

SECTION IA. DEFINITIONS.

(Editor's Note: Amended 7/9/2014 to reflect definitions added and amended under Article 34 at 2014 ATM)

As used in the Zoning Bylaws, the following words and terms shall have and include the following respective meanings:

Accessory Use – A use incidental to and customarily associated with a specific principal use, located on the same lot or parcel.

Adult Bookstore - An establishment having as a substantial or significant portion of its stock in trade, books, magazines and/or other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. Chapter 272, Section 31.

Adult Dance Club - An establishment which, as its principal form of entertainment, permits a person or persons to perform in a state of nudity as defined in G.L. Chapter 272, Section 31.

Adult Motion Picture Theater - An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. Chapter 272, Section 31.

Adult Paraphernalia Store - An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in G.L. Chapter 272, Section 31.

Adult Use - Adult Bookstore, Adult Dance Club, Adult Motion Picture Theater, Adult Paraphernalia Store, and/or Adult Video Store as herein defined.

Adult Video Store - An establishment having as a substantial or significant portion of its stock in trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. Chapter 272, Section 31.

Assisted Elderly Housing - A building or group of buildings that have on site medical, convalescent and nursing facilities for the residents but in all other manners is consistent with the definition and uses permitted for independent elderly housing projects.

Assisted Units - Dwelling Units which qualify for enumeration under Chapter 40B, Sections 20-23 M.G.L. (Chapter 774 of the Acts of 1969). In the case of units to be sold there shall be deed restrictions to enforce the funding agencies' requirements for the long term eligibility of the unit for enumeration, and which require that the seller give a 90 day right of first refusal to the Wellesley Housing Authority. The deed restrictions shall be reviewed and approved by the Wellesley Housing Authority and Town Counsel prior to sale.

Commercial Trailer - A vehicular, portable unit without independent motive power designed and/or used for any commercial purpose whether used with or without a permanent foundation, including but not necessarily limited to the following:

1. hauling and storing of products or materials, or
2. retail sales, or
3. business or office use

whether or not there is affixed thereto any advertisement or indication of a business or professional use or affiliation.

Community Group Residence - A boarding house, halfway house, home for adjustment or rehabilitation center for persons with physical or social disabilities which make functioning in society difficult and who require the protection of a group setting.

Conventional Units - Dwelling Units available to the general public on the open market without price restrictions or consumer income limitations.

Days - This term shall refer to calendar days unless otherwise noted.

Detached Dwelling - A building containing only dwelling units and private garage having open space on all sides.

Development Area - A parcel or contiguous parcels which are under one ownership.

Drainage and Storm Water Drainage – surface water runoff and the removal of surface water runoff by a system which may include catch basins, leaching basins, manholes, pipes, retention and/or detention basins, swales, drainage ditches, headwalls and other components which meet best management practices and are consistent with the Clean Water Act, Massachusetts Water Quality Standards, the Phase II Regulations of National Pollutant Discharge Elimination System of U.S. EPA, the Massachusetts Wetlands Protection Act and the Wellesley Wetlands Protection Bylaw (Article 44 of the Town Bylaws); the Erosion and Sedimentation Control Regulations and the Municipal Stormwater Drainage System Rules and Regulations adopted by the Board of Public Works.

Dwelling - A building which is designed for or redesigned and/or used for human habitation.

Dwelling Unit - A room, group of rooms, or dwelling forming a habitable unit for one family with facilities for living, sleeping, food storage and/or preparation and eating, and which is directly accessible from the outside or through a common hall without passing through any other dwelling unit.

Family - (A) One (1) or more persons related by blood, adoption or marriage and not more than two (2) additional persons all residing together as a single housekeeping unit; (B) A number of persons but not exceeding three (3) residing together as a single housekeeping unit where such persons are not related to one another by blood, adoption or marriage.

Floor Area Ratio - The floor area of building divided by the commercially zoned lot area. Floor area shall be the sum of the horizontal areas of the several floors of a building as measured from the exterior surface of the exterior walls. Parking garages, interior portions of building devoted to off-street parking, and deck or rooftop parking shall not be considered as floor area. The floor area devoted to a child care facility (defined to mean a "day care center" or a "school age child care program," as those terms are defined in Section 9 of Chapter 28A M.G.L.) as an accessory use to an allowed use, shall not be considered as floor area for the purposes of the calculation of Floor Area Ratio except that the building floor area shall not exceed 110% of the building floor area otherwise allowed without a child care facility. The floor area devoted to dwelling units developed in accordance with and under the provisions of SECTION XVIB. INCLUSIONARY ZONING., shall not be considered as floor area for the purposes of the calculation of Floor Area Ratio provided that Assisted Units sufficient to satisfy SECTION XVIB. are provided on the same Development Area.

Home Occupation - A non-residential use of a dwelling unit, by the resident or residents, for gainful employment, that is subordinate but compatible to residential use.

The term Home Occupation shall include a "family day care home" as defined in Chapter 28A of the General Laws, for not more than six children, including participating children living in the residence, where the provider is licensed by the Office for Children under said Chapter 28A.

