

Section 3

DEFINITIONS

In construing this By-Law the following words shall have the meaning herein given, unless a contrary intention clearly appears.

(A) Construction of Language

The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word “shall” is mandatory, and the word “may” is permissive; the words “used” or “occupied” include the words “intended”, “designed”, or “arranged to be used or occupied”; the word “building” includes the word “residence”; the word “lot” includes the words “plot” or “parcel”.

Terms not defined shall have the customary dictionary meaning.

(B) Definitions

1. Accessory. A structure, building or use which: (1) is subordinate in function to and serves a principal building or principal use; (2) is subordinate in area or extent to the principal building or principal use served; (3) contributes to the comfort, convenience, or necessity of occupants or the principal building or use; and (4) is located on the same lot as the principal building or use.
2. Affordable Housing. Dwelling units restricted to rental or purchase by households with an annual income no greater than 80% of the median income for South Hadley, as calculated by the U.S. Department of Housing and Urban Development or any successor agency, adjusted for family size. Such units must be countable under M.G.L. Chapter 40B as part of the Town’s Subsidized Housing Inventory.
3. Alteration. Any change or modification in the plan, construction, or structural support of a building, structure or use.
4. Aquifer. Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.
5. Apartment. A dwelling unit in a multi-family dwelling or in a mixed-use building.
6. Attached. Connected to or united with.

7. Attic. The space between the ceiling of the top story of a building and its roof and not used for living, sleeping or eating quarters. The word “attic” shall exclude footage greater than one-half of the cubic footage enclosed in the story in the same building that is immediately below that area.
8. Automotive Repair and Service. Establishment for principal purpose of sale of motor vehicle fuel and/or related products, service and repair.
9. Base number of dwelling units. In connection with a Flexible Development, the number of dwelling units which could reasonably be permitted in compliance with the dimensional requirements of the underlying zoning district. See Section 7J.
10. Bed and Breakfast Home. An owner-occupied single-family dwelling (including accessory structure located on the same parcel as the owner-occupied dwelling) which may rent rooming units for transient occupancy, (without individual kitchen facilities and with an individual or shared bath/toilet facility, with at least one toilet, one bath/shower and one wash basin, separate from those required for the single-family dwelling), which share a common entrance for the single-family dwelling and transient occupants are provided at least one daily meal as part of their occupancy. The use of that portion of the dwelling devoted to transient occupancy shall be secondary to the use of the dwelling as a single-family residence and shall not change the character thereof. This term shall be interpreted as including “Lodging Houses” subject to the provisions of Sections 5(E) and Section 7(R).
11. Bed and Breakfast Inn. An owner-occupied building or grouping of buildings which may rent rooming units for transient occupancy, (without individual kitchen facilities and with an individual or shared bath/toilet facility, with at least one toilet, one bath/shower and one wash basin, separate from those required for the single-family dwelling), which share a common entrance for the building and transient occupants are provided at least one daily meal as part of their occupancy. The use of that portion of the building devoted to transient occupancy shall not change the character thereof. This term shall be interpreted as including “Lodging Houses” subject to the provisions of Sections 5(E) and Section 7(R).
12. Building. A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition “roof” shall include awning or any similar covering, whether or not permanent in nature. The word “building” shall be construed, where the context requires, as though followed by the words “or part or parts thereof.” Accordingly, a structure which does not meet the definition of a Building by virtue of not having a roof but is attached to a Building shall be considered to be part of the Building and treated as a building for compliance with dimensional standards.

