

12.32.060 DEFINITIONS - ZONING

- A. Generally, for the purpose of this ordinance, the following rules of construction apply:
1. All words used in the present tense include the future tense; all words in the plural number include the singular number; all words in the singular number include the plural number, unless the natural construction of the word indicates otherwise; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the word "shall" is mandatory and directory; and word "may" is permissive; and the word "used" includes "designed, intended, proposed, existing, or arranged to be used."
 2. Terms or words not defined herein but defined in the Massachusetts State Building Code shall have meanings given therein, unless a contrary intention clearly appears, otherwise as the meaning quoted in the Random House Unabridged Dictionary of The English Language, 1967 Copyright.
- B. Definitions: For the purposes of this ordinance, certain terms, words and/or series of words, whether or not the definition stated herein is contrary to common usage or contrary as quoted in a dictionary, shall be interpreted as follows:

Accessory Dwelling Unit: A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in gross floor area than 1/2 the gross floor area of the smallest unit in the principal dwelling or 900 square feet, whichever is smaller; (iii) that may not be used for Short Term Rental as defined by this ordinance and section 1 of M.G.L. Chapter 64G; and (iv) that conforms to the requirements and regulations of Site Plan Review of this ordinance.

Adult Bookstore: An establishment having greater than 10% of its gross floor area or a substantial/significant portion of its stock in trade devoted to books, magazines, videotapes, implements, and other matter or paraphernalia which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Mass. Gen. Laws ch 272 § 31 and which excludes minors by virtue of age.

Adult Club: An establishment having as a substantial/significant portion of its entertainment a person or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement, as defined in Mass. Gen. Laws ch 272 § 31.

Adult Day Health Center: A program and facility licensed by the state Department of Public Health or otherwise operated pursuant to equivalent federal or state government approval and authority, however organized, whether conducted for profit or not for profit, that: is community-based and non-residential; provides nursing care, supervision, and health related support services in a structured group setting to persons 18 years of age or older who have physical, cognitive, or behavioral health impairments; and supports families and other caregivers thereby enabling the participant to live in the community. Services provided may be activities of daily living and personal care activities, including but not limited to, bathing, dressing, grooming, toileting, transfers, ambulation, personal hygiene and eating; recreational activities; and social services. All services shall be provided on an outpatient basis and shall not include provisions for overnight stays or any form of residential living. An Adult Day Health Center may be allowed as an accessory use only to a Medical Center or Hospital use and shall not be allowed as an

accessory use to any other use. Licensed Massage Therapy Salon, Medical Center, Medical Marijuana Treatment Center and Substance Abuse Treatment Center are specifically excluded from this definition and may not be accessory to an Adult Day Health Center.

Adult Motion Picture Theater: An enclosed building used for presenting material distinguished by an emphasis on matters depicting, describing, or relating to sexual conduct or sexual excitement as defined in Mass. Gen. Laws ch 272 § 31.

Affordable Housing Unit: A residential unit that is restricted by legally permissible instruments such as, but not limited to, deed covenants or restrictions, contractual agreements, or land trust arrangements in its sale, lease, and/or rental to an eligible household as defined in Section H of this ordinance at a price point such that housing and related costs do not exceed thirty percent (30%) of the renting/purchasing household's gross income.

Alteration: As applied to a building or a structure, a substantial change or rearrangement in its exterior structural parts or an enlargement whether by extending on a side, increasing in height, or the moving of a particular part from one location or position to another.

Artist live/work space: A single residential dwelling unit occupied by a Working Artist to both live and work, where a minimum of forty percent (40%) of the gross floor area of the unit is used for Art Use by the artist residing therein, and where the unit is located above the first floor of a building in which the first floor is occupied for restaurant, retail sales, retail services, general offices, medical or dental offices. Application for a permit shall be accompanied by a floor plan certified by a registered professional. For the purposes of determining the dimensional controls for an artist live/work space, the most similar residential use based on number of units and/or stories shall be used; and for purposes of determining the parking requirements, artist live/work space shall be considered a business use.

