

SECTION 14: DEFINITIONS

Existing Bylaw Section: Section 1 – General

Approach: This section was drafted to accomplish the primary objective of making the definitions more consistent with the actual provisions of the bylaw, for clarity. This is accomplished with the addition of numerous new definitions, revised definitions, and some carry-overs from the existing bylaw, all as noted in Section 14.

1. General Rules

For the purpose of this Bylaw and unless the context of usage clearly indicates another meaning, certain terms and words shall have the meaning given herein. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered," to be used or occupied; the word "building," "structure," "lot," "land," or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory.

Terms and words not defined herein but defined in the Massachusetts State Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary. Uses listed in the Use Schedule B under the classes Retail and Service Trades and Wholesale Trade and Manufacturing shall be further defined by The North American Industry Classification System (NAICS) published by the U.S. Bureau of the Census.

2. Selected Words and Terms

ACT — The Federal Telecommunications Act of 1996.

ADEQUATE COVERAGE — The geographic area in which the carrier provides a level of service expected by the Federal Communications Commission under its license or authority.

ADULT ESTABLISHMENTS WHICH DISPLAY LIVE OR PRIVATE BOOTH NUDITY — Any establishment which provides live entertainment for its patrons which includes the display of nudity as a substantial or significant portion of such live entertainment on twenty one (21) or more days per year or which provides private or semi-private booths or areas for the viewing of live or recorded nudity, as nudity is defined in MGL c. 272, § 31.

ADULT ESTABLISHMENTS WITH ADULT MATERIALS — Any establishment selling adult books, magazines, videos, movies, software, any other media or electronic recording, or adult paraphernalia, as defined by MGL c. 40A, § 9A or MGL c. 272, § 31, provided the total display area of such adult material exceeds one thousand (1,000) square feet. Display area shall be calculated as all display areas in establishments and all buildings within a property, and in establishments and all

buildings on adjacent properties under the same ownership or control, on which any adult materials, as herein defined, are displayed and any aisles adjacent to such display areas.

AFFORDABLE UNITS — Housing units which the Special Permit Granting Authority finds are affordable for rent or purchase by households making eighty percent (80%) of the median household income for Walpole and, to the extent practicable, are only available to households whose income does not exceed eighty percent (80%) of median income, as calculated by the U.S. Department of Housing and Urban Development, with adjustments for family size, provided that there are deed restrictions, easements, covenants or other mechanisms to ensure that the units are affordable for a minimum of ninety nine (99) years. Such units shall be eligible for inclusion in and count toward the Town’s “Subsidized Housing Inventory,” as maintained by the Commonwealth's Department of Housing and Community Development or any successor agency.

AGE QUALIFICATION — An Age Qualified Village (AQV) shall constitute housing intended for persons of age fifty-five or over within the meaning of M.G.L. CH 151B, Section 4, Section 6 and 42 USC Section 3607(b)(2)(c), and in accordance with the same, at least one owner of each unit shall be at least 55 years of age or older and such owner must occupy said unit, and such development shall be operated and maintained in all other respects in compliance with the requirements of said statutes and regulations promulgated pursuant thereto.

AGRICULTURE, FLORICULTURE, AND HORTICULTURE, VITICULTURE AND SILVACULTURE — A use which has as its principal purpose the raising of agricultural products for commercial or home use, but not including the raising of livestock or farm animals on parcels of less than five (5) acres, and not including the sale of products, unless raised on the premises or as otherwise allowed under G.L.c.40A, §3..

ALTERATION — Any construction, rearrangement, reconstruction or other similar action resulting in a change in the structural parts, height, number of stories, exits, size, use or location of a building or other structure.

ANTENNA — A radiating element device by which electromagnetic waves are sent or received (whether a dish, rod, mast, pole, set of wires, plate, panel, line, cable or other arrangement serving such purpose).

AQUIFER — Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

AREA OF INFLUENCE — The area which experiences draw down by a pumping well as plotted on a two-dimensional (map) surface.

ASSISTED LIVING RESIDENCE — A profit or nonprofit entity which provides room and board and where the operator provides a minimum of two meals a day and assistance with activities of daily living for three or more elderly or disabled residents, as defined and licensed, or as may be defined and licensed in the future, by

Massachusetts General Laws.

AUTOBODY FACILITY— Establishments for metal crafting, autobody repair, auto body painting, paint spraying or interior customizing cares, trucks, and all types of motorized vehicles.

AUTOMOBILE REPAIR GARAGE — Establishment in which the principal use is the repair of motor vehicles, including maintenance servicing or upholstery.

AUTOMOBILE SERVICE STATION — Establishment in which the principal use is the retail sale of gasoline, oil, or other motor vehicle fuel, and may contain retail convenience and variety goods for retail. The premises may include facilities for polishing, greasing, washing, or otherwise cleaning, servicing, or repairing motor vehicles.

AVAILABLE SPACE — The space on a tower or other structure to which antennas of a wireless communication service provider are able to fit structurally and be able to provide adequate coverage.

AVERAGE FINISHED GRADE — A referenced horizontal plane representing the average of finished ground level adjoining a building at a point six (6) feet from the edge of the foundation.

AWNING/CANOPY — A structure attached to a building, the function of which is to shelter the building's window(s) or door(s), and pedestrians from rain, wind and sun.

BASEMENT — A portion of a building partly below grade, which has less than one third (1/3) of its height measured from finished floor to finished ceiling, below the average finished grade of the ground adjoining the building.

BED-AND-BREAKFAST — An owner-occupied single-family dwelling which may rent up to a maximum of three (3) rooming units for transient occupancy, not to exceed a total of six (6) renters (without individual kitchen facilities and with an individual or shared bath/toilet facility, with at least one (1) toilet, one bath/shower and one (1) wash basin, separate from those required for the single-family dwelling), which share a common entrance for the single-family dwelling. 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.

BIOTECHNOLOGY FACILITY — A research, experimental or testing laboratory for the application of scientific study of biological and life processes for medical instruction and commercial purposes.

BOARD OF APPEALS — The Board of Appeals of the Town of Walpole, Massachusetts.

