

ARTICLE IV: DEFINITIONS

4.01.0 PURPOSE

For the purpose of this Ordinance, the word "shall" is mandatory, the word "may" is permissive, and the following terms shall have the following meanings.

Abutter: Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use Board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use Board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in NH RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use Board hearing, in the case of an abutting property being under a manufactured housing park form of ownership defined in NH RSA 205-A:1, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use Board. (2007)

Accessory Dwelling Unit (ADU): A second dwelling unit incorporated within an owner-occupied existing or proposed single-family home, its detached accessory structure, or as a stand-alone dwelling unit subordinate to the single-family home. The total area of the accessory dwelling unit shall not exceed 700 SF and shall include not more than one bedroom. Use of the existing curb cut is required and any additional parking should be accommodated by the existing driveway or to the side or rear of the property. For the purpose of this Ordinance an accessory dwelling unit is not considered an accessory use or structure(s). (2013)

Accessory Use or Structure: A use or structure on the same lot with, and of a nature incidental and subordinate to, the principal use or structure. For the purpose of this Ordinance an accessory dwelling unit is not considered an accessory use or structure(s). (2013)

Agriculture: (Deleted 2010)

Agriculture and Farming: As defined in NH RSA 21:34-a, and as amended from time to time, shall mean all operations of a farm, including: the cultivation, conservation, and tillage of the soil; the storage, use of, and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments; the use of and application of agricultural chemicals; the raising and sale of livestock, which shall include, but not be limited to, dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus elephus Canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*); the breeding, boarding, raising, training, riding instruction, and selling of equines; the commercial raising, harvesting, and sale of fresh water fish or other aquaculture products; the raising, breeding, or sale of poultry or game birds; the raising of bees; the raising, breeding, or sale of domesticated strains of fur-bearing animals; the production of greenhouse crops; the production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, viticultural, forestry, or

horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees and tree products. Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any other plant that can be legally grown and harvested extensively for profit or subsistence.

Agriculture and farming shall also mean any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to: preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm; the transportation to the farm of supplies and materials; the transportation of farm workers; forestry or lumbering operations; the marketing or selling at wholesale or retail, on-site and off-site, products from the farm; irrigation of growing crops from private water supplies or public water supplies where not prohibited by State or local regulation; the use of dogs for herding, working, or guarding livestock as allowed above; the production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm. (2010)

Animal feedlot: Land on which livestock is kept for the purpose of feeding.

Aquifer: Geological formation composed of rock or sand and/or gravel that contains significant amounts of potentially recoverable potable water.

Assisted Living Facility: An Assisted Living Facility shall include, but not be limited to, a facility where rooms, meals, personal care and supervision of self-administered medication are provided pursuant to NH RSA 151:9, VII(a) and He-P 804.3 or as amended. Other services may be provided as an accessory use only, such as recreational activities, financial services, and transportation. (2011)

Bed & Breakfast: A building for transient occupancy which also provides breakfast to registered guests only and is owner occupied. (1997)

Building: Any structure used or intended for supporting or sheltering any use or occupancy. (1992)

Church: A building or structure, or groups of buildings or structures that by design and construction are primarily intended for conducting organized religious services. See also House of Worship (1996)

Community Center: A building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or non-profit group or agency. (1996)

Congregate Care Facility: A Congregate Care Facility shall include, but not be limited to, a facility where communal dining facilities and services such as housekeeping, organized social and recreational activities, transportation services, and other support services appropriate for the residents are provided pursuant to NH RSA 151:9, VII(a) and He-P 814.3 or as amended. (2011)

Day Care Facility: Those facilities, as licensed by the State of New Hampshire, and defined by NH RSA 170-E:2 as providing child care under one or more of the following categories: (2007)

A. Pre-School Program - A facility regularly providing a structured program up to five (5) hours per day for seven (7) or more children who are three (3) years of age or older and who are not attending a

full-day school program. The number of children shall include all children present during the period of the program.

B. Group Pre-School Center - A facility regularly providing full-day or half-day child care for thirteen (13) or more pre-school children, whether or not the service is known as a day nursery, nursery school, kindergarten, cooperative, child development center, day care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name.