13. Business. The transacting or carrying on of a trade or commercial enterprise with a view to profit or for livelihood.
14. Business Service. Establishment primarily engaged in rendering services to business establishments on a fee or contract basis, including but not limited to the following; advertising and mailing; building maintenance; employment service; management and consulting services; protective services; equipment rental and leasing; commercial research, printing and duplication services, computer repair, etc.
15. Cemetery. A place or area of land, set apart for the burial of the dead, operated, managed and controlled under the provisions of Chapter 114 of the General Laws, or a burial place under the care and supervision of the Town or other public authority.
16. Commercial. Any use classified under the category “Business Uses” in the Use Table in Section 5E.
17. Compatible. Capable of existing together in harmony.
18. Condominium. A system of ownership of real estate, including commercial, industrial, and attached and detached residential dwelling units, established pursuant to the Condominium Act of the Commonwealth of Massachusetts, Chapter 183A of the Massachusetts General Laws, in which the apartments or dwelling units are individually owned and the land and common areas are owned in common. A condominium is not a use or a building type; rather it is a form of ownership that can apply to any use or building type.
19. Conservation Restriction. A permanent restriction in the title to land of the type described in G.L. Chapter 184, Sections 31 – 33. As used in this bylaw “Conservation Restriction” also includes an Agricultural Preservation Restriction, a Watershed Preservation Restriction, or a Preservation Restriction as defined in G.L. Chapter 184, Section 31.
20. Continuing Care Retirement Community. A structure or structures containing independent living units, health care facilities, and other related services and amenities provided to three or more elderly persons by a person unrelated by consanguinity or affinity to the persons receiving such services.
21. Corner Lot. A lot bounded on two sides by intersecting streets.
22. Coverage, Building. The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.

23. Coverage, Impervious Surface. The percentage of the area of a lot that is impervious to water, including, but not limited to, areas covered by structures and paving, including swimming pools and paved recreational surfaces.
24. Crematory. A building containing a furnace designed and intended to be used for cremating the dead and owned and controlled by a cemetery corporation or crematory corporation duly organized under the Mass. General Laws.
25. Density. The number of dwelling units per acre of land.
26. District. A specified portion of the Town, delineated on the Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of the By-Law.
27. Drive-in Service. Establishment that by design, physical facilities or services or by packaging procedures encourage or permits customers to receive services, obtain goods, or be entertained while remaining in their vehicles.
28. Dwelling. A building occupied exclusively as a residence for one or more families.
29. Dwelling, Multi-Family. A dwelling containing three or more dwelling units. A single parcel containing detached or attached single-family and/or two-family, dwellings is not a Multi-family Dwelling. (See Section 7F.)
30. Dwelling, Single-Family. A detached dwelling containing one dwelling unit.
31. Dwelling, Single-Family attached. A single-family residence on its own lot that shares one or more walls with an adjoining single-family residence.
32. Dwelling, Two-Family. A dwelling containing two dwelling units.
33. Dwelling Unit. A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, and eating. The term shall include mobile homes but shall not include house trailers or recreational vehicles.
34. Dwelling, Zero lot line. See “Zero lot line housing.”
35. Extension. The expansion or enlargement of a building, structure, or use.

36. Family. One or more persons occupying a dwelling unit and living as a single housekeeping unit. For purposes of the By-Law, a family shall not exceed four (4) persons not related by blood or marriage.
37. Fence. An artificially constructed barrier of any material or combination of materials erected or grown to enclose, screen or separate areas.
38. Fifty-Five and over community. A residential development which is developed and managed to require that at least 80% of the residents are 55 years of age or over.
39. Flag Lot. A lot not meeting minimum frontage requirements and where access to the existing public way is by a narrow, private access strip.
40. Flea Market. A building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that may be either homemade, homegrown, handcrafted, old, obsolete, or antique and may include selling goods at retail by individuals or businesses who are generally engaged in retail trade. Flea markets may be conventional, permanent profit seeking businesses and require all local permits and licenses. (*Adopted May 8, 2004 Town Mtg.*)
41. Flexible development. A process and type of residential development whether or not by subdivision, which is designed to maximize the preservation of open space and visual assets that are significant to the community. See Section 7J.
42. Floor Area. The sum of the areas of habitable or commercially usable space on all floors of a structure, including the interior floor area of all rooms (including bathrooms and kitchens), closets, pantries, hallways that are part of a dwelling unit or inside a commercial building, including habitable finished basements but excluding cellars or unfinished basements.
43. Frontage. The length of a front lot line adjacent to a street, provided however that the minimum frontage required by this By-Law shall be satisfied by a continuous, uninterrupted segment of such frontage.
44. Frontage – Flag Lot. The length of the flag lot front lot line parallel to and a distance back from the existing public way front lot line where the required minimum continuous uninterrupted segment of such frontage can be satisfied.
45. Gasoline Filling Stations. Establishment or principal purpose of sale of motor vehicle fuel and convenience products.
46. Groundwater. All water found beneath the surface of the ground.

