

SECTION 2. DEFINITIONS

For the purposes of this by-law certain terms and words are herein defined as follows:

Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; the word “shall” is mandatory and not directory; the word “lot” includes the word “plot”; the word “land” includes the words “marsh” and “water”.

~~Accessory Building. A building not attached to any principal building, customarily incidental to and located on the same lot with the principal building.~~

~~Accessory Structure. A structure that is accessory to and incidental to that of dwelling(s) and that is located on the same lot~~

Accessory Use. A use subordinate and customarily incidental to the principal use and located on the same lot as the principal use. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

~~Addition. An extension or increase in floor area, number of stories or height of a building or structure.~~

Adult Use. Adult use shall mean any of the following adult uses as separate or combined entities or activities.

(1) Adult bookstore: an establishment having a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to “Sexual conduct” or “Sexual excitement” as defined by MGL Chapter 272, Section 31; (2)

Adult video store: an establishment having a substantial or significant portion of its stock in trade videos, movies, CD-ROM, DVD or similar technologies that provide images to be viewed on or off premises which are distinguished or characterized by their emphasis depicting, describing or relating to “Sexual excitement” or “Sexual conduct” as defined in MGL Chapter 272, Section 31; (3) Adult paraphernalia store: an

establishment having a substantial or significant portion of its stock, devices, objects, tools or toys which are distinguished or characterized by their association with sexual conduct or sexual excitement as defined by MGL Chapter 272, Section 31; (4) Adult motion picture theater: a building or structure used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined by MGL Chapter 272 Section 31; (5) Adult live entertainment establishment: any establishment which displays live entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined by MGL Chapter 272 Section 31.

Animal Hospital or Veterinary. Facilities for keeping animals to be treated, in treatment or recovering from treatment in accord with normal veterinary practice as established by the Massachusetts Board of Registration of Veterinary Medicine.

~~Apartment. A dwelling unit which occupies a part of a building, other parts of which may or may not be used as dwellings.~~

~~Apartment House. A building arranged, intended or designed to be occupied by two or more families living independently of each other.~~

Assisted Living Facility. A managed residential community, operating under provisions of MGL Chapter 19D and contained in one or more primary buildings consisting of private residential units with or without kitchens. Further, said facilities may provide assistance with activities of daily living, together with meal service, housekeeping services, social and recreational activities and personal care services, transportation services, in a group setting primarily limited to individuals 62 years and older or couples,

one of whom is at least 62 years of age, who require help or assistance with activities of daily living but do not require full time nursing care.

~~ATM/Automatic Teller Machine. A drive in or walk in banking facility which either stands as a single structure or is attached to another building.~~

~~Basement. The part of the building which is wholly or partly below ground level.~~ A story that is not a story above grade plane (see “story above grade plane”)

Basement, Finished *[Deleted, by vote of Annual Town Meeting, Article 13, effective November 4, 2019 and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Bed and Breakfast. A house, or portion thereof, where up to four lodging rooms, with meals, are provided providing that the maximum duration of any tenant shall be less than 14 consecutive nights. The operator shall live on the premises, or in an adjacent premises immediately abutting the residence with the bed and breakfast facility. *[Amended by vote of Annual Town Meeting, Article 24, effective October 18, 2020, and approved by the Attorney General on January 25, 2022 and posted according to law on April 1, 2022]*

~~Boarding House. A building or premises, other than a hotel or bed & breakfast, for not more than four (4) persons, provided that the principal use is as a private residence, where rooms are let and where meals may be regularly served by prearrangement for compensation; not open to short term paying guests.~~

~~Building. A structure having a roof or cover for the shelter, housing, or permanent habitation for one (1) or more persons.~~ Any structure used or intended for supporting or sheltering any use or occupancy.

Building Inspector/ Building Official. See Inspector of Buildings/~~Building Commissioner.~~

Building Lot or Lot. *[Deleted, by vote of Annual Town Meeting, Article 13, effective November 4, 2019 and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Cemetery. An area of land for the interment of human remains.

~~Child Care Center. A child care center or school-age child care program as defined in Massachusetts General Laws Chapter 15D, Section 1A.~~

Cluster Zoning. *[Deleted, by vote of Annual Town Meeting, Article 13, effective November 4, 2019 and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Condominium. A system of real estate ownership in which a person or persons, partnership or corporation own one or more units or parcels in a multi-unit structure or parcel of land plus an undivided interest in elements and/or components owned jointly by all of the unit or parcel owners, or as defined in Chapter 183A of the General Laws.