Art Use: The production of art or creative work that is written, composed, created, performed or executed for a "one of a kind, limited" production, exclusive of industry-oriented distribution or production. Sale or display of the art or creative work may be accessory to the production

As of right or By right: Approval without the need or requirement for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval. This is expressly defined to exclude Site Plan Review where required by this Ordinance

Asphalt, Brick, Concrete & Soil Recycling: A building, structure or property, or part thereof, in which the following or similar kinds of construction and/or excavation materials and/or debris are processed, stored and/or transferred, and/or the vehicles and/or equipment used to process, store and/or transfer are parked and/or stored: asphalt, brick, concrete, and soil. All forms of scrap metal are specifically excluded. Asphalt, Brick, Concrete & Soil Recycling may not be allowed as an accessory use to any other use and shall not be classified or categorized as a building, constructing & contracting use; however, provided that, Asphalt, Brick, Concrete & Soil Recycling may be allowed as a temporary construction activity of specific and limited duration only when performed pursuant to work authorized by a building permit and all materials must be from the site. All materials must be used onsite. Activity may only be by a licensed contractor with proper insurance.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Basement: A story partly underground and having more than one half (1/2) of the height, between floor and ceiling or floor and roof, above the average level of the finished outside grade of the lot.

Batching Plant: A manufacturing facility with associated structures designed to produce bituminous concrete, portland cement concrete and other similar products used in roadway and/or building construction; including the transportation of said materials.

Body Art Establishment: A facility that engages in the practice of physical body adornment, alteration or modification by means including, but not limited to, body piercing, tattooing, cosmetic tattooing, branding and scarification, but not including practices that are considered medical procedures by the Board of Registration in Medicine.

Breezeway: A roofed structure, with or without a foundation, with open or enclosed sides, the purpose of which is to connect two (2) or more buildings.

Building: Any structure having a roof supported by columns, piers, or walls, and intended for the shelter, housing, or enclosure of persons, animals, or chattel.

Building, Principal: The structure in which is conducted the principal use of the lot.

Cellar: A story, partly or entirely underground, having more than one half (1/2) of its clear height below the average level of the finished outside grade of the lot.

Club or Lodge: A building used to house a non-profit social, fraternal, or service organization which is not an adjunct to or operated as or in conjunction with, a public tavern, cafe, or similar place of business.

Commission: The Massachusetts Cannabis Control Commission, and any successor or other licensing entity or agency with jurisdiction over marijuana licensing in the Commonwealth of Massachusetts

Community Host Agreement: The Agreement by and between the City of Malden and the proposed Marijuana Establishment that identifies the fees/funds that will be paid to the City by the proposed Marijuana Establishment to be used by the City to mitigate the impacts to the community of the Marijuana Establishment. Community impact fees/funds hereunder are in addition to taxes collected by the City per Mass. Gen. Laws ch 64N § 3.

Community Residences: A cooperative living facility for physically or mentally handicapped persons who live together for the purpose of learning housekeeping tasks and social services thus facilitating their independent living skills.

Convenience Store: A retail store that carries a limited selection of basic items, such as packaged foods, drugstore items, household items, tobacco products, newspapers and magazines, candy and snack foods, hot and cold beverages and lottery, and is open longer hours for the convenience of shoppers. Convenience stores include marts, variety stores and superettes. Dimensional controls and parking requirements shall be the same as for convenience retail sales. Convenience stores are expressly prohibited from any retail sale of Marijuana or Marijuana Products.

Density: Lot area per dwelling unit (expressed in square feet).

Development: Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]. This definition is only applicable to property in the Flood Plain District.

Drive-thru: A facility where food, goods or services are purchased or obtained from a building or structure on the same lot via a window or similar opening in the building or structure and accessed while in a vehicle. A drive-thru is accessory to the principle use of the building or structure and operated in conjunction with same.

Dwelling, Cohousing: A building containing a minimum total of ten (10) dwelling units but a maximum of no more than thirty-five (35) dwelling units (each dwelling unit containing no more than three (3) bedrooms) used and occupied by, an association of residents, which association shall be established and maintained in accordance with a legally binding written agreement, a copy of which shall be submitted to the City Building Inspector, that shall include shared kitchen and dining facilities, and continuous indoor and open space areas of sufficient size to accommodate assembly of the majority of the residents, and all interior shared spaces combined shall comprise a minimum total of fifteen percent (15%) of the entire gross floor area of the building, exclusive of corridors and parking.

Dwelling, Group: A building used for, or occupied by, an assemblage of persons associated or related only through a common cause, action, or association and living together as a housekeeping unit in separate rooms, series of rooms, common room, or as a commercial, educational, or institutional unit. Specific examples include convents, rectories, halfway houses, community residences, dormitories, and correctional or remedial facilities.