BUFFER ZONE – An area of land located parallel to and abutting the lot line that provides a landscape screen and/or fence between a residential and non-residential land uses.

BUILDING — Any structure having a roof for the shelter, housing, or enclosure of persons, animals, chattels, or property of any kind.

BUILDING, ACCESSORY — A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

BUILDING, ATTACHED — A building having any portion of one or more walls in common with another building.

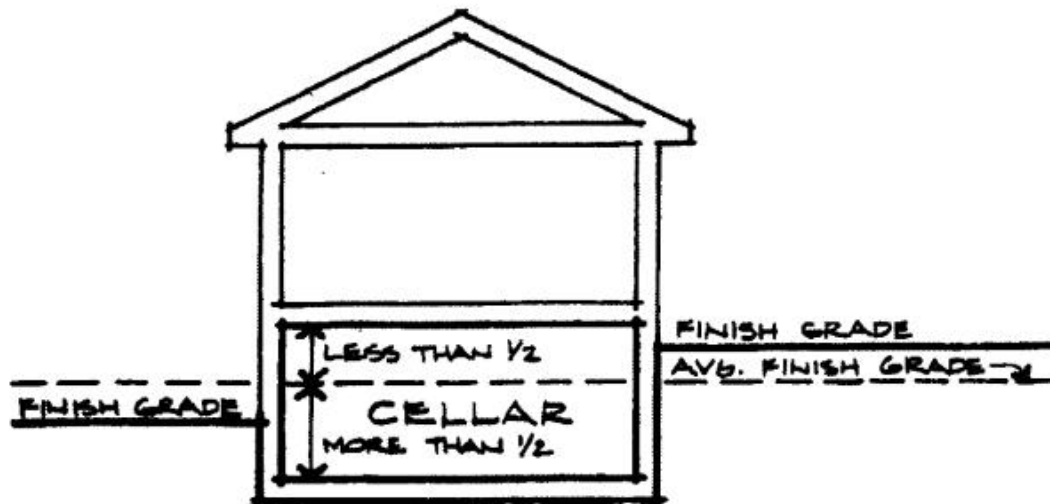
BUILDING, PRINCIPAL — A building in which is conducted the principal use of the lot on which it is located.

BUSINESS OR PROFESSIONAL OFFICE — A room, studio, suite or building in which a person transacts his business or carries on his stated occupation. For the purpose of this bylaw, an office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair or storage of materials, goods and products which are physically located on the premises. An office shall not be deemed to include a veterinary hospital.

CAMOUFLAGED — A wireless service facility that is placed within an existing or proposed structure disguised, painted, colored, or hidden by a compatible part of an existing or proposed structure, or made to resemble an architectural feature of the building or structure on which it is placed.

CARRIER — A company, authorized by the FCC that provides wireless communication services.

CELLAR — A portion of a building, partly or entirely below grade, half or more than one half (1/2) of its height measured from finished floor to finished ceiling, below the average finished grade of the ground adjoining the building. A cellar is not deemed a story. (See Diagram 1 below.)



1. A CELLAR IS BURIED BY HALF OR MORE OF ITS HEIGHT BELOW THE AVERAGE FINISH GRADE AT ITS PERIMETER.

CERTIFICATE OF USE AND OCCUPANCY — A statement signed by the Building Inspector setting forth either that a building or structure complies with this bylaw or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

CHANNEL — In the context of a Wireless Communications Facility, one of the assigned bands of radio frequencies as defined in the Act, licensed to the service provider for wireless service use.

CLEAR CUTTING — Removing all trees in a stand or wooded area of at least 10,000 SF in area.

CO-LOCATION — The use of a single mount by more than one carrier and/or several mounts on a building or structure by more than one carrier. Each service on a co-location is a separate wireless service facility.

COMMERCIAL VEHICLE — A vehicle registered for commercial use.

COMMUNICATION EQUIPMENT SHELTER — A structure designed principally to enclose equipment used in connection with wireless communication transmission and/or reception.

COMMUNITY CENTER — A facility operated by a religious, nonprofit or municipal organization primarily to provide public facilities for meetings, classes, teen centers and similar uses. A community center may include artists' space and offices for nonprofit organizations if such uses are clearly secondary to the primary use of the building and do not include any residential or overnight components.

CONCEALED — A wireless service facility within a building or other structure, which is not visible from outside the structure.

CONE-OF-DEPRESSION — A three-dimensional conical concavity produced in a water table by a pumping well.

DAMAGE TO THE ENVIRONMENT — Any destruction, damage or impairment, actual or probable, to any of the natural resources of the Commonwealth, including but not limited to air pollution, water pollution, improper sewage disposal, pesticide pollution, excessive noise, improper operation of dumping grounds, impairment and eutrophication of rivers, streams, floodplains, lakes, ponds, or other surface or subsurface water resources, destruction of seashores, dunes, marine resources, underwater archaeological resources, wetlands, open spaces, natural areas, parks, or historic districts or sites.

DEVELOPMENT — In Subsection 2.7. of the Zoning Bylaw, development shall include the entire tract of land which is the subject, in whole or in part, of:

- (a) a definitive subdivision plan submitted to the Planning Board for approval under M.G.L. c. 41 § 81U; or
- (b) a plan submitted to the Planning Board for endorsement under the provisions of M.G.L. c. 41 § 81P that approval under the subdivision control law is not required ("Approval Not Required" plan, or "ANR" plan); or
- (c) a combination of the two plans described under (1) and (2) above, which plan or combination of plans show the division of land into one or more new lots upon which single-family detached dwellings may be constructed pursuant to the provisions of Subsections 2.7.D.- E. of the Zoning Bylaw.

DEVELOPMENT PHASE — In Subsection 2.7. of the Zoning Bylaw, a period of not less than one year beginning with the date of issuance of a building permit for the first dwelling eligible to be constructed within a particular development unit and ending on the date of issuance of the final occupancy permit for all but two of the dwellings within such development unit.

DEVELOPMENT UNIT — The total number of building permits and their respective occupancy permits that may be issued within one development phase as determined by a phasing schedule developed under Subsection 2.7.E for each proposed development.