47. Hazardous Material. Material including but not limited to, any material, in whatever form, which because of its quantity, concentration, chemical, corrosive, flammable, reactive toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of used, or otherwise managed. The term shall not include oil.
48. Hazardous Waste. A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the Regulations of the Massachusetts Hazardous Waste Management Act, Massachusetts General Laws, Chapter 21C.
49. Height. The vertical distance between the highest point of the roof of a building and the average finished grade of land on which the building is located. For purposes of this By-Law, the term “height” shall not apply to chimneys, steeples, flag or radiopoles, antennas, aerators, required bulkheads, elevator penthouses, or other equipment appurtenances necessitated by the permitted use to which a building is put. In addition, the term, “height” shall not apply to solar energy collectors and equipment used for the mounting or operation of such collectors, provided however that such collectors or equipment shall not impair solar access of other building or other solar installations.
50. Home Occupation. An occupation, trade, or profession, including a not-for-profit organization, which results in a product or service for compensation which is: (1) customarily carried on in a dwelling unit; (2) pursued by a person residing in the dwelling unit; and (3) incidental and secondary to the use of the dwelling unit for residential purposes. Such home occupation may include but are not limited to the following: office or studio of a building contractor, physician or surgeon, dentist, artist, lawyer, handicraft person, architect, professional engineer, realtor or real estate broker, insurance agent or broker, psychologist or counselor, notary public, teacher of scholastic subjects, accountant, hairdressers, beauty parlor operators, or teachers of piano. There are multiple categories or types of Home Occupations, which are shown on the Use Table in Section 5D and described and regulated by Section 7A.
51. Hospital. An institution where only sick and disabled persons are given medical, surgical or convalescent care.
52. Hotel. An establishment providing lodging on a short term basis, usually less than one week; dining rooms, function rooms and other support services may be included. Access to the individual sleeping rooms is usually through a lobby and interior corridors.