Dwelling, Multifamily: A building used for, or occupied by, five (5) or more dwelling units.

Dwelling, Single Family: A detached building used for, or occupied exclusively by, one (1) dwelling unit. Two (2) kitchens are prohibited in one dwelling unit in a single family dwelling.

Dwelling, Three and Four Family: A building used, or occupied by, three (3) or four (4) dwelling units, but not to include town or row houses.

Dwelling, Town or Row: A single family attached unit with party walls.

Dwelling, Two Family: A building used for, or occupied by, two (2) dwelling units. Two (2) kitchens are prohibited in either or both of the two (2) dwelling units in a two family dwelling.

Dwelling Unit: One (1) or more rooms providing living facilities for one (1) family including equipment for both cooking and sanitation or provisions for the same within the building in which the dwelling unit is located.

Excavation and Gravel Operations: Buildings and equipment associated with the extraction and processing of stone, sand or gravel and the transportation of said materials.

Family: One or more persons related by blood, adoption, or marriage, living and cooking together as a single housekeeping unit, exclusive of household servants. A number of persons but not exceeding four (4) living and cooking together as a single housekeeping unit though not related by blood, adoption, or marriage shall be deemed to constitute a family.

Fast Food Service: Food and drink prepared in advance of ordering by the purchaser or prepared "quick order" upon direct instructions to personnel other than a waitress and/or waiter; packaged and/or containerized other than in dishes for convenience and ease of carrying by the customer; and consumed within the structure or upon the associated grounds, in motor vehicles, and/or off premises.

Floodway or Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without

cumulatively increasing the water surface elevation more than a designated height. This definition is only applicable to property in the Flood Plain District.

Frontage: The continuous and contiguous length of a lot along the street line of a public way, a private way approved and endorsed by the Planning Board and constructed, or a private way certified by the City Clerk and Planning and Engineering Department as used and maintained as a public way.

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14] This definition is only applicable to property in the Flood Plain District.

Gasoline Filling Station: A building or part thereof, used in connection with tanks, pumps, and other appliances for supplying motor vehicles with gasoline, compressed air, oil, water, automotive accessories, and similar supplies for profit.

Height: The vertical dimension of a building as measured from the mean level of the established grade at the building to the mean height of the roof, provided that for residential developments in excess of 6 stories, height shall mean the vertical dimension of a building measured from the lowest elevation of the lot to the maximum height roof.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59] This definition is only applicable to property in the Flood Plain District.

Historic Structure: Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior or
 2. Directly by the Secretary of the Interior in states without approved programs. [US Code of Federal Regulations, Title 44, Part 59]

This definition is only applicable to property in the Flood Plain District.

Hospital: A place for medical, dental, or psychological testing, diagnosis and/or treatment of persons or animals with a medical doctor on the premises, and including provisions for overnight and longer stays.

Inclusionary Development: A project or development that results in a net increase of eight (8) or more dwelling units, whether created, in whole or in part, through new construction or by alteration, extension, reconstruction, structural change or change of use of an existing building.

Independent Marijuana Testing Laboratory: A laboratory that is licensed by the Commission and is (i) accredited to the most current International Organization for Standardization 17025 by

a third party accrediting body that is signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; (ii) independent financially from any Medical Marijuana Treatment Center or any licensee or Marijuana Establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Commission.

Inspector of Buildings: The officially established zoning and building enforcement officer for the city of Malden.

Kennel: A building or lot sheltering cats, dogs or domesticated animals. A kennel that is accessory to another use shall require a special permit. A kennel may not be accessory to a residential use. Any kennel use shall require on site supervision when animals are present.

Licensed Massage Therapy Salon: A place, office, clinic or establishment licensed by the state Board of Health to offer massage services or acupuncture. "Massage" means but is not limited to, the systematic treatment of the soft tissues of the body by use of pressure, friction, stroking, percussion, kneading, vibration by manual or mechanical means, range of motion for purposes of demonstrating muscle excursion or muscle flexibility and nonspecific stretching. Massage therapy may include the use of oil, ice, hot and cold packs, tub, shower, steam, dry heat or cabinet baths, in which the primary intent is to enhance or restore the health and well-being of the client. Massage therapy shall not include diagnoses, the prescribing of drugs or medicines, spinal or other joint manipulations or any services or procedures for which a license to practice medicine, chiropractic, occupational therapy, physical therapy or podiatry is required by law. "Massage therapist" or "Massage practitioner", a person licensed by the State Board of Health who instructs or administers massage or massage therapy for compensation. "Adult Day Health Center" is specifically excluded from this definition.