Independent Elderly Housing - A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 62 years of age or older or couples where either the husband or wife is 62 years of age or older. Independent elderly housing may include support services such as central dining, cleaning, linen, laundry and other personal support services. Further they may provide convenience retail services if said facilities do not have any exterior signs and comprise not more than 2% of the total floor area of the development. Independent Elderly Housing may include a medical service station for a house physician but not on site convalescent or nursing facilities. However, this definition shall not prevent independent elderly housing units from being developed as a distinct element in a larger development that includes assisted elderly housing units are on separate floors or separate buildings.

Mobile Home or House Trailer - A dwelling designated as year-round living quarters, and built on a chassis to be moved from site to site, whether used with or without a permanent foundation.

Nursing Homes and Skilled Nursing Facility - A building housing a facility licensed to provide full time long term accommodation and a combination of personal and health care services in a supervised environment. Said facilities shall provide long term intensive, skilled and supportive nursing care, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. The facilities may contain common areas for therapy, recreation and dining; further the facilities may also include on-premise medical offices and treatment facilities related to the care of the tenants. For the purposes of this Bylaw, it includes: extended care facility, intermediate care facility, convalescent home and rest home.

One-Family Dwelling - A detached dwelling containing not more than one dwelling unit.

Open Space - The portion of a lot not covered by buildings, garages or other accessory buildings or structures, canopies, off-street parking areas, maneuvering aisles, loading areas or driveways. The portions of a lot devoted to lawn; landscaping; swimming pools constructed at or below grade; at grade terraces, patios, walks, tennis or other play courts; and woodland or wetland shall be considered as open space. Open space shall be free of automotive traffic, or parking.

Original Grade - The grade of the lot before development begins. If an existing structure is to be demolished, the original grade shall be the grade determined prior to demolition of the structure. If there is no existing structure on the property, the natural grade of the property, prior to any modification, shall be considered the original grade; except in new subdivisions where the original grade shall mean the approved and recorded grade.

Permit Granting Authority - The Zoning Board of Appeals.

Recreational Trailer or Vehicle - A vehicular, portable unit designed for travel, camping or recreational use, including but not limited to the following:

1. Travel Trailer - A vehicular, portable dwelling unit built on a chassis, being of any length provided its gross weight does not exceed forty-five hundred (4500) pounds, or being of any weight provided its overall length does not exceed twenty eight (28) feet.
2. Pick-Up Camper - A portable dwelling unit designed to be mounted on a pick-up truck or chassis, whether or not so mounted.
3. Motorized Camper - A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
4. Tent Trailer - A folding structure, constructed of canvas, plastic or similar water repellent material, designed to be mounted on wheels to be used as a temporary dwelling.
5. Boat Trailer - A vehicle without motive power, designed to be drawn by a motor vehicle and designed for the hauling or storage of a boat, aircraft, snowmobile or other recreational vehicle.

Registered Marijuana Dispensary - A not-for-profit entity and use registered under 105 CMR 725.100, and previously known as a Medical Marijuana Treatment Center, which may acquire, cultivate, possess, process (including development of related products such as edible Marijuana-Infused Products (“MIPs”), tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, and/or administer marijuana, products containing marijuana, related supplies, and/or educational materials to registered qualifying patients or their personal caregivers. Also referred to herein as “RMD” or “RMDs”. Not to include non-medical dispensaries.

Retaining Wall - A wall or terraced combination of walls used at a grade change to hold soil and other earth material at a higher position. Retaining walls may be attached to or independent from other structures. The exposed side of a retaining wall shall be known as

a “face”. The area between a lower wall and a successive higher wall shall be known as a “terrace”.

Special Permit Granting Authority - Zoning Board of Appeals except as otherwise designated by this Zoning Bylaw for the granting of special permits. For the review and issuance of special permits for Registered Marijuana Dispensaries, as allowed by this Bylaw and established in Section XXV, B., 5., b., the Board of Selectmen shall act as the Special Permit Granting Authority. For the purposes of SECTION XIVB. FLOOD PLAIN OR WATERSHED PROTECTION DISTRICTS., SECTION XIVE. WATER SUPPLY PROTECTION DISTRICTS., and SECTION XVIA. PROJECT APPROVAL., the Planning Board shall act as the Special Permit Granting Authority for subdivision applications processed under the provisions of the Subdivision Control Law (Chapter 41, Sections 81K - GG M.G.L.) and for approval of projects of significant impact. When the Planning Board is acting as Special Permit Granting Authority, the chairman may call upon the associate member to sit on the Board for the purposes of acting on an application, in the case of absence, inability to act, or conflict of interest on the part of any member, or in the event of a vacancy on the Board. The provisions for filling the position of associate member shall be governed by Article 45 of the Town Bylaws.

Town House - A dwelling containing two or more dwelling units, each sharing one or more party walls with another dwelling unit, and each having at least one floor at ground level with direct access to open space on two or more sides.

Two Family Dwelling - A detached dwelling other than a Town House containing two dwelling units.