C. After-School Program - A facility in which child care is regularly provided up to five (5) hours per school day, before and/or after regular school holidays, for six (6) or more children who are enrolled in a full day program.

Day Care facility, for the purposes of this Ordinance, does not include "family day care home" as defined in NH RSA 170-E:2.

Density: For the purposes of this Ordinance, density is used to define residential dwelling units per acre, and is based on the allowable units per acre in each residential district. High density refers to allowable densities in the Residence "B" District, medium density refers to allowable densities in the Residence "A" District; and low density refers to allowable densities in the Residence "R" District. (1997)

Distribution and Mailing Facilities: Uses which constitute the temporary storage and/or shipping of goods, including mail order processing, package distribution and mailing. (1995)

Drive Aisle: The traveled passageway by which vehicles enter and depart parking spaces. (2002)

Driveway: A vehicular passageway providing access between a road and a parcel of land. (2002)

Driveway, common commercial/industrial: A single driveway that provides access between a road and two (2) or more conforming commercial and industrial lots. (2002)

Driveway, common residential: A single driveway that provides access between a road and not more than two (2) conforming residential lots. (2002)

Dwelling Unit: One room or rooms connected together, constituting a separate, independent housekeeping establishment physically separated from any other dwelling units in the same structure, and containing independent cooking and sleeping facilities.

Dwelling, Single-family: A detached residential dwelling unit, other than a mobile home, designed for one family only.

Dwelling, Two-family: A structure which contains two (2) separate dwelling units, each provided with complete and independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking, and sanitation as well as independent access and egress to and from each dwelling unit. (2013)

Dwelling, Multi-family: A structure consisting of three (3) or more dwelling units designed for occupancy by three or more families. (1995)

Dwelling, Mixed-use: One room or rooms connected together and designed for use as a dwelling unit; located in a non-residential building with no more than two (2) dwelling units that are in addition to the primary non-residential use. (2012)

Family: One or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit.

Family Day Care Home: An occupied residence in which child care is regularly provided for less than twenty-four (24) hours per day, except in emergencies, for one (1) to six (6) children from one or more unrelated families. The six (6) children shall include any foster children residing in the home and all children who are related to the caregiver except children who are (ten) 10 years of age or older. In addition to the six (6) children, one (1) to three (3) children attending a full-day school program may also be cared for up to five (5) hours per day on school days and all day during school holidays. (1994)

Farm: As defined in NH RSA 21:34-a, and as amended from time to time, shall mean any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used for 'agriculture' and 'farming' as defined in this Ordinance. A Farm may include a 'Farm roadside stand' as defined by this Ordinance. A farm may include wholesale and retail sale of feed and grain products, incidental and subordinate to agriculture and farming activities, produced either on-site or off-site, along with accessory structures utilized for feed and grain product storage. (2010)

Farm roadside stand: An agricultural operation, and not be considered commercial, where at least thirty-five percent (35%) of the product sales in dollar volume is attributable to products produced on the farm or farms of the farm roadside stand owner. Product sales not attributable to the farm or farms of the farm stand owner or farm stand operator shall be agriculturally related and may include, but not necessarily limited to, the sale of garden accessories, cheese, home crafts, cut flowers, dried flowers, value added products such as jams, jellies and baked goods from a licensed kitchen. Proof of farm income may be required to determine conformity with these provisions. (2010)

Farmer's market: A seasonal outdoor event or seasonal outdoor series of events, subject to applicable Town health and safety codes, at which two (2) or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale must include, but are not limited to, products of agriculture as defined in this Ordinance. A 'farmer's market' shall not include any event held upon the premises owned, leased, or otherwise controlled by any individual vendor selling therein. (2010)

Filling Station: A building or structure, or part thereof, or any premises used in connection with tanks, pumps, and other appliances for supplying motor vehicles with gasoline, oil, water, compressed air and similar supplies, but not used for the purpose of making repairs. (1995)

Frontage, minimum: That continuous portion of a lot bordering on a road(s) from which access can be taken, that meets the minimum requirements of the underlying zoning district. (2006)

Funeral Home: A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation. (1996)

Groundwater: Slowly moving subsurface water present in aquifers and recharge areas.