DISTRICT — A zoning district established in Section 4 of this Bylaw.

DORMITORY — A building containing sleeping rooms, dining rooms, common rooms, and accessory facilities intended exclusively for the use of students of an educational institution, having been constructed or converted by that institution or with its specific authorization.

DRIVE-IN ESTABLISHMENT — A business establishment wherein patrons are usually served while seated in parked vehicles on the same lot or served by a drive-up window. The term "drive-in" includes drive-in eating establishments where food is purchased from a building on the lot, but is consumed in the vehicle; drive-in service establishments such as banks, cleaners, and the like..

DRIVEWAY — A space, located on a lot, built for access to a garage or off-street parking or loading space.

DWELLING — A privately or publicly owned permanent structure which is occupied in whole or part as the home residence or sleeping place of one or more persons. The terms "one-family", "two-family", "three-family" or "multifamily" dwelling shall not include hotel, lodging house, hospital, membership club, mobile home, or dormitory.

DWELLING, MULTIFAMILY — A building containing four (4) or more dwelling units.

DWELLING, ONE-FAMILY — A detached building containing one (1) dwelling unit.

DWELLING, THREE-FAMILY — A detached building containing three (3) dwelling units.

DWELLING, TWO-FAMILY — A detached building containing two (2) dwelling units.

DWELLING UNIT — Rooms providing complete living facilities for the use of one (1) or more individuals, with permanent provisions for living, sleeping, eating, cooking, and sanitation, whether owned, rented, leased, or in a condominium or cooperative.

EARTH REMOVAL — Earth removal as a primary or principle commercial use is defined as a quarry, sand or gravel pit, or other commercial operations for the extraction and/or processing of earth products, including the processing of materials imported from other premises.

EXCAVATION OR FILLING OF EARTH — Those temporary excavation or filling activities that are incidental to other primary uses or activities. Excavation or filling, in these terms, shall therefore include all earth removal, filling or grading that occurs for uses other than mining or quarry operations.

FACILITY SITE — A lot or parcel, or any part thereof, which is owned or leased by one or more personal communication wireless service providers and upon which one or more wireless communication facilities and required landscaping are located.

FAMILY —

- A. Individual or two or more persons related by blood, marriage, or legal adoption living together as a single housekeeping unit and including necessary domestic help such as nurses or servants.
- B. A group of individuals not related by blood, marriage, or legal adoption, but living together as a single housekeeping unit. For purposes of controlling residential density, each such group of four (4) individuals shall constitute a single family.

FAMILY DAY CARE (IN THE HOME) — Any private residence which on a regular basis, receives for temporary custody and care during part or all of the day children

under seven years of age or children under sixteen (16) years of age if such children have special needs; provided, however, that in either case, the total number of children under sixteen (16) in family day care in the home shall not exceed six, including participating children living in the residence. "Family day care in the home" shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefore, or where all of the children are of the family of the owner-occupant of the private residence. Family day-care facilities must be registered with the Building Inspector.

FILLING — Any deposit, placement, storage redistribution of soil, earth, sand, gravel, rock, loam, or other similar material on any land, wetland, or in watercourses and including the conditions resulting therefrom.

FLOOD ELEVATION, BASE or FLOOD ELEVATION, ONE-HUNDRED-YEAR — The flood elevation as indicated on the Flood Insurance Rate Map, prepared by the U.S. Department of Housing and Urban Development for the National Flood Insurance Program.

FLOOR AREA, GROSS — The sum of the gross horizontal area of the several floors including basements of a principal building and its faces of the walls. It does not include cellars; unenclosed porches or attics not used for human occupancy; malls within a shopping center utilized purely for pedestrian circulation and/or decorative purposes between individual shops of the center; any floor space in an accessory or principal building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this bylaw; or any such floor space intended or designed for accessory heating, ventilating and air-conditioning equipment. Also known as Gross Leasable Area (GLA)

FUNERAL ESTABLISHMENT — A building or part thereof used for human funeral services. Such building may contain space and facilities for a) embalming and the performance of other services necessary for the preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; d) the storage of funeral vehicles; e) facilities for cremation; and f) the living quarters of an individual whose bona fide occupation is in the funeral establishment.

GARAGE, PRIVATE — A garage(s) for housing motor vehicles, with a capacity of not more than three (3) vehicles for a single-family detached dwelling or not more than two (2) vehicles per unit for a two-family, three-family or multi-family dwelling.

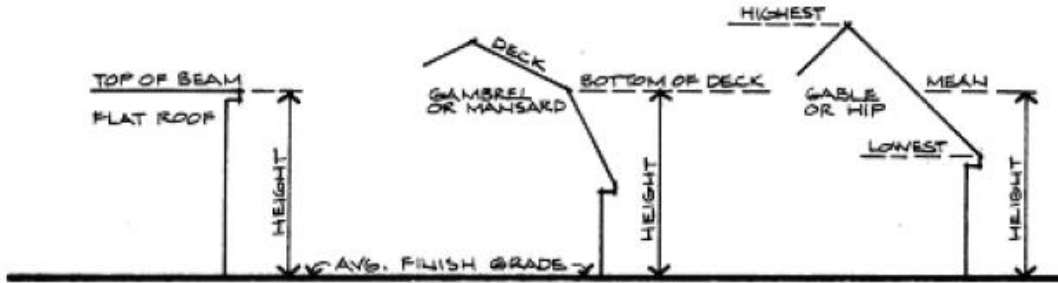
GROUNDWATER — The subsurface water present in aquifers and recharge areas.

HABITABLE SPACE — The net floor area within a dwelling unit exclusive of utility rooms, closets, attics, garages, porches, cellars and the like.

HAZARDOUS WASTE — A waste which is hazardous to human health or the environment as designated by the U.S. Environmental Protection Agency under 40 CFR 250 and the regulations of the Massachusetts hazardous Waste Management Act, MGL

c. 21C.

HEIGHT — The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, the deck of a mansard roof, or the mean level of the highest gable or slope of a hip roof. (See Diagram 2 below.)