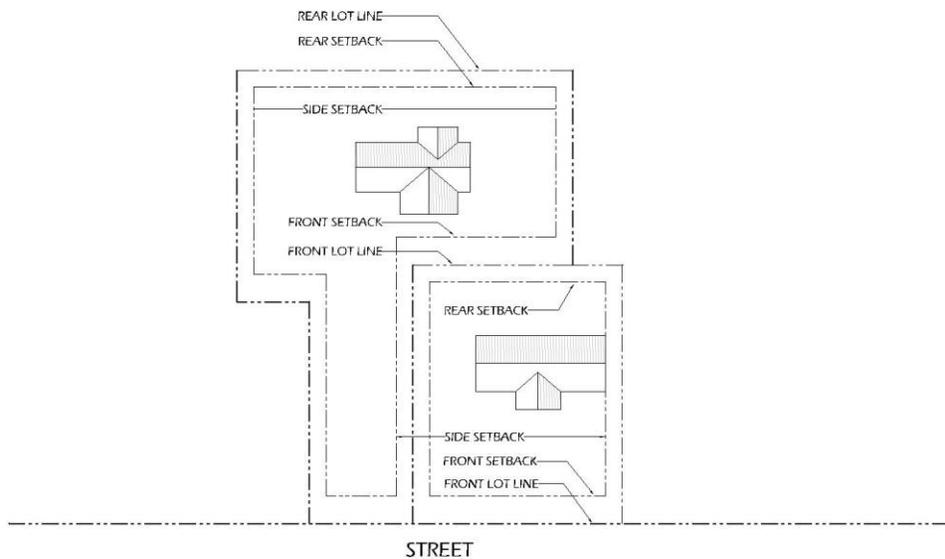
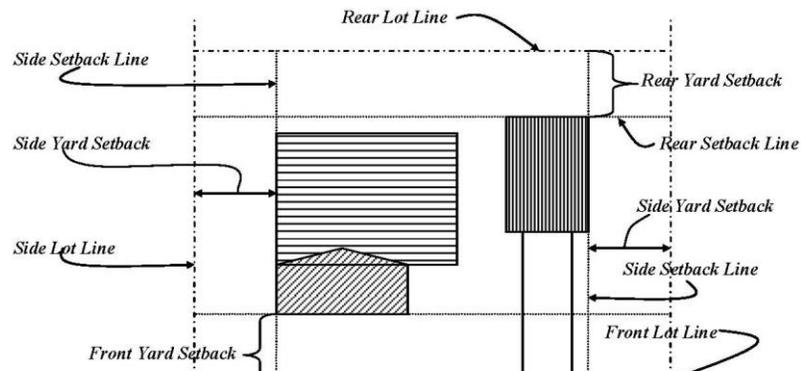
53. House Trailer. A portable structure used for temporary living or sleeping purposes and which is equipped with wheels or similar devices used for the purpose of transporting said structure from place to place.
54. Impervious Surfaces. Materials or structures on or above ground that do not allow precipitation to infiltrate the underlying soil.
55. Industrial: Any use classified under the category “Industrial Uses” in the Use Table in Section 5E.
56. Junk. Articles such as old iron, brass, copper, tin, lead or other base metals, plastic, cordage, old bags, rags, waste paper, paper clippings, scraps, clips, rubber, glass, empty bottles, empty cans and all other articles discarded and no longer used as a manufactured article, composed of one or more of the materials mentioned but which may be converted into some other product by means of some manufacturing process.
57. Landscaping. The arrangement of landforms and vegetative cover for aesthetic effect.
58. Leachable Materials. Materials including but not limited to solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.
59. Loading Space. Off-street space logically and conveniently located for bulk pickups and deliveries by truck, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.
60. Lodging House. A residence where lodgings are let to five or more persons not within the second of kindred to the person conducting the house and which does not contain a public dining room or cooking facilities in any rented sleeping room.
61. Lot. A parcel of land which is or may be occupied by a principal building and its accessory buildings, together with such open yard areas as are required under the provisions of this By-Law. To be used for building purposes, such lot must have frontage on a street as defined below, excepting only a preexisting lot exempted by the provisions of Section 6 of Chapter 40A of the Mass. General Laws. A lot line is a boundary of a lot.
62. Lot Coverage. Same as Building Coverage.
63. Manufacturing. The fabricating, assembly, conversion, altering, finishing or other process treatment of materials, substances, parts or products.

64. Master Plan. The South Hadley Master Plan adopted by the South Hadley Planning Board and Town Meeting, as amended.
65. Medical Marijuana Cultivation and Processing Facility (MMCPF). A MMTC which acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, or sells marijuana, products containing marijuana, related supplies, or educational materials to MMOSD sites. Such facilities do not sell or dispense products on site to consumers, patients, or personal caregivers; but sells or transfers such products to one or more MMOSD sites for such selling or dispensing. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.
66. Medical Marijuana Treatment Center (MMTC). A not-for-profit entity registered and approved by the MA Department of Public Health on accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a registered marijuana dispensary (RMD), that 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 materials to registered qualifying patients or their personal caregivers. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.
67. Medical Marijuana Off-Site Dispensary (MMOSD). A Medical Marijuana Facility/Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility and only distributes/dispenses the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers.
68. Mixed-Use Building. A building containing a combination of residential and non-residential uses.
69. Mixed-Use Development. Any combination of residential, commercial, and/or industrial uses on the same lot at the time of initial approval.
70. Mobile Home. A structure designed as a dwelling unit for location on a permanent foundation, and containing sleeping accommodations and sanitary and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, which is designed to be transported after fabrication on its own wheels to a site for use.

