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§ 240-3.2 Index of Defined Terms

§ 240-3.2A Summary

Article 3 Definitions is a list of certain terms used in the Zoning Bylaw. Definitions are not listed alphabetically by definition term from A to Z. Instead they are grouped by topic category. Thus, all terms related to a topic category, regardless of the first letter of the term itself, are listed within that category. For example, in the Agriculture topic category there are terms beginning with the letter "A" (Agriculture), "F" (Farm), and "N" (Nursery). Also note that some terms, such as abandonment and campground, are listed singularly.

In order to assist the reader in finding terms in Section 3, the Definitions Index below provides a list of all terms defined and the topic category of related terms where they are located.

Article 3 Definitions Index			
Defined Term	Category of Related Terms	Defined Term	Category of Related Terms
Abandonment	Abandonment	Child care facility	Day Care & Child Care
Accessory building	Accessory	Commercial accommodations	Lodging
Accessory land use	Wind Energy System	Common driveway	Streets, Roads, & Driveways
Accessory use	Accessory	Common ownership	Common Ownership
Adult bookstore	Adult	Commercial accommodations	Lodging
Adult dance club	Adult	Drive-thru establishment	Drive-thru
Adult day care	Day Care & Child Care	Drive-thru window	Drive-thru
Adult motion picture theater	Adult	Dwelling unit	Residential/Dwelling/Housing
Adult paraphernalia store	Adult	Eligible household	MRCOD

Article 3 Definitions Index

Defined Term	Category of Related Terms	Defined Term	Category of Related Terms
Adult uses	Adult	Eligible location	MRCOD
Adult video store	Adult	Evergreen	Landscape
Affordable dwelling Unit	Residential/Dwelling/Housing	Family	Residential/Dwelling/Housing
Affordable housing restriction	MRCOD	Family child care home	Day Care & Child Care
Agriculture	Agriculture	Farm	Agriculture
Alteration of land form	Environmental	Farming	Agriculture
Ambient sound level	Wind Energy System	Farm related business	Agriculture
Annual	Landscape	Fast-food restaurant	Restaurant
Aquifer	Water Resource Protection	Flicker	Wind Energy Systems
As-of-right	MRCOD	Flood Insurance Rate Maps of Falmouth	Environmental
Automobile repair shop	Automobile	Flood Plain District	Environmental
Base flood elevation	Environmental	Floodproofing	Environmental
Berm	Landscape	Floor area ratio	Building & Structure
Boardinghouse	Lodging	Front yard	Lot & Yard
Breakaway walls	Building & Structure	Gross floor area	Building & Structure
Broadband sound	Wind Energy System	Gross leasable floor area	Building & Structure
Buffer	Landscape	Ground cover	Landscape

Article 3 Definitions Index

Defined Term	Category of Related Terms	Defined Term	Category of Related Terms
Building area	Building & Structure	Ground mounted solar photovoltaic array	Solar
Building height	Building & Structure	Group day care home	Day Care & Child Care
Campground	Campground	Guest house	Lodging
Half story	Building & Structure	Motor vehicle service station	Automobile
Hazardous material	Water Resource Protection	MRCOD applicant	MRCOD
Hedge	Landscape	Mulch	Landscape
Herbaceous perennial	Landscape	Multifamily dwelling	Residential/Dwelling/Housing
Home-based service business	Home Occupation	Multifamily use	Residential/Dwelling/Housing
Home occupation	Home Occupation	Multiple use	Use
Impervious surface	Water Resource Protection	Naturalized	Landscape
Kennel	Kennel	Net metering	Wind Energy System
Kennel keeper	Kennel	Nonconforming building	Nonconforming
Kennel, commercial	Kennel	Nonconforming structure	Nonconforming
Landscape	Landscape	Nonconforming use	Nonconforming
Landscape object	Landscape	Noncriminal disposition	Noncriminal Disposition
Large family child care home	Day Care & Child Care	Nuisance	Nuisance

Article 3 Definitions Index

Defined Term	Category of Related Terms	Defined Term	Category of Related Terms
Large wind energy system (LWES)	Wind Energy System	Nursery	Agriculture
Lot	Lot & Yard	Perennial	Landscape
Lot area	Lot & Yard	Permit granting authority	MRCOD
Lot frontage	Lot & Yard	Pond	Environmental
Lot width	Lot & Yard	Power grid	Wind Energy System
Marijuana-infused product (MIP)	Marijuana	Principal structure	Building & Structure
Marina	Waterfront	Public outreach area	Wind Energy System
Marsh	Environmental	Pure tone sound	Wind Energy System
Master plan	Master Plan	Qualifying patient	Marijuana
Mean sea level	Environmental	Rated capacity	Wind Energy System
Meteorological tower	Wind Energy System	Rear yard	Lot & Yard
Mining	Water Resource Protection	Recharge area	Water Resource Protection
Mixed use development	MRCOD	Recreational trailer	Automobile
Motor home	Automobile	Recreational vehicle	Automobile
Motor vehicle sales	Automobile	Registered marijuana Dispensary	Marijuana
Restaurant	Restaurant	Three-quarter story	MRCOD
Restaurant Class I	Restaurant	Tidal marsh	Environmental

