general or personal service establishments are not to be included in the definition of business offices.

**Child Care Center:** A child care center as that term is defined in G.L. c. 15D, s. 1A.

**Commercial Recreation, Indoors:** Entertainment and recreational facilities operated as a business for gain, including but not limited to bowling alley, theater, fitness center, or sports arena, provided such use is housed indoors in sound-insulated structure protecting neighborhood from inappropriate noise in any season.

**Commercial Recreation, Outdoors:** Golf, swimming, tennis, or other outdoor recreational facility.

**Drive-In or Drive-Through Establishment:** A business establishment that includes service that is provided from a drive-up or drive-through window or other similar arrangement that allows the service of a patron while the patron remains in a vehicle, whether parked or live parked. The term shall include eating establishments and service establishments such as banks, dry cleaners, pharmacies, and the like, and automotive service stations and gasoline stations and the like.

**Dwelling:** A privately or publicly owned permanent structure containing a dwelling unit or dwelling units. The terms "one family," "two family," or "multifamily" dwelling shall not include hotel, lodging house, hospital, membership club, trailer, however mounted, or dormitory or structure solely for transient or overnight occupancy.

**Dwelling, single family:** A dwelling designed for occupancy by one family.

**Dwelling, two family:** A dwelling with two dwelling units, separated by a fire

wall.

**Dwelling, Multifamily:** A building containing three or more dwelling units constructed on a single lot.

**Dwelling Unit:** One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit, with permanent provisions for cooking, living, sanitary, eating, and sleeping facilities.

**Electric Charging Station, Level Two:** A facility equipped with a compatible cable such as J-1772, for the recharging of the batteries of motor vehicles.

**Essential Services:** Services and facilities offered by public utility or governmental agency by the erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems and structures, excluding power plants or transfer stations. Facilities necessary for the provisions of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are municipal, state, or federal services and facilities.

**Family:** One or more persons related by blood or marriage, including domestic employees, occupying a dwelling unit and living as a single, housekeeping unit; provided, however, that a group of \_\_\_ or more persons who are not related by blood or marriage shall not constitute a family.

**Family day care home, large:** An accessory use as defined in G.L. c. 15D, s. 1A.

**Family day care home, small:** An accessory use as defined in G.L. c. 15D, s. 1A.

**Floor Area, Gross:** The sum of the areas of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any frontage.

**Funeral Home:** Facility for the conducting of funerals and related activities such as embalming.

**General Service Establishment:** Shop for lawn mower or small appliance repair, upholstery or furniture repair, bicycle repair person, printer, blacksmith, builder, carpenter, caterer, electrician, lawn mower service person, mason, painter, plumber or roofer.

**Grade: Mean pre-construction:** The average elevation as taken at twenty foot intervals around the full perimeter of the building including all attached garages, decks, bays and building extensions.

**Ground and Surface Water Resource Protection Overlay District:** for the purposes of Section 9.3, the following definitions shall apply:

Applicant: Any person filing an application.

Department: The Massachusetts Department of Environmental Protection (DEP).

Person: Any agency or political subdivision of the federal government or the Commonwealth, any state, public or private corporation or authority, individual, trust, firm, joint stock company, partnership, association, or other entity, and any officer, employee, or agent of such person, and any group of persons.

Zone I: The 400-foot protective radius required by the Department around a public water supply well or wellfield.

Zone II: That area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation), as defined in 310 CMR 22.00. It is bounded by the groundwater divides, which result from pumping the well, and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, Zone II shall extend upgradient to its point of intersection with prevailing hydrogeologic boundaries (a ground water flow divide, a contact with till or bedrock, or a recharge boundary).

Zone III: That land area beyond the area of Zone II from which surface water and ground water drain into Zone II, as defined in 310 CMR 22.00. The surface drainage area as determined by topography is commonly coincident with the ground water drainage area and will be used to delineate Zone III. In some locations, where surface and ground water drainage are not coincident, Zone III shall consist of both the surface drainage and the ground water drainage areas.

Zone A: (a) The land area between the surface water source and the upper boundary of the bank; (b) the land area within a 400 foot lateral distance from the upper boundary of the bank of a Class A surface water source, as defined in 314 CMR 4.05(3)(a); and (c) the land area within a 200-foot lateral distance from the upper boundary of the bank of a tributary or associated surface water body.