71. Motel. An establishment providing lodging on a short term basis, usually less than one week where access to the individual sleeping rooms is usually directly from parking spaces or by an exterior walkway.
72. Non-conforming Use. A use of a building, structure or lot in a manner not in accordance with the use or dimensional regulations of the district in which it is situated.
73. Office. A workplace used for the transaction of business or non-profit functions, excluding as principal uses manufacturing, retail construction, and warehousing and including but not limited to professional offices and offices that support or manage on-site or off-site manufacturing, retailing, construction, and warehousing, as well as research laboratories and other facilities in which research activities are conducted. An office that is operated as part of another primary use on the use table shall be considered accessory to that primary use and not a separate use.
74. Park. A tract of land, designated and used by the public for active and passive recreation and maintained as public property.
75. Parking Space (Off-Street). For purposes of this By-Law, an off-street parking space shall consist of an area for parking an automobile with room for opening doors on both sides, together with properly related access to a street and sufficient maneuvering room, but shall be located totally outside of any street or alley right-of-way.
76. Personal Service Establishment. Any building wherein the primary occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person. Personal service establishments shall include, but not be limited to: barber shops; beauty shops; pet grooming establishments; laundering, cleaning and other garment servicing establishments; tailors; dressmaking shops; shoe cleaning or repair shops; eyeglass shops; health clubs; and other similar places of business, but not including offices of physicians, dentists and veterinarians, or any other recognized professional.
77. Playground. An active recreational area with a variety of facilities, including equipment for younger children as well as court and field games.
78. Primary Aquifer Recharge Area. Areas which are underlain by surficial geological deposits including glaciofluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of water supply wells.
79. Principal Building. The primary use to which the premises are devoted, and the main purpose for which the premises exist.

80. Principal Use. The primary use to which the premises are devoted, and the main purpose for which the premises exist.
81. Professional Engineer. A person employed in a practice of engineering as defined in Chapter 112, Section 81D, of the Mass. General Laws.
82. Professional Service. Establishment primarily engaged in rendering services by professional persons on a fee or contract basis, including, but not limited to the following: accounting, auditing, and bookkeeping; medical, dental or health; planning, engineering and architectural; education and science; attorneys and notary publics; finance, insurance and real estate (FIRE); travel agencies; etc.
83. Protected Open Space. Land that is permanently protected from development by a conservation restriction, dedication as parkland, or equivalent form of perpetual legal restriction on development.
84. Recreational Vehicle. A vehicle or vehicular attachment designed for temporary sleeping or living quarters, which is not a dwelling and which may include a pick-up camper, travel trailer, or tent trailer.
85. Restaurant. A commercial establishment in which the primary activity consists of the preparation and serving of food for consumption on the premises or as take-out, including a bar or pub or other establishment that sells food and alcoholic beverages for on-premises consumption, excluding catering businesses and retail uses that sell prepared food.
86. Restoration. The reconstruction or repair of a building or structure to its original plan, size and use.
87. Retail/Retail Sales. An establishment selling goods directly to the general public for personal and household consumption, including but not limited to an appliance store, bakery, delicatessen, drug store, florist, grocer, hardware store, liquor store, newsstand, shoe store, stationery store, convenience store, and variety store, excluding a restaurant.
88. Sanitarium. An institution for the recuperation or treatment of persons suffering from physical or mental disorders.
89. Scenic views. Views significant to the cultural and environmental heritage of South Hadley including, but not limited to, views of the Mount Holyoke Range, Mount Tom, and the Connecticut River.
90. School. A building devoted to the instruction or education in primary, secondary, high school, or post-high school grades.

- 91. Secondary Aquifer Recharge Area. Areas which are underlain by surficial geologic deposits including till or bedrock, and in which the prevailing direction of surface waterflow is toward public water supply wells or potential sites for such wells.
- 92. Secondhand. Having been used or owned by some person other than the dealer offering the same for sale and which may be used without alteration.
- 93. Service. The performance of any act for the benefit of another with a view to profit or for a livelihood.
- 94. Setback. The minimum required unoccupied space or distance between lot line, and any part of a principal or accessory building nearest such lot line, such unoccupied space or area extending the entire distance across the lot. Front, side and rear setback lines are identified in accordance with the diagram below:



95. Sign. Any word, letter, symbol, drawing, picture, design, name, identification, description, display, illustration, or device including billboards, or any combination of one or more of the foregoing, which identifies or calls attention to the premise, person, activity, or business, but not the trade name of products unless such products involve over seventy-five (75%) percent of the total sales of an establishment.