Congregate Housing. A group living arrangement for elderly persons and persons with disabilities who cannot easily maintain their own housing, financially or otherwise, but who do not need nursing home care. The persons living together may care for themselves or may have ~~some~~ support services. *[Amended by vote of Annual Town Meeting, Article 24, effective October 18, 2020, and approved by the Attorney General on January 25, 2022 and posted according to law on April 1, 2022]*

~~Cooperative. A system of ownership in which shares in a corporation are owned, entitling an owner or owners to occupancy of a portion of real estate owned by the corporation.~~

Contiguous and Buildable Area. See Section 6.A.2. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Corner Lot. A lot abutting two or more public or private ways at their intersection. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Cul-de-sac. A ~~dead-end~~ street with the closed end consisting of a turn around. Refer to the West Newbury Planning Board Rules and Regulations Governing the Subdivision of Land, as may be amended. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Dwelling. Any building, or part thereof, used for habitation for one (1) or more persons, but not including commercial accommodations for transient occupancy or trailers or mobile homes, however mounted.

Dwelling Unit. ~~One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit.~~
A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Family. One (1) or more persons living together in one dwelling unit, but not including sororities, fraternities and other communal arrangements.

Family Day Care. A day care facility for not more than six children located in a building in which the primary purpose is residential.

Farming. The use of land for agriculture as defined in Massachusetts General Laws Chapter 128, Section 1.A., as may be amended. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Floor Area. Floor area shall be the cumulative floor area, of all levels within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or features. In the case of a multi-unit building, the center of the common wall shall be included.

Frontage. The linear extent of a lot measured along a constructed street ~~right-of-~~ or way from the intersection of one side lot line to the intersection of the other side lot line of the same lot, which can be used for access to the lot but not including any portion thereof devoted to a right-of-way or a driveway serving more than one lot unless a special permit for a common driveway has been approved by the Planning Board.

Frontage at corner lot. ~~At a corner, frontage shall be measured to the point of intersection of the extension of the sideline of the rights-of-way. (see diagram in Appendix One~~ Frontage at a corner lot shall be measured on the side of the lot that will be used to access the property and the proposed construction will front on.

Frontage on Curved Streets and in Cul-De-Sacs. For lots fronting on curved streets and cul-de-sacs, the frontage distance shall be determined by measuring the cumulative linear distances along the curves and any tangent sections there between, where the lot fronts on the street. ~~See diagram in Appendix One.~~ *[Added by vote of the Annual Town Meeting of April 30, 2007, approved by the Attorney General on June 11, 2007 and posted according to law on June 25, 2007.]*

Garage, Private. Covered space for the housing of motor vehicles, but not for the rental of more than two (2) stalls or for commercial repair of vehicles or commercial storage of vehicles.

Garage, Public. Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles, or supplying of gasoline or oil to motor vehicles.

Gasoline Station. An establishment which provides for the refueling of and servicing of motor vehicles and operations incidental thereto, and may include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means.

Hazardous Materials. A substance or solid material in a quantity or form that significantly contributes to serious illness or death, or that poses a substantial threat to human health or poses an unreasonable risk to health, safety, property or the environment when improperly managed, including all materials listed as hazardous by the Environmental Protection agency, under the Toxic Substance Control Act, Federal Resource Conservation and Recovery Act or similar authority, the Department of Energy or the Commonwealth of Massachusetts pursuant to applicable General Laws.

Hotel. A building, or portion thereof, or a group of buildings on a single lot, intended to be used for the temporary occupancy of ~~three (3) or more~~ short-term paying guests ~~who are lodged~~, with or without meals, and in which major provision for cooking may be made in a central kitchen but may not be in the individual rooms or suites. *[Amended by vote of Annual Town Meeting, Article 24, effective October 18, 2020, and approved by the Attorney General on January 25, 2022 and posted according to law on April 1, 2022]*

Inspector of Buildings/ Building Commissioner. The administrative chief of the building department in a municipality who is charged with the enforcement of 780 CMR in accordance with M.G.L. c. 143 §§ 3 and 3A as well as the enforcement of the Zoning-By- Law.

Kennel. Facilities for keeping four (4) or more dogs three (3) months old or older on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are customarily kept for sale.

~~Kindergarten. A school or class of young children, usually from four (4) to six (6) years of age.~~

Loading Space, Off-Street. An off-street space or berth, on the same lot with a building, for the temporary parking of vehicles while loading or unloading merchandise or material, and which has access to a street or other appropriate means of ingress or egress.

Lodging House. A one-family dwelling where one or more occupants are primarily permanent in nature and rent is paid for guest rooms.

Lot. An area of land in single ownership with definite boundaries, established by a recorded plan or deed, including a lot created by combining several previously recorded lots, and used or available for use as the site of one or more buildings or for any other purpose. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Lot Area. ~~The area of a lot exclusive of any area in a street or way, public or private. *[Added by vote of the Annual Town Meeting of April 30, 2007, approved by the Attorney General on June 11, 2007 and posted according to law on June 25, 2007.]*~~ The area of the horizontal plane of a parcel of land bounded by the front, side and rear lot lines.