Light Manufacturing: Fabrication, assembly, processing or packaging operations employing only electric or other substantially noiseless and inoffensive motor power, utilizing hand labor or quiet machinery and processes, specifically excluding any Marijuana Establishment and Marijuana Product Manufacturer, but subject, however to the following conditions: any light manufacturing business, the conduct of which may be detrimental to the health, safety or welfare of persons working in or living near the proposed location of such manufacturing, including, without limiting the generality of the foregoing, special danger of fire or explosion, pollution of waterway, corrosive or toxic fumes, gas, smoke, soot, dust or foul odors and offensive noise and vibrations is EXPRESSLY PROHIBITED.

Lot: A parcel or area of land, under one (1) ownership after October 1, 1962 the dimensions and extent of which are determined by the latest duly recorded or registered plan, by the latest endorsed plan of a subdivision of which the lot is a part, or by the latest endorsed "...Approval Not Required..." plan as described in the Malden Planning Board Subdivision Regulations.

Lot Coverage: That percentage of the lot area which is devoted to the building area.

Lot Line: The boundary of the lot.

Lot line, front: The boundary line of a lot that separates the lot from the street, which is the frontage of the lot and the side of the legal address of the lot.

Lot line, rear: Where the lot has only four (4) boundary lines, the boundary line that is the most distant and opposite from the front lot line; and where the lot has more than four (4) boundary lines, the boundary line that is the least distant from the front lot line and not contiguous with the front lot line.

Lot line, side: The boundary line of a lot that is not the front lot line and not the rear lot line, and where the lot has more than one boundary line on a side, for the purposes of determining side yard setback, the side lot line used shall be the line closest to the proposed structure.

Manufactured Home: means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. Manufactured home shall be synonymous with "mobile home" as regulated under Mass. Gen. Laws ch 40A § 3. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Marijuana: In accordance with Mass. Gen. Laws ch 94C, all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol; however, excluding, the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination.

Marijuana also includes Marijuana Products. Marijuana is expressly defined to exclude Marijuana for Medical Use as defined herein this Ordinance.

Marijuana Cultivator: An entity licensed by the Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments, and to transfer Marijuana to other Marijuana Establishments, but not to consumers.

Marijuana Establishment: A Marijuana Cultivator, Independent Marijuana Testing Laboratory, Marijuana Product Manufacturer, Marijuana Research Facility, marijuana Retailer or Marijuana Transporter. Marijuana Establishment is specifically and expressly defined to exclude a Marijuana Social Consumption Establishment, Medical Marijuana Treatment Center, and any other type of licensed Marijuana-related businesses. A Marijuana Establishment may not be classified as any other use in this Ordinance. A Marijuana Establishment must be the principal use of the property and may be accessory only to another type of Marijuana Establishment at the same property and shall be prohibited as an accessory use to any other use. Any Marijuana Establishment use, whether principal or accessory, shall require a special permit in accordance with MCC 12.12.020 and other applicable provisions of this Ordinance.

Marijuana for Medical Use: Marijuana that is designed and restricted for use by, and for the benefit of, qualifying patients in the treatment of debilitating medical conditions in accordance with Chapter 369 of the Acts of 2012 and 105 CMR 725.000 Implementation of an Act for the Humanitarian Medical Use of Marijuana, as regulated by Medical Marijuana Treatment Center per this Ordinance.

Marijuana Product Manufacturer: An entity licensed by the Commission to obtain, manufacture, process, and package Marijuana, or Marijuana Products, to deliver Marijuana and Marijuana Products to Marijuana Establishments, and to transfer Marijuana and Marijuana Products to other Marijuana Establishments, but not to consumers.

Marijuana Products: Products that have been manufactured and contain Marijuana or an extract of Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils, and tinctures. Marijuana for Medical Use

as defined herein this Ordinance is expressly excluded from this definition.

Marijuana Research Facility: An entity that cultivates purchases or otherwise acquires Marijuana for the purpose of conducting research regarding Marijuana Products.

Marijuana Retailer: An entity licensed by the Commission to purchase marijuana and Marijuana Products from Marijuana Establishments and to sell-marijuana and Marijuana Products to Marijuana Establishments and/or to consumers.