HOME OCCUPATION — A vocation, trade, small business, craft, art or profession which can be conducted in its entirety within the main (principal) or accessory building of a property by a bona fide resident of that main building and which, by nature of its limited size and scope, does not cause any outward manifestation (such as traffic generation, parking congestion, noise or air pollution, materials storage, and public service or utility demand) which is uncharacteristic of or an additional disturbance to the residential neighborhood in which said property is located.

HOUSEHOLD QUANTITIES — Any or all of the following:

- (1) Six hundred and sixty (660) gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator. Redundant tanks of home heating oil will be exempt from this threshold; and/or
- (2) Quantities of propane used for standard household or commercial heating purposes; and/or
- (3) The total bulk storage of twenty five (25) gallons (or the dry weight equivalent) or less of other toxic or hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator; and/or
- (4) A quantity of hazardous waste at the Very Small Quantity Generator level as defined and regulated in the Massachusetts Hazardous Waste Regulations, specifically section 310 CMR 30.353.

HOSPITAL — A use providing twenty-four (24) hour emergency room services, outpatient services, and twenty-four-hour inpatient services for persons admitted thereto for the diagnosis, medical, surgical or restorative treatment including accessory uses that serve the hospital's needs, including but not limited to cafeteria and pharmacy. A hospital does not include nursing home, assisted living residence, or non-hospital

medical center or medical office.

HOSPITAL, VETERINARY — A building providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care, but not including crematory facilities.

HOTEL — A building or group of buildings, part of a building containing rooming units without individual cooking facilities for transient occupancy and having a common entrance or entrances or individual exterior entrances; and including an inn, motel, motor inn and tourist court, but not including a boardinghouse, lodging house or rooming house.

IMPERVIOUS SURFACE — Material or structure on, above, or below ground that does not allow precipitation or surface water to penetrate directly into the soil.

JUNK — Any worn out, castoff, or discarded articles or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new shall not be considered "junk."

JUNK MOTOR VEHICLE — Any motor vehicle not capable of being used as such in its existing condition by reason of being damaged or dismantled or failing to contain parts necessary for operation and otherwise qualifying as junk.

LANDSCAPED AREA — The percent of the site, including buffers and setbacks, which will be planted with vegetation (i.e., grass or live ground cover, shrubs, trees), or on which existing vegetation will be left undisturbed, underlaid by a pervious surface (soil). Used as a measure of the intensity of land use.

LEACHABLE WASTES — Waste materials including solid wastes, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to the surrounding environment, not inclusive of sewer or septic discharge or stormwater recharge.

LOADING SPACE — An off-street space at least twelve (12) feet in width, fifty (50) feet in length and with a vertical clearance of at least fourteen (14) feet. The dimensions of the loading space may be reduced by the Building Inspector to not less than three hundred (300) square feet which includes access and maneuvering space, when it is clearly evident that service vehicles utilizing said space will not require the area listed above.

LODGING UNIT — One or more rooms for the semipermanent use of one, two, or three individuals not living as a single housekeeping unit and not having individual kitchen facilities. A "lodging unit" shall include rooms in boardinghouses, lodging houses or rooming houses. It shall not include convalescent, nursing or rest homes; dormitories or charitable, educational or philanthropic institutions; or apartments, hotels or tourist homes/bed and breakfast facilities.

LOT — A parcel of land held in fee simple ownership designated on a plan or deed

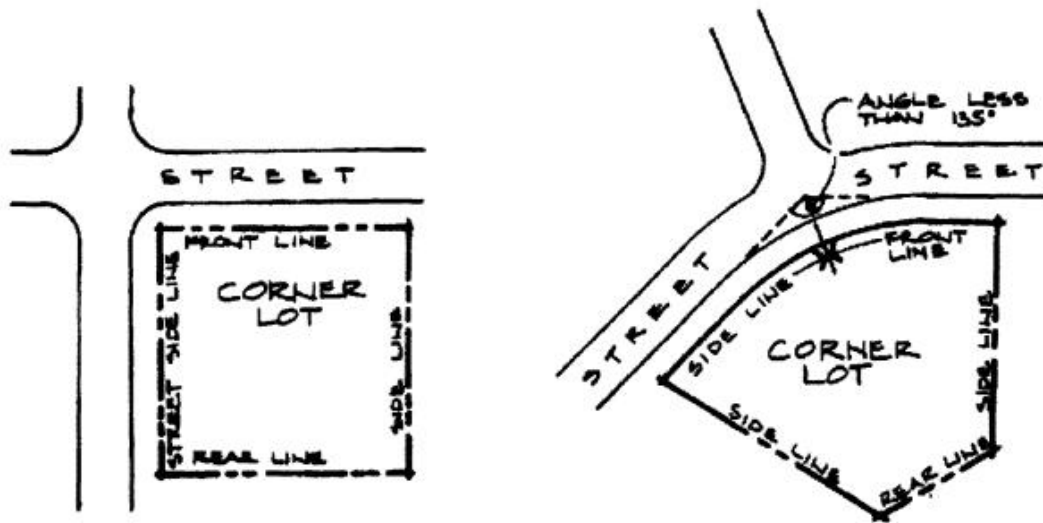
filed with the Norfolk County Registry of Deeds or Land Court; however, contiguous lots in common ownership may not be divided except in conformance with this bylaw. Two or more contiguous lots in common ownership may be treated as one lot for the purposes of this bylaw; provided that the combined lots are used as a single lot would customarily be used. The following shall not be counted toward land within the minimum lot area: land within public ways, and land within private ways and rights-of-way where the general public has the right of access by automotive vehicles.

LOT CORNER — A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or extended lot lines in case of a curved street being not more than 135°. (See Diagram 4A.& 4.B. below.)

LOT COVERAGE – BUILDING — The ground area enclosed by the walls of a building, together with the area of all covered porches and other roofed portions, including areas covered by building overhangs in excess of eighteen (18) inches.

LOT FRONTAGE — The uninterrupted length of the front lot line or setback line, as defined under Section 6-C.3.A.

LOT, INTERIOR — Any lot other than a corner lot or a through lot.