Zone B: The land area within one half mile of the upper boundary of the bank of a Class A surface water source, as defined in 314 CMR 4.05(3)(a), or edge of watershed, whichever is less. However, Zone B shall always include the land area within a 400-foot lateral distance from the upper boundary of the bank of the Class A surface water source.

Zone C: The land area not designated as Zone A or B that is either within the watershed of a Class A surface water source as defined by 314 CMR 4.05(3)(a), or contributes water runoff to Gravelly and Round Ponds.

Regulated Substances: Those substances found in the SPGA's Rules and Regulations, incorporated herein by reference.

Spill: The unpermitted release or escape of a Regulated Substance, irrespective of the quantity thresholds directly or indirectly to soils, surface waters, or ground waters.

**Home Occupation:** An accessory use as set forth in Section \*\*\*.

**Hospital:** A building providing 24-hour in-patient or animal services for the diagnosis, treatment or other care of human or animal ailments including, where appropriate, a sanitarium, nursing home, convalescent home, and veterinarian services.

**Hotel:** A building or any part of a building containing rooming units without individual cooking facilities for transient occupancy and having a common entrance or entrances. A hotel may include a restaurant, bar or tavern, and accessory recreational facilities. Does not include a motel, boarding house, lodging house, or rooming house.

**Junk Yard:** A yard, field or other area used as a place for storage for more than thirty days for three or more unserviceable, discarded, worn-out, or junk motor vehicles. Also a yard, field, or other area used as a place of storage for discarded, worn-out or junk plumbing, heating supplies, household appliances or furniture; and/or discarded, scrapped or junk lumber; and/or old scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste, and/or scrap metal.

**Kenel:** An establishment as defined in G.L. c. 140, s. 137A.

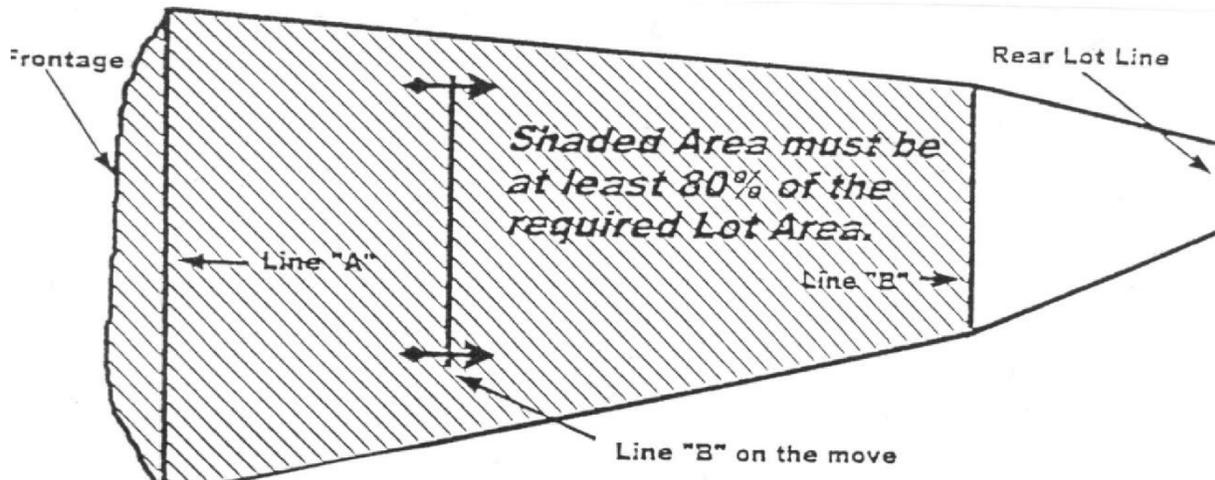
**Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI):** for the purposes of Section 10.1, the following definitions shall apply:

**Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI):** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

**Lot:** The whole area of a single parcel of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings. A lot for the purpose of this Zoning By-Law may or may not coincide with a lot of record title.

**Lot Width:** Lot Width shall mean the length between the side lot lines of a straight line as measured parallel to the lot's street frontage (See Line "A"). If such lot width so measured at any point beginning at and moving from the street frontage toward the rear lot line ceases to be more than the length specified in the column headed "Minimum Lot Width" in Section 5.4, the area bounded by the lot front line (inclusive of the street frontage), side lot lines and the line representing the initial occurrence of the length specified in such Minimum Lot Width column shall not be less than eighty (80) percent of the lot's required area (as specified in the column headed "Minimum Lot Area" in Section 5.4)



**Manufacturing:** A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

**Marijuana Businesses:** The following definitions shall apply in Section 7.4:

**Marijuana Business:** A Medical Marijuana Treatment Center, Marijuana Establishment, or any combination or part thereof.