Marijuana Social Consumption Establishment: An entity that sells Marijuana or Marijuana Products for consumption or use on the premises where sold.

Marijuana Transporter: An entity which transports Marijuana and/or Marijuana Products to, from and/or between Marijuana Establishments, however, expressly excluding transportation, deliveries or other form of transfer to consumers, which are expressly prohibited, including but not limited to home deliveries or transportation, deliveries or other form of transfer to, from and/or between any other property except a Marijuana Establishment.

Medical Center: An entity, however organized, providing medical, surgical, dental, physical rehabilitation, or mental health services, including, but not limited to testing, diagnosis, and/or for treatment of persons or animals, with or without a medical doctor on the premises, on an outpatient basis, not including provisions for overnight stays. Examples of services that a medical center may provide include, but are not limited to: blood draw; counseling; dental; dialysis; prenatal and post-natal care; swab-testing and related laboratory services; urinalysis; vaccinations. Medical centers are various types of healthcare facilities, including, but not limited to, the office of an individual practitioner, clinics and group practices; however, "Substance Abuse Treatment Center" and "Hospital" are specifically excluded from this definition. Medical Centers that are physically located within/part of institutions or entities, such as hospitals, schools or pharmacies, shall be considered accessory to the principal use. A special permit issued to a Medical Center is non-transferable and non-assignable. "Licensed Massage Therapy Salon", "Medical Marijuana Treatment Center" and "Adult Day Health Center" are specifically excluded from this definition.

Medical Marijuana Treatment Center: An entity, however organized, as defined by Massachusetts law only, registered under this law, licensed by the state Department of Public Health or other applicable state entity, that routinely acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana products containing marijuana, related supplies, or educational material to qualifying patients or their personal caregivers, or who prescribes or prepares a written or other recommendation, certificate or other documentation used to obtain a registration card, or an unmanned machine that dispenses marijuana products. No Medical Marijuana Treatment Center shall be located within 1,500 feet of the property line of a property used for a residential dwelling, public or nonprofit school, or public park or playground, daycare, religious facility, or any facility in which children commonly congregate. A special permit issued to a Medical Marijuana Treatment Center is non-transferable and non-assignable. A Medical Marijuana Treatment Center shall not be allowed as an accessory use to any other use. A Medical Marijuana Treatment Center may not be classified as, or a type or kind of, any other business, institutional or other use set forth by this Ordinance. "Adult Day Health Center" is specifically excluded from this definition. Marijuana Establishments are specifically excluded. Medical Marijuana Treatment Center may also be known as a Registered Marijuana Dispensary.

Mixed-use Development: A development containing a mix of residential uses and non-residential uses, including, commercial, institutional, industrial, or other uses. This definition

expressly applies only to development of property located in the MBTA Communities Multi-family Overlay District (MCMOD) or the Mandatory Mixed-Use Overlay District (MMUD)

Motor Vehicle Repair Shop: A building, or part thereof, in which major repairs, structural or mechanical, are made to motor vehicles, or in which heavy machinery is used in repairing motor vehicles. This is to include body work and painting of motor vehicles.

Motor Vehicle Services: A building or structure or part thereof, used for providing services to motor vehicles, including but not limited to car washing, oil changes, detailing and routine maintenance services, excluding fuel, with facilities for making minor changes and adjustments to motor vehicles, without the use of heavy machinery, but not structural changes nor major mechanical repairs. Motor Vehicle Services is expressly defined to exclude any use classified as a Motor Vehicle Repair Shop or Gasoline Filling Station. Any use classified as Motor Vehicle Services shall not be considered Retail Services for purposes of use regulations, dimensional controls and parking and loading requirements.

Multi-family Housing: A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building. This definition expressly applies only to development of property located in the MBTA Communities Multi-family Overlay District (MCMOD) or the Mandatory Mixed-Use Overlay District (MMUD)

New Construction: Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14] This definition is only applicable to property in the Flood Plain District.

Nonconforming Building: A building lawfully existing or lawfully begun at the date of the first publication of notice of the public hearing on this ordinance which in its location upon a lot does not conform with the regulations of this ordinance.

Nonconforming Lot: A lot lawfully existing at the date of the first publication of notice of the public hearing on this ordinance which does not conform with the minimum dimensional controls of the ordinance.

Nonconforming Use: A use of a building or of land lawfully existing or lawfully begun at the date of the first publication of notice of the public hearing on this ordinance that does not conform with the regulations of this ordinance.