Groundwater Recharge Areas: Areas composed of permeable stratified sand and/or gravel and certain wetlands, which collect precipitation surface water and carry it to aquifers.

Harvesting of Natural Resources: the removal of natural resources, such as timber, freshwater, and earth materials from their existing natural state on-site. (2011)

Hazardous or Toxic Materials or Liquids: Materials or liquids that pose a threat present or future to the environment whether in use, storage or transit, including without exception hazardous waste identified and listed in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976 as amended. (1993)

Health Service Facilities: A Health Service Facility shall include but not be limited to a facility providing clinically related outpatient diagnostic, treatment, or rehabilitative services, as well as preventative services, and includes, without limitation, alcohol, drug abuse, and mental health services. (2011)

Height: The height of a building or structure shall mean the vertical distance from the average elevation of the finished grade within five feet of the building or structure to the highest point of the building or structure. (2005)

Home Occupation: Any use conducted entirely within a dwelling or an accessory building which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no outside display or storage, nor emission of dust, noise, fumes, vibration or smoke beyond the lot line (See Article X, Para. 10.02.3).

Hospice house: A Hospice House shall include but not be limited to free standing 24-hour residential setting licensed under NH RSA 151 as a supported residential care facility for terminally ill individuals with less than one year to live who no longer have a home or cannot remain safely there. Palliative care such as room, meals, personal care, medication monitoring and emotional support, is provided. Additional health care services may be provided to residents through arrangements with outside organizations as is currently available if the resident was in his/her home. (2011)

Hospital: A Hospital shall include but not be limited to an institution licensed by the State of New Hampshire which is engaged in providing to patients, under supervision of physicians, inpatient and outpatient diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term hospital includes psychiatric and substance abuse treatment facilities. (2011)

Hotel: A facility offering transient lodging accommodations to the general public supervised by a person in charge at all hours, and which may include additional facilities and services such as restaurants, bars, meeting and function rooms, entertainment, personal services, and recreational facilities. (2011)

Hotel/Motel: Deleted. (2011)

House of Worship: A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services. See also Church (2001)

Independent Senior Housing Units: Dwelling units for persons fifty-five (55) years of age and older. (2011)

Junkyard: An establishment or place of business which is maintained, operated, or used for storing and keeping, or storing and selling, trading or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled or wrecked motor vehicles, or parts thereof, iron, steel or other old or scrap ferrous or nonferrous material. Junkyard shall also include any place of business for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary fills. Also includes any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or second-hand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two (2) or more motor vehicles. Junkyard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material, which are parts of a motor vehicle or cut up the parts thereof. Also, includes any yard or field used as a place of storage in which there is displayed to the public view, junk machinery or scrap metal that occupies an area of five hundred (500) square feet and as amended by NH RSA 236:112. (2009)

Kennel: Deleted. (2012)

Leachable Wastes: Waste materials including solid wastes, sewage, sludge, and agricultural wastes that are capable of releasing waterborne contaminants to the surrounding environment.

Lot: The whole area of a single parcel of land, with ascertainable boundaries in single or joint ownership undivided by a street and established by deeds of record. (1999)

Lot line, front: The lot line of record separating a lot from a road. (2002)

Lot of Record: Lot of record shall be considered to meet the minimum lot size and frontage requirements of the Ordinance if it was in existence prior to the adoption of the Zoning Ordinance (3/11/1969) as long as the lot of record has fifteen feet (15') of frontage on a Class V or better road. (2012)

Lot Use: A parcel of land occupied or capable of being occupied by a building(s) or use(s), and the buildings or uses accessory thereto, including such open spaces and yards as are required by this Ordinance. (2007)

Manufactured Housing: Any structure, transportable in one or more sections, which, when in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site is three hundred twenty (320) sq. ft. or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained herein. Manufactured housing as defined in this section does not include pre-site built housing as defined in NH RSA 674:31-A or recreational vehicles as defined in this code (See Pre-site Housing). (1995)

Manufactured Housing Park: A parcel of land upon which two (2) or more manufactured homes are, or are intended to be, placed and occupied as dwellings. (1995)

Manufacturing: The making of goods or materials from raw materials or unfinished products, includes assembling and processing. (1997)

Mining of Land: The removal or relocation of geological materials such as topsoil, sand, gravel, metallic ores or bedrock.