4A. A CORNER LOT HAS ONE FRONT LINE THAT MUST MEET THE REQUIRED FRONTAGE, AND ONE STREET SIDE LINE.

4B. STREETS INTERSECTING AT LESS THAN 135° FORM A CORNER LOT WITH A SINGLE FRONT LINE AND AN ADDITIONAL SIDE LINE.

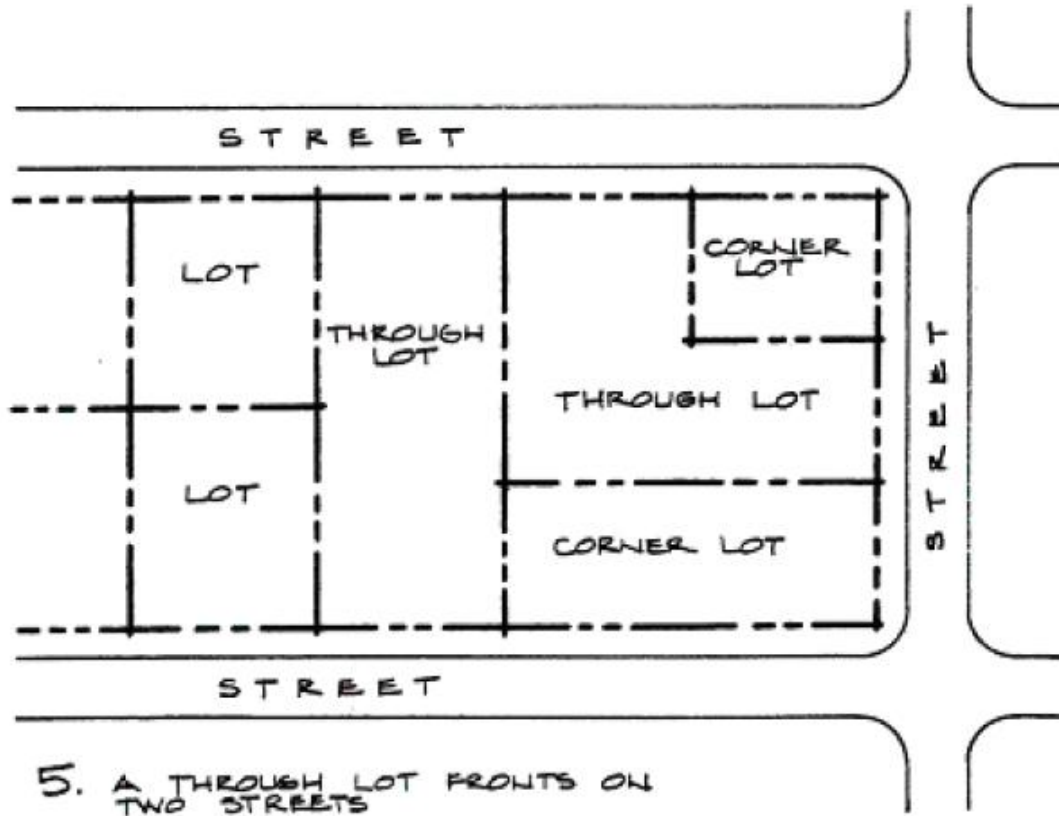
LOT LINE, FRONT — The property line dividing a lot from a single street right-of-way. In the case of a corner lot or a through lot, at least one front lot line shall conform to the minimum lot frontage requirement.

LOT LINE, REAR — The lot line most nearly opposite from the front lot line. (See

Diagram 4 above)

LOT LINE, SIDE — Any lot line not a front or rear lot line. (See Diagram 4 above)

LOT, THROUGH — A lot which abuts two streets, but not at their intersection. (See Diagram 5 below)



MANUFACTURING — Heavy or light industry, manufacture or assembly of a product, including processing, fabrication, assembly, treatment, packaging, and allowed accessory uses.

MEDICAL OR DENTAL LABORATORIES — A building or group of buildings used for the offices and facilities accessory to the practice of licensed medical practitioners, (including physicians, dentists, optometrists, ophthalmologists, and persons engaged in all fields related generally to medicine, but not including veterinarians) and including such common facilities as an outpatient clinic or emergency treatment rooms, but not including inpatient facilities.

MINING OF LAND — In Subsection 12 of the Zoning Bylaw, the mining of land shall be the removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock.

MODIFICATION OF AN EXISTING FACILITY — Any material change or proposed

change to a facility including but not limited to power input or output, number of antennas, change in antenna type or model, repositioning of antenna(s), or change in number of channels per antenna above the maximum number approved under an existing permit or special permit.

MONITORING — The measurement, by the use of instruments away from the antenna, of the electromagnetic radiation from a site as a whole, or from individual wireless communication facilities, towers, antennas, repeaters or associated power supplies and generators.

MONOPOLE — In the context of a wireless communications facility, a single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal, or a wooden pole with below-grade foundations. Monopoles may be disguised to look like flagpoles, steeples, cupolas or other natural or architectural features.

MOTOR VEHICLE — Any vehicle self propelled by a battery-powered, electric or internal combustion engine, which are permitted and requires a valid registration legally issued by a governmental authority in order to be operated on a public way. A motor vehicle shall include but not be limited to automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors.

MOTOR VEHICLE ACCESSORIES — Any part or parts of any motor vehicle.

NONCONFORMING SITUATIONS — For the purposes of this Bylaw nonconforming situations are those uses, buildings, structures, parking spaces, signs, landscaping and other activities that are now subject to the provisions of this Bylaw which were lawful before this Bylaw was adopted, or before amendments to this Bylaw which are applicable to the situation were adopted, and that do not now conform to the provisions of this Bylaw.

NONCOMPLYING SITUATIONS — Those uses, buildings, structures, parking spaces, signs, landscaping and other activities that are subject to the provisions of this Bylaw which were not lawfully created after this Bylaw was adopted, or after amendments to this Bylaw which are applicable to those situations were adopted, are in violation of this Bylaw and shall be called noncomplying situations.