Parking Aisle: That area adjacent to a parking space or spaces through which a motor vehicle must move to enter or exit.

Planned Development: A multi-use development guided by a Development Master Plan, as defined by this ordinance, see MCC 12.12.130.

Porch: An exterior covered or uncovered area as an appendage to a house at least large enough in area to place a chair without interfering with pedestrian movement.

Public Service Corporation: A utility controlled and licensed by the state Department of Public Utilities, general offices and may include accessory warehouse, motor vehicle repair, parking facility.

Recreation for Gainful Business Secondary to Club/Lodge: A recreation for gainful business

that is secondary to a Club or Lodge, as defined by this ordinance. A recreation for gainful business use secondary to club/lodge shall be restricted to a specific occupant or tenant and may only be for one of the following types of recreation for gainful business: dance studio, fitness studio, gym, karate studio, martial arts studio, yoga studio, or similar type of recreation for gainful business. The following types of recreation for gainful business use are expressly excluded: arcade, billiards/pool hall, bowling alley, movie theatre, playhouse/theatre and radio-controlled car track. Only movable, non-permanent equipment may be used and no permanent equipment or fixtures may be installed at the property to accommodate a recreation for gainful business use secondary to club/lodge. No building or structure may be erected or enlarged to accommodate the recreation for gainful business use secondary to club/lodge.

Recreational Vehicle: A vehicle which is:

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [US Code of Federal Regulations, Title 44, Part 59] This definition is only applicable to property in the Flood Plain District.

Regulatory Floodway: See Floodway.

Research and Development Facilities: Facilities including but not limited to laboratories which engage in research, experimental and testing activities, and product development, including but not limited to the fields of biology, biotechnology, chemistry, electronics, engineering, geology, medicine and physics, specifically excluding any Marijuana Establishment, Independent Marijuana Testing Laboratory and Marijuana Research Facility. Some test production may be included, but the primary function is research.

Retail Sales: A retail store that carries a broad range of different products, such as a dollar store, or a large selection of a particular kind of products, such as an auto parts store, and specifically excluding a supermarket or grocery store, and specifically excluding any Marijuana Establishment and Marijuana Social Consumption Establishment.

Rooming House: A building in which five (5) or more persons either individually or as families are housed for hire in individual rooms with or without meals and shall include lodging, boarding, and tourists houses.

Self Storage Facility: A building or structure whose primary purpose is the rental of specifically designated areas within the facility to unrelated individuals for storage of personal property.

Setback: The horizontal distance measured perpendicularly from the street line into the lot. (See Front Yard).

Short Term Rentals: An owner occupied, tenant occupied or non-owner occupied building, structure or property, or part thereof, which is not a licensed hotel, motel, or rooming or lodging house, or group dwelling which is used for any residential use on a short term basis, which is herein defined to be thirty (30) days or less, whether through a rental agreement, lease license or any other type of agreement and whether as a principal use or an accessory use to any other use. Any variance of any language of this definition shall be deemed to be a use variance and is expressly prohibited.

Sign: Individual or groups of letters, words, pictures, logos, emblems, objects, or symbols arranged in such manner as to attract visual attention from outside a building; intending to convey a coherent message or messages (i.e., company name, logo, product, service, activity,

etc.); and consisting of similar or related materials within reasonable proximity of each other.

Sign Area: The face of a sign, to be measured in square feet. In the case of signs enclosed within an obvious border or built as a separate unit, the entire area (including border) shall be included in the computation of sign area. In the case of affixed to the side of a building or structure, but not enclosed within an obvious border, sign area shall be computed on the basis of the smallest simple geometric shape which encompasses the entire sign.

Special Flood Hazard Area: The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202] This definition is only applicable to property in the Flood Plain District.

Start Of Construction: The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202] This definition is only applicable to property in the Flood Plain District.

Story: The part of a building or structure between any floor and the floor or roof above, not less than seven and one-half (7 1/2) feet average vertical height, excluding cellar, steeples, penthouses, or other projections used or intended to be used exclusively for utility services or access to the roof. A story which encompasses fifty (50) percent or less of the footprint of a building shall be considered a one-half (1/2) story.

Street: A public way which has been accepted for public use; an existing private way in use which has not been accepted for public use; a way approved under the Planning Board Subdivision Regulations.

Street Line: The outside limit of a street or way dividing it from the abutting lots.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59] This definition is only applicable to property in the Flood Plain District.