Motor Vehicle Repair Facility: A building or structure or part thereof, or any premises used for making changes, adjustments or repairs to motor vehicles, may also include structural repairs, painting and work involving use of machinery. May also include retail sale of motor vehicle parts and accessories and retail sale of petroleum products. (1995)

Motorized Vehicles Sales Facility: A building or structure, or part thereof, or any premises used for the commercial display, sale, lease, or rental of new or used internal combustion engine vehicles in operable condition and where no repair work is done. (2007)

Net Tract Area: Deleted. (2007)

Nursery: Deleted. (2012)

Nursery Stock: Deleted. (2012)

Nursing home or facility: A Nursing Home or Facility shall include but not be limited to a facility, licensed by the State of New Hampshire, which shall provide, for two (2) or more persons, basic domiciliary services (room, board, and laundry), continuing health supervision under competent professional medical and nursing direction, and continuous nursing care as may be individually required. (2011)

Office: The building, room or series of rooms in which the affairs of a business, profession or branch of government are conducted. (1995)

Open space: Permeable surface on a lot that is unoccupied by buildings, unobstructed to the sky, not devoted to service driveways or off-street parking that is available to all occupants of the premises. (1995)

Parking Space: An off-street space sufficient in size to accommodate the parking of one motor vehicle exclusive of the area necessary for internal access driveways and passageways on any site. The Planning Board shall develop such standards and requirements regulating the size and arrangement of parking spaces, as it may deem necessary and appropriate. (1985)

Person: Any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, trustee, receiver, assignee, or other similar representative thereof.

Portable Sign: Deleted. (2013)

Pre-site Built Housing: Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property

standards and local building codes, for installation, or assembly and installation on the building site. For the purposes of this definition, pre-site built housing does not include manufactured housing. (See manufactured housing) (1995)

Principal Route of Access: Deleted. (2009)

Private Way: A driveway which the Town has no duty to maintain which provides access to no more than two (2) building lots but not including any Class VI Highway as defined by NH RSA and subject to Section 7.040 Private Ways. (See Driveway; Driveway, Common) (1995)

Processing and Warehousing: The storage of materials in a warehouse or terminal where such materials may be combined, broken down, or aggregated for distribution or storage and where the original material is not chemically or physically changed. Processing and warehousing is considered to be storage and shipment as opposed to manufacturing. (1997)

Processing of Natural Resources: A series of operations, usually in a continuous and regular action or succession of actions, performed to create products from materials supplied by nature. (1997)

Public Utility: Buildings, structures and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves and all buildings and structures relating to the furnishing of utility services, such as electric, gas, telephone, communications, water, sewer and public transit, to the public. (1996)

Recreation, active: Leisure time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields. (2002)

Recreation, passive: Leisure time activities that involve relatively inactive or less energetic activities such as walking, sitting, picnicking, card games, chess, checkers, or similar table games. (2002)

Recreational Facility, Commercial: A place designed and equipped for the conduct of leisure-time activities, operated as a business for profit and open to the public for a fee. This includes, but is not limited to, places of amusement such as bowling alleys, miniature golf courses, movie theaters, health and fitness clubs, sports fields, golf courses, accessory food service and concessions, and similar types of establishments. (1997)

Recreational Facility, Not-for-Profit: A place designed and equipped for the conduct of leisure-time activities open to the general public, owned and operated by a not-for-profit organization. (1996)

Recreational Vehicle: A temporary dwelling for travel, recreation, and vacation use including but not limited to, camping trailer, travel trailer, pick-up coach to be mounted on a truck chassis, or a self-propelled motor home.