NONCOMPLYING STRUCTURES 10 YEARS OR OLDER — In accordance with G.L. c. 40A, § 7, a structure which has not been in compliance with this Bylaw, or with the conditions set forth in any special permit or variance affecting the structure, for a period of ten (10) years or more from the commencement of the violation may not be the subject of an enforcement action by the Town to compel the removal, alteration, or relocation of such structure. Structures which qualify under Section G.L. c. 40A, § 7, are considered to be nonconforming structures and are entitled to treatment as such as provided in this article

NURSING HOME — Also known as extended care home, rest home, or convalescent home. A nursing home is any state-licensed facility for two or more patients that provides beds and domiciliary and/or nursing care for chronic or convalescent patients

and which is properly licensed by the state, but not including assisted living residences.

OPEN SPACE — Except for open space within an Open Space Residential Development, a landscaped, pervious area of a lot or tract of land, or an undisturbed area of a lot or tract of land which area is in its natural state, expressed as a percentage of total lot area or total area of the tract of land, associated with and located on the same lot or tract of land as a major building or group of buildings in relation to which it serves to provide light and air, or scenic, recreational, conservation, or similar purposes. Open Space may also include portions of a lot or tract of land in which the surface material must be permeable but which surface material is not limited or restricted as to type. That surface material may include vegetation, rocks, pebbles, wood chips and similar landscaping materials, or unit pavers. Such area may not include any impervious portion of the lot or tract of land used for streets and ways, parking and loading areas, access drives; or designated outdoor display or storage areas, whether pervious or impervious; or other hard surfaced areas, except walks and terraces designed and intended for non-vehicular use. All other impervious materials (for example, continuously poured asphalt or concrete) are not allowed within said open space, unless specifically exempted elsewhere in this bylaw. Pools, patios, gardens, walkways, tennis courts, basketball courts, and similar uses shall be considered open space.

OPEN SPACE RESIDENTIAL DEVELOPMENT — A development undertaken in accordance with the provisions of Section 10.D of this Bylaw, consisting of a variety of dwelling types and with a significant area of common open space, and developed at a density not exceeding that which would be ordinarily expected from a typical conventional subdivision except as otherwise provided in Section 10.D.

OPEN SPACE, USABLE — The parts of a lot used for open space purposes as defined herein.

OUTDOOR ADVERTISING BOARD — The Outdoor Advertising Board of the Commonwealth of Massachusetts or any board or official which may hereafter succeed to its powers or functions.

OUTDOOR COMMERCIAL AMUSEMENT USE — A principal (but not accessory) use operated either for profit or not for profit, with the principal purpose being the provision of outdoor recreational facilities, whether these be provided to the public at large or to the members of any particular organization, and including but not limited to any of the following uses: country, fishing, golf, tennis, or swimming club, or golf driving range, sports camp, campground, marina, or horseback riding establishment.

OWNER — The duly authorized agent, attorney, purchaser, devisee, trustee, lessee, or any person having vested or equitable interest in the use, structure or lot in question.

PERMIT, TEMPORARY OCCUPANCY — A permit issued by the Building Inspector indicating near compliance with the provisions of this bylaw and allowing occupancy or use on a temporary basis while full compliance is achieved.

PERMIT, ZONING — A permit issued by the Building Inspector on the basis of plans and other submitted material to allow construction or other preparation for the use or occupancy of a building.

PRIMARY AQUIFER RECHARGE AREA — Areas which are underlain by surficial geologic 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.

PRIMARY RECHARGE AREAS — Areas that collect precipitation or surface water and directly transmit it to aquifers or areas of pumping influence.

PROCESS WASTES — Excluding wastewater or stormwater drainage systems, non-domestic, nontoxic, non-hazardous, liquid or solid waste byproducts associated with the manufacture or preparation of a product, including but not limited to hardware, dry goods, foodstuffs, and printed material.

QUALIFIED DESIGN TEAM — Any team of professionals that demonstrates considerable site design expertise through the inclusion of one or more certified site design professionals including, but not limited to, Massachusetts Certified Professional Engineers.

RADIO-FREQUENCY RADIATION (RFR) — The electromagnetic emissions from wireless service facilities.

RADIOACTIVE WASTE — Any radioactive materials which are no longer in use nor being stored for future use, except that for the purpose of this bylaw the following items shall not be considered radioactive waste:

- A. Personal or household items or waste containing minimal amounts of radioactive material, such as watches or smoke detectors.
- B. Waste which does not qualify as low-level radioactive waste under MGL c. 111H, generated by or through the use of radioactive material for medical procedures or research facility licensed by the Nuclear Regulatory Commission.

REPEATER — A receiver/transmitter designed to provide service to areas which are not able to receive adequate coverage from another sending and receiving site in a wireless communication network.

REPAIR SERVICE ESTABLISHMENT — Any building wherein primary occupation is the repair and general servicing of appliances, tools, and other small machinery common to use in homes or businesses, but not including automotive repair or automobile service stations; or any place wherein the primary occupation is interior decorating, to include reupholstering and the making of draperies, slipcovers, and other similar articles, but not to include furniture or cabinetmaking establishments.

RESIDENTIAL CARE CONTINUUM — A Residential Care Continuum shall be defined as a campus type development of facilities that may include any combination of

the following, but must include a skilled nursing facility or daily access to skilled nursing and either an assisted-living facility or an independent living facility as defined as:

- (1) A skilled nursing facility including ancillary support and rehabilitation services, including but not limited to: an adult day care or respite facility to provide short-term custodial care to individuals with special needs; food service; social, psychological and educational programs; twenty-four (24) hour supervision; and nursing care as appropriate, all with the purpose of assisting the individual to continue to develop and to overcome the limitations imposed by his or her condition, and providing the individual's family or other care-giver a respite from the provisions of such care;
- (2) A congregate housing or assisted-living facility providing a sheltered living environment for the aged, chronically ill; or disabled, including such services as: housekeeping; cooking and common dining; social, psychological, and educational programs; assistance with personal needs; and crisis intervention, all with the purpose of assisting each resident to continue to develop and to lead a productive and fulfilling life;
- (3) Independent living facilities providing private living and dining accommodations to persons fifty-five (55) years of age or older, also including common areas and the provision of social, psychological, and educational program, and crisis intervention as needed, all with the purpose of providing an environment in which older persons can continue to derive the personal and psychological benefits of independent living while also enjoying the substantial social and educational benefits of community living;
- (4) Home health care facilities serving as a base for the provision of medical, nutritional, social, psychological, and educational services for the aged, chronically ill, or disabled;
- (5) Multi-purpose facilities for resident and non-resident senior citizens, which may include social, educational wellness, counseling, recreational, outreach, and other activities; and /or
- (6) Facilities for the provision of ancillary services to residents of the development, which may include but are not limited to a beauty parlor/barber shop center, and other such services, provided that such services shall be available only to residents, their guests, and employees, and not to members of the general public.