Any structure or device intended or erected for the above-described purpose shall be considered a sign for purposes of this By-Law. The area of a sign shall be determined by measuring the smallest rectangle which encompasses the outermost components of the sign exclusive of any supporting structure.

96. Significant tree. A tree with a diameter of 18 inches or more as measured 4.5 feet above the ground.
97. Special Municipal Account. Application review fees imposed on a developer to cover the costs incurred by the Planning Board and/or Zoning Board of Appeals for the employment of outside professional expertise and/or consultants due to the nature of a proposed project or a project's potential impact.
98. Story. The horizontal portion through a building between floor and ceiling. The word "story" shall not include the portion of the basement or cellar of a building above grade, provided that such portion is not more than one-half (1/2) of the floor-to-ceiling height of said basement or cellar. The word "story" shall not include "attic" as defined herein.
99. Street. A way, whether public or private, set aside for the passage of persons, animals or vehicles, and which is: (1) a public way accepted by the Town or a way which the Town Clerk certifies is maintained and used as a public way; or (2) a way shown on a plan approved and endorsed by the Planning Board in accordance with Chapter 41 of the Mass. General Laws (Subdivision Control Law); or (3) a way in existence when said Subdivision Control Law became effective in South Hadley having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and having sufficient and adequate municipal services to serve such land and the buildings erected or to be erected thereon.
100. Street Line. The dividing line between a street and a lot and in case of a public way, the street line established by the public authority laying out said way upon which the lot abuts.
101. Structure. A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, tower, fence, sign, pole, mast, or the like.

The word “structure” shall be construed, where the context allows, as though followed by the words “or part or parts thereof.”

102. Subdivision. The division of a lot, tract or parcel of land into two or more lots, sites, or divisions of land, in such a manner as to require provisions for a street for the purpose as provided in Chapter 41 of the Mass. General Laws (Subdivision Control Law). The word “Subdivision” shall include “resubdivision” in relation to the processes of subdividing or to land already subdivided, when appropriate to the context.
103. Subdivision Regulations. The “Rules and Regulations Governing the Subdivision of Land in the Town of South Hadley, Massachusetts” promulgated by the South Hadley Planning Board, as amended from time to time.
104. Swimming Pool. A facility used for swimming, diving or water sports which may be either: (1) A below-ground artificial or semi-artificial receptacle or container of a pool of water located below surrounding grade and having a depth of at least twenty-four (24) inches, as measured from the lowest point in the pool a vertical distance to the ground level; or (2) an above-ground artificial or semi-artificial receptacle or container of a pool of water located above surface grade with a diameter of fifteen (15) feet or greater at the outside dimension and a capacity to hold water at a depth of twenty-four (24) inches or more.
105. Trucking Terminal. Business which services or repairs commercial trucks which are not owned by the business.
106. Use. The purpose for which land or a building or structure is arranged, designed, intended or erected, or for which land or a building or structure is or may be occupied.
107. Vehicle. As used in this By-Law, the term vehicle shall include within its meaning the following: cars, trucks, vans, recreational vehicles, and mobile construction equipment.
108. Watershed. Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage of such water courses and bodies.
109. Wetland. A freshwater wetland as defined in the Massachusetts Wetlands Act, M. G.L. Chapter 131, Section 40.
110. Wholesale sales and warehousing. A business in which materials, goods, or equipment are stored and/or held and transported for distribution, including mini-storage and self-storage facilities.

111. Yard. The area of land on a lot not occupied by a principal or accessory building.
112. Zero lot line housing. A form of development in which each single-family residence is on a separate lot and has no setback from one side lot line.
113. Zoning Enforcement Officer. The person or persons designated to enforce these Zoning By-Laws and Mass. General Laws, Chapter 40A; who shall be the Building Commissioner and any individual employed as a By-Law Enforcement Officer for the purpose of enforcing By-Laws, regulations and relevant statutes.