Substance Abuse Treatment Center: An entity, however, organized, routinely providing substance abuse treatment services, including, but not limited to consultation; counseling; dispensing of medication to treat substance abuse; dispensing prescriptions (to be filled) for medication to treat substance abuse; examination; all forms of sample collection and laboratory testing, including, but not limited to blood draw, swab-testing and urinalysis; therapy. No Substance Abuse Treatment Center shall be located within 300 feet of the property line of a property used for a residential dwelling, public or non-profit school or public park or playground. A special permit issued to a Substance Abuse Treatment Center is non-transferable and non-

assignable. "Adult Day Health Center" is specifically excluded from this definition.

Substantial Repair Of A Foundation: When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall

require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC] This definition is only applicable to property in the Flood Plain District.

Supermarket: A retail store that carries a broad range of food products and may also sell limited selection of other items, such as household items, flowers and books. Supermarkets include grocery stores and exclude convenience stores. Dimensional controls and parking requirements shall be the same as for general retail sales.

Towing: A building, or part thereof, and/or a lot, or part thereof, used for the storage for any length of time of any number of commercial and/or noncommercial, registered and/or unregistered, automobiles, trucks and/or other motorized vehicles that have been towed for any purpose or reason and/or that is used to perform towing. This is to include any individual or business that performs towing as its primary purpose and/or performs towing independently of any other business in which it engages.

Use, Accessory: A purpose supportive to or dependent upon the principal purpose of a building, structure, or lot.

Use, Principal: The primary purpose of a building, structure, or lot, including accessory uses. In the case of residential apartments, different height categories in the Table of Intensity Regulations, MCC 12.16.010, shall be interpreted as distinct uses.

Variance: A grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59] This definition is only applicable to property in the Flood Plain District.

Vehicles Sales or Rental: A building or part thereof, and the adjacent parking area, used for the storage or display of automobiles or trucks for sale or use under a rental agreement. Truck shall mean a commercial vehicle. Any unregistered vehicles in excess of 10,000 lbs. gross vehicle weight shall be considered a truck. A vehicle sales or rental business is a type of general sales and/or general retail services business.

Violation: The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59] This definition is only applicable to property in the Flood Plain District.

Warehouse: A building or structure whose primary purpose is for the storage of goods and materials intended for use in manufacturing or the post-production storage of goods and merchandise prior to distribution for sale, specifically excluding any Marijuana or Marijuana Products. This shall not be interpreted to include storage incidental to the normal operation of a retail sales or service operation within the same building or structure.

Working Artist: A person who is able to present a recent body of work and who derives a substantial portion of his/her annual income from art or creative work that is written, composed, created, performed or executed for a “one of a kind,” limited production, exclusive of industry-oriented distribution or production, including but not limited to, art directors; craft artists; fine artists (including painters, printmakers, sculptors, photographers, illustrators, multi-media artists and animators); performing artists (dancer, actor, performer, musician or singer); art teachers; painting restorers and/or other art-related workers. “Body Art” is excluded from this definition. Said working artist shall be certified as such by a letter from the Office of Strategic Planning & Community Development confirming that the artist has been reviewed by a committee of three (3) peers and has demonstrated that he is a working artist as defined by this section.

Yard, Front: An open, unoccupied space extending the full width of the lot and situated between the street line and the nearest part of a building including steps, landings and porches. (See Setback).

Yard, Rear: An open unoccupied space extending across the full width of the lot and lying between the rear line of the lot and the nearest part of a building including steps, landings and porches.

Yard, Side: An open unoccupied space between the side line of the lot and the nearest part of a building including steps, landings and porches and extending from the front yard to the rear yard, or in the absence of either, to the street or rear lot lines as the case may be.

Zone A: the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, the best available federal, state, local and other data will be used. This definition is only applicable to property in the Flood Plain District.

Zone AE: the 100-year floodplain where the base flood elevation has been determined. This definition is only applicable to property in the Flood Plain District.

Zone X: areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. This definition is only applicable to property in the Flood Plain District.

HISTORY

Amended by Ord. [261-20A](#) Amend Section on 4/27/2021

Amended by Ord. [418-23](#) on 12/21/2023

Amended by Ord. [13-25](#) on 1/29/2025

Amended by Ord. [376-24](#) on 2/13/2025

Amended by Ord. [389-24](#) on 3/12/2025

Amended by Ord. [172-25](#) on 7/1/2025