RETAIL SALES AND SERVICES — The sale rental, or repair of goods and/or provision of services.

ROOMING HOUSE — A building containing four or more lodging units.

SANITARY WASTE — Wastewaters arising from ordinary domestic water use as from toilets, sinks and bathing facilities, and containing such concentrations and types of pollutants as to be considered normal wastes. For purposes of this Bylaw, all

references to disposable volume(s) of sanitary wastes refer to design standards as outlined in Title 5 of the State Environmental Code.

SECONDARY RECHARGE AREAS — Areas that collect precipitation or surface water and indirectly transmit it to aquifers or areas of pumping influence.

SETBACK — The minimum distance from a lot line to a building placed thereon, or feature thereof as is required in a particular situation by Section 6.B (Schedule of Dimensional Regulations). Said setback shall be measured perpendicular (at right angles) to the lot line. At no point shall any building on the lot be any closer to any street line than the minimum front yard setback requirement for that zoning district.

SETBACK, FRONT — Setback required from a front lot line and from any street line of a corner lot or a through lot.

SETBACK LINE — A line, whether straight or not, which denotes the location of the minimum setback.

SETBACK, REAR — Setback required from a rear lot line.

SETBACK, SIDE — Setback required from a side lot line.

SIGN — Any permanent or temporary structure or part thereof, attached thereto, or painted, or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of an announcement, direction or advertisement. The word sign includes the word "billboard" but does not include the flag, pennant or insignia of any nation, state or other political unit or of any political, educational, charitable, philanthropic, civil, professional, religious or like campaign, drive, movement or event.

SIGN, ANIMATED — A sign or display manifesting either kinetic or illusionary motion occasioned by natural, manual, mechanical, electrical, or other means.

Animated signs include the following types:

- (1) Naturally Energized: Signs whose motion is activated by wind or other atmospheric impingement. Wind-driven signs include flags, banners, pennants, streamers, spinners, metallic disks, or other similar devices designed to move in the wind;
 - (2) Mechanically Energized: Signs manifesting a repetitious pre-programmed physical movement or rotation in either one or a series of planes activated by means of mechanically based drives; and
 - (3) Electrically Energized: Illuminated signs whose motion or visual impression of motion is activated primarily by electrical means.
- Electrically energized animated signs are three types:

1. Flashing Signs: Illuminated signs exhibiting a pre-programmed repetitious cyclical interruption of illumination from one or more sources in which the duration of the period of illumination (on phase) is either the same as or less than the

- duration of the period of darkness (off phase), and in which the intensity of illumination varies from zero (0) percent (off) to one hundred (100) percent (on) during the programmed cycle;
2. Illusionary Movement Signs: Illuminated signs exhibiting the illusion of movement by means of a pre-programmed repetitious sequential switching action in which illuminated elements of the sign are turned on or off to visually simulate the impression of motion characteristic of chasing, running, blinking, oscillating, twinkling, scintillating, or expanding and contracting light patterns; and,
 3. A changeable electronically activated sign as defined in this subsection used for general advertising.

SIGN, AREA — The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed. The supporting framework, open or enclosed, may be part of the design, but for the purpose of this Bylaw shall not be considered part of the sign area unless used for lettering, wording, or symbols. When the sign consists of individual letters or symbols attached to or painted on a surface, building wall or window, the area shall be considered to be that of the smallest rectangular or any regular shape which encompasses all of the letters and symbols.

SIGN, AWNING — A sign painted or printed on the surface of an awning.

SIGN, BUSINESS — A sign used to direct attention to a service, product sold or other activity performed on the same premises upon which the sign is located.

SIGN, CHANGEABLE — A sign whose informational content can be changed or altered by manual or electric, electro-mechanical, or electronic means. Changeable signs include the following types:

- (1) Manually Activated: Signs whose alphabetic, picto-graphic, or symbolic informational content can be changed or altered by manual means; and
- (2) Electrically Activated: Signs whose alphabetic, picto-graphic, or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. Includes the following two types:
 - (a) Fixed Message Electronic Signs: Signs whose basic informational content has been pre-programmed to include only certain types of information projection, such as time, temperature, predictable traffic conditions, or other events subject to prior programming; and
 - (b) Computer Controlled Variable Message Electronic Signs: Signs whose informational content can be changed or altered by means of computer-driven electronic

impulses.

SIGN, DIRECTORY — Any sign which contains listings of one or more commercial establishments. Directory signs may be free-standing, ground, door or wall-mounted and shall be designed and constructed with provisions to allow for changes of occupancy without reconstruction of the entire sign.

SIGN, FREE-STANDING — A sign permanently anchored to the ground and supported by uprights placed on or in the ground.

SIGN, GENERAL ADVERTISING — Any sign advertising products or services other than products or services available on the lot on which the sign is located, or any sign which is not located within two hundred (200) feet of the building or other structure at which the products or services advertised thereon are available.

SIGN, GROUND — A sign erected on or affixed to the land with less than four (4) feet of clearance above the ground.

SIGN, IDENTIFICATION — A sign used simply to identify the name, address, and title of an individual family or firm occupying the premises upon which the sign is located or to give information such as time or temperature.

SIGN, INCIDENTAL — A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises, e.g., a credit card sign or a sign indicating hours of business.

SIGN, PORTABLE — A sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.