**Marijuana Establishment:** A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business for the non-medical, including recreational use of marijuana, as set forth in M.G.L. c. 94G, and any regulations promulgated thereunder.

**Medical Marijuana Treatment Center:** As defined by 105 CMR 725.000, et al., as it may be amended or superseded, and pursuant to all other applicable state laws and regulations, means a not-for-profit entity registered under 105 CMR 725.100, otherwise known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers, as those terms are defined under 105 CMR 725.004. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of Marijuana.

**Recreational Marijuana Establishment:** a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

**Medical Clinic:** A facility as defined in 105 CMR 145.020, including a mobile clinic and urgent care facility.

**Medical Office:** A building designed and used as an office by physicians, dentists, or psychotherapists for the diagnosis and treatment of human patients that does not include overnight care facilities or licensing as a clinic.

**Private Club, not for profit:** A social, sports or fraternal nonprofit association or organization which is used exclusively by members and their guests which may contain bar facilities.

**Motel:** A building or any part of a building containing rooming units without individual cooking facilities for transient occupancy and having a common entrance or entrances. Generally, does not include a restaurant, bar or tavern, or accessory recreational facilities. Does not include a boarding house, lodging house, or rooming house.

**Motor Vehicle Hourly Rental Station:** A facility at which, by contract, motor vehicles are made available for rent for a period not longer than 24 hours.

**Motor Vehicle Light Service Station:** A building or premises used for the dispensing, sales or offering for sale of motor fuels directly to users of motor vehicles. Other sales activities and any repairs shall be activities minor in scope and clearly subordinate to the sale of motor fuels, oils and lubricants. No drive-through facilities are permitted without further zoning relief.

**Motor Vehicle Repair:** A building or use which is designed or intended to be used for the storage, servicing, repair, maintenance, or cleaning of motor vehicle equipment.

**Motor Vehicle Sales:** Premises for the sale of used or new motor vehicles, including supplying of fuel, oil, lubrication, washing, or repair services, but not to include body work or painting.

**Parking Area:**

**Personal Service Establishment:** A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

**Personal Wireless Telecommunications Service Facilities:** The following definitions shall apply for the purposes of Section 7.1:

**Personal Wireless Telecommunication Service:** Commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

**Personal Wireless Telecommunication Service Facilities:** Facilities for the provision of personal wireless telecommunication services.

**Qualified Acre:** Agricultural land on which the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in area

not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture.

**Retail:** A facility selling new or used goods to an end user but not otherwise specifically listed in the Table of Use Regulations.

**School Aged Child Care Program:** A school aged child care program as that term is defined in G.L. c. 15D, s. 1A.

**Sign:** For the purposes of Section 6.2, the following definitions shall apply:

**Special Permit:** A specific authorized use within this Zoning By-Law that may be granted upon application to the designated special permit granting authority.

**Street:** Any accepted town way, a way established by or maintained under county, state or federal authority, a way established by and constructed according to a subdivision plan approved in accordance with the Subdivision Control Law, and a way determined by the Planning Board to have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. A public or private way shall not be deemed to be a street relative to any lot that does not have rights of access to and passage over said way.

**Story, half:** A story with a sloping roof, the area of which story at a height of four (4) feet above the floor does not exceed two-thirds of the floor area of the story immediately below it.

**Structure:** A combination of materials assembled at a fixed location to give support, shelter or utility, including but not limited to, buildings (whether principal or accessory), platforms and decks, swimming pools, tennis or similar courts, satellite dishes of three (3) feet diameter or greater, sheds, shelters, and display signs. The term "structure" shall be construed where applicable as if followed by the words "or portion thereof". The term "structure" shall not include walls or fence.

**Topographical Changes and Land Clearing:** For the purposes of Section 6.6, the following definitions shall apply:

**Setback Area:** That portion of the lot from its exterior boundaries to the lines delimiting its minimum front, side and rear building setbacks as prescribed by Section 4.0.

**Setback Area, Central Front:** That portion of the Setback Area of a lot between the lines delimiting its minimum side building setbacks from its front exterior boundaries to the line delimiting its minimum front building setback, all as so prescribed.