Lot Width. The shortest distance between the side lot lines of the lot measured at the minimum front set back line.

Maximum Building Coverage. The maximum permissible area that may be covered by the ground floor area of all buildings, portions or that building and appurtenances on a lot when viewed from above; to be measured as a percent of the required minimum lot area in the zoning district where the lot is located.

Maximum Lot Coverage. The maximum permissible area that may be covered by all impervious surfaces on a lot, such as but not limited to buildings, pools, paved tennis courts, paved driveways and walkways; to be measured as a percent of the required minimum lot area in the zoning district.

Membership Club. A private, non-profit organization, building or grounds, to include specifically country clubs and fraternities and other organizations to which membership is limited or controlled.

Mobile Home. Any vehicle or object, which is drawn by or used in connection with a motor vehicle and which is so designed and constructed or reconstructed or added to by means of such accessories as to permit the use and occupancy thereof for human habitation, whether resting on wheels, jacks, or other foundations. It shall include the type of vehicle or modular construction commonly known as a mobile home, containing complete electrical, plumbing, and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

Municipal Buildings and Use. Facilities owned by the Town of West Newbury, operated by the Town of West Newbury, or both, and the uses conducted therein.
[Added by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]

Non-Conforming Lot. A non-conforming lot is an existing lawful lot, which does not conform to the regulations for the district in which it is located and which existed at the time of the publication of notice of the hearing before the Planning Board respecting the regulation to which it does not conform as described in M.G.L. 40A § 6.

Non-Conforming Use. A non-conforming use of land or building is an existing lawful use of land or building which does not conform to the regulations for the district in which such use of land or building exists and which existed at the time of publication of notice of the hearing before the Planning Board respecting the regulation to which it does not conform as described in M.G.L. 40A § 6.

~~Nursery School. A place for group pre-school training of children.~~

Open Space Preservation Development A residential development in conformance with the Section 6.B, in which the buildings and accessory uses are clustered together into one or more groups separated from adjacent property and from other groups in the same development by intervening open land, and in which the minimum dimensional requirements of lots are reduced and the land gained thereby is preserved as open space. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Principal Building. A building in which the primary use of the lot on which the building is located is conducted.

Principal Use. The ~~main~~ primary use of land or structures on a lot, as determined by the Inspector of Buildings.

~~Screened Area. A section shielded from view from adjacent areas by fencing, hedges or trees.~~

Screening. The material used to shield an area from view.

Short-Term Paying Guest. A person who rents a room in a hotel or bed & breakfast for less than 14 consecutive nights. *[Amended by vote of Annual Town Meeting, Article 24, effective October 18, 2020, and approved by the Attorney General on January 25, 2022 and posted according to law on April 1, 2022]*

Sign. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.

~~Stream, Bank of. Rising ground bordering a flowing body of water as defined in 310 CMR 10 of Massachusetts Regulations.~~

Street. A public way or a private way either shown on a plan approved in accordance with the subdivision control law, or otherwise qualifying a lot for frontage under the subdivision control law.

Street Line. The dividing line between a street and a lot and, in the case of a public way, the street line established by the public authority laying out the way upon which the lot abuts.

Structure. ~~Any construction, erection, assemblage or other combination of materials upon the land, necessitating pilings, footings or a foundation for attachment to the land including swimming pools two (2) feet or more deep or having a surface of seventy-five (75) or more square feet and including all swimming pools permanently equipped with a water circulating system.~~ That which is built or constructed.

~~Swimming Pool. An artificial pool of water or a natural pool altered to have a depth of two (2) feet or more at any point or seventy-five (75) or more square feet of surface and used for swimming or bathing, located indoors or outdoors, together with the equipment, and appurtenances used in connection with the pool.~~

~~Town House. A single family dwelling attached to another single family dwelling, in such a manner that each dwelling has a floor at ground level and front and rear access to the outside.~~

Trailer. Any vehicle or object which is drawn by a motor vehicle.

Veterinary. See Animal Hospital

Wetlands. Swamps, bogs and freshwater wetlands as defined by Chapter 131, Section 40 of the General Laws of the Commonwealth of Massachusetts. *[Amended by vote of Annual Town Meeting, Article 13, effective November 4, 2019, and approved by the Attorney General on November 1, 2021 and posted according to law on November 4, 2021]*

Yard. An open space, other than an enclosed court, on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and a lot line, and is not occupied or obstructed from the ground upward by a building or a structure, except for fences.

Yard, Front. A yard extending across the full width of the lot and lying between the street line of the lot and the nearest line of the building. The depth of a front yard shall be the minimum distance between the building and the front lot line.

Yard, Rear. A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building. The depth of a rear yard shall be the minimum distance between the building and the rear lot line.

Yard, Side. A yard between the side lot line of the lot and the nearest line of the building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines, as may be. The width of a side yard shall be the minimum distance between the building and the side lot line.