SIGN, PROJECTING — A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

SIGN, ROOF — A sign erected on or affixed to the roof of a building.

SIGN, TEMPORARY — A sign constructed of cloth, fabric or other lightweight temporary material with or without a structural frame intended for a limited period of display; including decoration display; including decoration displays for holidays or public demonstrations.

SIGN, WALL — A sign affixed to the exterior wall of a building and extending not more than fifteen (15) inches there from.

SOLID WASTES — Any discarded solid material, putrescible or nonputrescible consisting of all combustible and noncombustible solid material including, but not limited to, garbage and rubbish.

SPECIAL PERMIT — A special authorization to conduct a particular use or to take advantage of a particular situation set forth in this bylaw, subject to the provisions of

Section 2 and the Schedule of Use Regulations, where applicable, and the particular section authorizing the special permit where applicable.

SPECIAL PERMIT GRANTING AUTHORITY — That body or individual empowered to grant special permits. As specified by the section providing for the granting of the special permit, that body or individual may be the Board of Appeals or the Planning Board. Where no specific such body is named, the Board of Appeals shall have jurisdiction.

STORY — The portion of a building which is between one floor level and the next higher floor level. If a mezzanine floor area exceeds one third (1/3) of the area of the floor immediately below it, the mezzanine shall be deemed to be a story. A basement shall be deemed to be a story, and a cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and without human occupancy.

STRATIFIED DRIFT RECHARGE AREAS — Areas composed of permeable, porous materials that collect precipitation or surface water and transmit it to aquifers.

STREET — A public way or a way which meets one of the following:

- A. A public way or a way which the Town Clerk certifies is maintained and used as a public way; or
- B. A way shown on a previously approved subdivision plan which is either currently under construction and subject to a performance guarantee which provides assurance that requisite access is available to the buildable portion of the lot, or has been constructed to the standards required when subdivision approval was granted; or
- C. A way that predates subdivision control that has, in the Planning Board's opinion, suitable width, grades, and construction adequate and reasonable for vehicular traffic, including emergency vehicles and snow removal vehicles, and the installation of utilities.

STRUCTURE — A combination of materials for permanent or temporary occupancy of use, such as a building, bridge trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool, shelters, piers, wharves, bin, fence, sign, gasoline pumps, recreational courts, or the like.

STRUCTURE, ACCESSORY — Any structure which is incidental and subordinate to the principal structure, but which is located on the same lot as the principal structure. Accessory structures shall not exceed forty percent (40%) of the gross floor area of the principal structure(s) and shall not contain sleeping or kitchen facilities.

STRUCTURE, NONCONFORMING — A structure lawfully existing at the effective date of this bylaw, or any subsequent amendments thereto, which does not conform to all applicable regulations of this bylaw for the district in which it is located.

STRUCTURED PARKING FACILITY — A structure, such as a parking garage, that

is designed to provide parking for automobiles on multiple floor levels.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction, or improvement of a structure within a five (5) year period which either increases the building area or the original structure by fifteen percent (15%) or more, or the cost of repair, reconstruction, or improvement which equals or exceeds fifteen (15%) of the assessed value of the original structure, either before the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred.

TILL RECHARGE AREAS — Areas composed of low permeability materials that collect and transmit precipitation primarily via surface water runoff to adjacent aquifers.

TOWER — A structure, framework or monopole that is designed to support wireless communication transmitting, receiving, and/or relaying antennas and/or equipment. Components of the wireless communication facility used only to attach or support other elements of that facility are excluded provided such components are relatively less substantial than those other elements and do not materially affect a dimension of that facility.

TRACT — a defined contiguous area of land comprised of one or more parcels or lots.

TOXIC OR HAZARDOUS MATERIALS — Any chemical, combustible liquid, compressed gas, explosive, flammable aerosol, gas, liquid or solid, health hazard, mixture, organic peroxide, oxidizer, physical hazard, pyrophoric, unstable (reactive) or water reactive, as defined under Title 29 of the Code of Federal Regulations, Section 1910.1200(c) and any other chemical, material or substance identified as hazardous based on available scientific evidence. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under Massachusetts General Laws (MGL) Bylaw 21E, and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use. Hazardous materials shall include any of the above-mentioned substances that may be leached from outdoor stockpiles of manufactured materials including, but not limited to, auto parts or treated wood. Hazardous materials do not include hazardous wastes, tobacco products, wood products, foods, drugs, alcoholic beverages, cosmetics, and any hazardous material used in household quantities.

TRADESMAN — Builder, carpenter, electrician, painter, plumber, tree surgeon, landscape gardener or similar building trade occupation.

UNREGISTERED MOTOR VEHICLE — Any motor vehicle required to be registered by law of the Commonwealth of Massachusetts for operation on public ways, not so registered.

USE — The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

USE, ACCESSORY — A use which is customarily incidental and subordinate to the

principal use of a structure or lot, or a use which is not the principal use, but which is located on the same lot as the principal structure, provided that said accessory use is permitted in that district under this bylaw.

USE, MIXED — Two (2) or more principal uses occupying the same structure or lot, where more than one principal use is permitted on the lot.

USE, PRINCIPAL — The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied or maintained under this bylaw. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this bylaw shall be considered an accessory use.

USE, SUBSTANTIALLY DIFFERENT — A use which by reason of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

WIRELESS COMMUNICATION FACILITY — All equipment, buildings, and structures with which a wireless communication service provider broadcasts and receives the radio-frequency waves which carry its services and all locations of said equipment or any part thereof.

WIRELESS COMMUNICATION SERVICE PROVIDER — An entity licensed by the Federal Communications Commission (FCC) to provide wireless communication services to individuals, businesses or institutions.

WIRELESS COMMUNICATION SERVICES — Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Act.

YARD — A portion of a lot located within a required setback area which must remain unobstructed artificially from the ground to the sky except as may be allowed by specific provisions of this bylaw.

YARD, FRONT — The portion of a lot lying between the front line and the front setback line.

YARD, REAR — The portion of a lot lying between the rear line and the rear setback line.

YARD, SIDE — The portion of a lot lying between a side line and the corresponding side setback line.