Research and Development: A place devoted to activities engaged in refinement, investigation or experimental study of methods to improve processes or products. Manufacturing of products is not included within this definition. (1994)

Retail Businesses: Uses which constitute the sale of goods or the delivery of service and/or repair. (1994)

Right-of-way: A section of land acquired by easement, reservation, dedication, prescription, or condemnation, duly recorded in the Hillsborough County Registry of Deeds, and intended to be occupied by a road, crosswalk, railroad, utility lines, and/or other similar uses; and furthermore, the right to pass over the property of another. (2002)

Road: Any vehicular right-of-way that: (1) is an existing federal, state, Town, or privately owned and maintained roadway; (2) is shown upon a plan approved pursuant to NH RSAs; (3) is shown on a plan duly filed and recorded in the Office of the Hillsborough County Registry of Deeds; or (4) is approved by any other official action of the Town of Milford. A road contains all the land within the right-of-way. (2002)

Roadway: The traveled portion of a road within a right-of-way. (2002)

Self-Service Storage Facilities: A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time. (1997)

Setback: That horizontal distance measured between the right-of-way of a road or a side or rear lot line and the closest point of any building or structure contained on the lot.

Schools: Any building, part thereof, or group of buildings, the use of which meets State requirements for elementary, secondary, vocational or higher education. (1996)

Sign: Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag.

Small Wind Energy Systems (SWES): A wind energy conversion system consisting of a wind turbine, a generator, a tower and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption. (2009)

Solid Waste Disposal Sites: Areas for disposal of any matter consisting of putrescible material, refuse, or residue from an air pollution control facility; and other discarded or abandoned material. It includes solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. For the purpose of this Chapter, namely NH RSA 149-M and the rules specified in ENV-WM 101.01 Applicability, "it does not include hazardous wastes as defined in NH RSA 147-A:2; solid or dissolved materials in irrigation return flows; cut or uprooted tree stumps incident to clearing of land depicted on a site plan showing burial locations and mailed to the director, provided that such burial locations are not located within seventy-five (75) feet of any well as defined in NH RSA 485:37; municipal and industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended; source, special nuclear or by-product materials as defined by the atomic energy act of 1954, as amended, or septage or sludge as defined in NH RSA 485-a:2, IX-a and XI a" ("Solid Waste" shall not include deceased persons). (1995)

Solid Wastes: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing including, but not limited to rubbish, garbage, scrap materials, junk refuse, inert fill material and landscape refuse.

Structure: A combination of materials for occupancy or use, such as, but not limited to, a building, bridge, trestle, tower, tunnel, pier, wharf, fences and retaining walls over six (6) feet in height above grade, and swimming pools. (1992) (amended 2001)

Structure, Non-conforming: A structure which is lawfully maintained at the time this Ordinance became effective and which does not conform with the regulations of the district in which it is located.

Usable land: Land that does not consist of wetland and slopes over fifteen (15) percent. (2002)

Use, Non-conforming: A use existing prior to the enactment of the Zoning Ordinance (3/11/69) and that is maintained after the effective date of the Ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated. (2012)

Utility, public or private: Any agency that, under public franchise or ownership, or under certificate of convenience or necessity, or by grant of authority by a government agency, provides the public with electricity, gas, heat, steam, communication, transportation, water, sewerage collection, stormwater collection, or similar service, deemed necessary for the public health, safety and welfare. (2011)

Veterinary Clinics: A structure in which animals are given medical or surgical treatment and are cared for during the time of treatment only. (1994)

Warehouse: A building used primarily for the storage of goods and materials. (1997)

Wetland: An area that is inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and under normal conditions, does support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas. (1996)

Wholesale Businesses: Uses which constitute the sale of goods in quantity, usually for resale. (1994)

Yard: A required open space parallel to the lot lines which is open to the sky and unoccupied and unobstructed by a building or buildings.

Yard, Front: A yard between the building and front lot line, extending the full width of the lot or, in case of a corner lot extending along all streets.

Yard, Rear: A yard extending between side lot lines across the rear of the lot.

Yard, Side: A yard extending from the rear line of the required front yard to the front line of the required rear yard.