**Setback Area, Side/Rear:** That portion of the Setback area not defined at "Central Front."

**Interior Area:** That part of a lot not included in the Setback Area.

Green Activities: Planting, trimming, harvesting, additions, subtractions or other changes of, in or to the trees, shrubs, grass, plants, vegetation or other non-nuisance agricultural, horticultural, floricultural or silvicultural products. Without limitation of the generality of the foregoing, "Green Activities" include the annual addition of up to twelve (12) inches of soil or other material to any area.

Ledge: A boulder or rock formation, whether or not cracked or broken into contiguous pieces, (1) which has a volume of three (3) or more cubic yards, or (2) the removal of all or any part of which, in the opinion of the Building Inspector or as proposed by the lot owner, normally would involve either blasting or hoe-ramming. Such Ledge is an exposed ledge if its uncovered surface area is fifty (50) or more square feet.

Authorized Structures/Drives Activities: Construction, maintenance or other changes (a) within the layout of any street, or sidelines of any easement for any common driveway on which the lot has frontage, or (b) under the Subdivision Rules and Regulations or this By-law within the footprint of buildings and other structures, and sidelines of driveways and turnarounds, authorized (with specific reference to any ledge removal permitted) by either the Planning Board or the Zoning Board of Appeals or (c) within the footprint of a residential building, provided that any excavation does not exceed a depth of fifteen (15) feet from the pre-construction grade and is authorized by a building permit issued by the Inspector of Buildings.

Septic Activities: Construction, maintenance or other changes in a septic system authorized (with specific reference to any ledge removal permitted) after a public hearing by the Board of Health.

Utility Activities: Construction, maintenance or other changes in water, gas, sewer, electric, telephone, cable and other utilities installed underground within one or more trenches each not exceeding 4 feet in width (the number and location of such trenches to be as determined by the Planning Board under the Subdivision Rules and Regulations, otherwise by the Building Inspector) extending (a) from the front exterior boundary of the lot through the Center Front Setback Area to structures within the Interior Area, and/or (b) between structures within the lot.

**Toxic or Hazardous Materials:** Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this town. Toxic or hazardous materials include, without limitation, organic chemicals, petroleum products, heavy metals, radio-active or infectious wastes, acids and alkalies, and include products such as pesticides, herbicides, solvents and thinners. Wastes generated by the following activities, without limitation, are presumed to be toxic or hazardous unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Board of Health and the Board of Selectmen:

- Airplane, boat and motor vehicle service and repair
- Chemical and bacteriological laboratory operation
- Cabinet making
- Dry cleaning
- Electronic circuit assembly
- Metal plating, finishing and polishing
- Motor and machinery service and assembly
- Painting, wood preserving and furniture stripping
- Pesticide and herbicide application
- Photographic processing
- Printing

**Veterinary facility or clinic:** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the use.

**Warehouse:** A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

**Warehouse, Mini or Self Storage:** Establishment providing individual storage units for long or short term rental to persons or businesses.

Wind Energy Conversion Facilities: For the purposes of Section 10.2, the following definitions shall apply:

Distributed Generation: Energy generation that is located at or near the end-user.

Height: The height of a wind turbine measured from grade elevation at the base of the tower to the elevation at the tip of the blade at its highest point.

Nacelle: The frame and housing at the top of the tower that encloses the gearbox and generator and protects them from the weather.

Rotor: The blades and hub of the wind turbine that rotate during turbine operation.

Wind Energy Conversion Facility (WECF): All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, all transmission, storage, collection and supply equipment, substations, transformers, site access, service roads and machinery associated with the use.

Wind Monitoring or Meteorological Test Tower (Met Tower): A temporarily installed tower used for supporting anemometer, wind vane and other equipment to assess the wind resource at a predetermined height above the ground.

Wind Turbine: A device that converts kinetic energy of the wind into rotational energy to turn an electrical generator shaft. A wind turbine typically consists of a rotor, nacelle and supporting tower.

**Wholesale:** Sale of goods not at retail.

**Yard:** A portion of a lot, upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein. A court shall not be considered to be a yard or any part thereof.

**Yard, Front:** A yard extending for the width of the lot between the front line of the nearest building wall and the front lot line.

**Yard, Rear:** A yard, except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

**Yard Side:** Yard extending for the full length of a building between the nearest building wall and the side lot line.

Zoning Act: Chapter 40A of the Massachusetts General Laws, as amended by Chapter 808 of the Acts of 1975, and any amendments thereafter.