Article 3 Definitions Index

Defined Term	Category of Related Terms	Defined Term	Category of Related Terms
Restaurant Class II	Restaurant	Tidal pond	Environmental
Restaurant Class III	Restaurant	Tidal river	Environmental
Restaurant Class IV	Restaurant	Time-interval ownership dwelling unit	Residential/Dwelling/Housing
Restaurant, fast food	Restaurant	Toxic material	Water Resource Protection
Rooming house	Lodging	Tree	Landscape
Salvage yard	Industrial	Two-family dwelling	Residential/Dwelling/Housing
Screen	Landscape	System height	Wind Energy System
Semi-detached dwelling	Residential/Dwelling/Housing	Tidal marsh	Environmental
Service area	Landscape	Undisturbed	Landscape
Setback	Lot & Yard	Use	Use
Shrub	Landscape	Vegetated island	Landscape
Side yard	Lot & Yard	Vehicular stacking area	Automobile
Sight (clear) triangle	Streets, Roads & Driveways	Velocity Zones (V-Zones)	
Single-family dwelling	Residential/Dwelling/Housing		Lot
Small wind energy systems (SWES)	Wind Energy System	Undisturbed	Landscape
Solar, ground-mounted solar photovoltaic array	Solar	Use	Use
Story	Building & Structure	Water Resource Overlay Protection	Water Resource Protection

Article 3 Definitions Index

Defined Term	Category of Related Terms	Defined Term	Category of Related Terms
		District (WROPD)	
Stream	Environmental	Wind energy system (WES)	Wind Energy System
Street	Streets, Roads & Driveways	Wind turbine	Wind Energy System
Street tree	Landscape	Woodwork mill	Woodwork Mill
Structure	Building & Structure	Xeriscape	Landscape
Substantial damage (structure)	Building & Structure	Yard	Lot & Yard
Substantial improvement (structure)	Building & Structure	Yard, front	Lot & Yard
Swamp	Environmental	Yard, rear	Lot & Yard
System height	Wind Energy System	Yard, side	Lot & Yard

This section should be alphabetized after additions and deletions.

§ 240-3.32 Definitions

ABANDONMENT

The cessation of a use or structure accompanied by: (a) an intent to abandon, and (b) conduct, or one or more voluntary acts, whether affirmative or negative, evidencing an intent to abandon. Time is not a controlling factor, although the lapse of time may be considered as evidence of an intent to abandon. Cessation alone of a use or structure for two years or more shall be deemed to be abandonment.

ACCESSORY RELATED TERMS

- (1) ACCESSORY BUILDING A building such as a garage or shed, located on the same lot with, and accommodating a use accessory to, the principal permitted use of the premises.
- (2) ACCESSORY USE A use of land or building on the same lot with, and customarily incidental but secondary to, a principal permitted use, except that if more than 30% of the floor area or 50% of the lot area is occupied by such use it shall no longer be considered "accessory."

ADULT RELATED TERMS

- (1) ADULT BOOKSTORE An establishment having as a substantial or significant portion of its stock-in-trade, books, magazines, and other matter which are distinguished or characterized by their emphasis

depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. For the purposes of this bylaw, a "substantial or significant portion of its stock" refers to a minimum of 15% of the total stock as determined by the Building Commissioner.

- (2) **ADULT DANCE CLUB**An entertainment establishment which permits a person or persons to perform in a state of nudity as defined by MGL c. 272, § 31, or an establishment which displays live entertainment that which is distinguished or characterized by its emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL 272, § 31.
- (3) **ADULT MOTION-PICTURE THEATER**An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL 272, § 31.
- (4) **ADULT PARAPHERNALIA STORE**An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined by MGL c. 272, § 31. For purposes of this bylaw, a "substantial or significant portion of its stock" refers to a minimum of 15% of the total stock as determined by the Building Commissioner.
- (5) **ADULT USES**An adult bookstore, an adult motion-picture theater, an adult dance club, and adult paraphernalia store, an adult video store, and such other uses as provided by MGL c. 40A, § 9A. as further defined in the bylaw.
- (6) **ADULT VIDEO STORE**An establishment having as a substantial or significant portion of its stock-in-trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31. For purposes of this bylaw, a "substantial or significant portion of its stock" refers to a minimum of 15% of the total stock as determined by the Building Commissioner.

AGRICULTURE & FARM RELATED TERMS

- (1) **AGRICULTURE & FARMING**" Agriculture" or "farming" shall include farming in all of its branches and:
 - a. The cultivation and tillage of soil;
 - b. Dairying;
 - c. The production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, or horticultural commodities;
 - d. The growing and harvesting of forest products open forest land;
 - e. The raising of livestock including horses;
 - f. The keeping of horses as a commercial enterprise;
 - g. The keeping and raising of poultry, swine, cattle, or other domesticated animals used for food purposes;
 - h. The keeping of bees;
 - i. The keeping and raising of fur-bearing animals; and
 - j. Any forestry or lumbering operations.

These activities are performed by a farmer, who is hereby defined as one

engaged in agriculture or farming as defined, or on a farm as defined, as incident to or in conjunction with such farming operations, including preparations for market, delivery to storage, to market, or to carriers for transportation to market.

- (2) **FARM A** parcel of land containing at least five acres devoted exclusively to and currently maintaining one or more agricultural uses as defined under MGL c. 128, § 1A, or to parcels two acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in areas not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. For such purposes, land divided by a public or private way or a waterway shall be construed as one parcel.
- (3) **FARM RELATED BUSINESS**A business operated on a farm parcel, related to or supportive of agricultural activities such as agricultural tourism, farm vacations, active and passive recreational opportunities, blacksmithing, farm implement repairs, sale of small or light garden supplies, equipment and tools customary and incidental to the sale of garden plants and nursery stock.
- (4) **NURSERY**A commercial business where trees, shrubs, and plants are grown, whether from seed or otherwise, including plants maintained for sale on or off the premise. In conjunction with the sale of plants, only those quantities of peat moss, humus, mulches, fungicides, insecticides, chemicals, and fertilizers as intended to nourish and/or preserve those plants are allowed. This definition is subject to the provisions of state law governing agriculture as defined in MGL c. 128, § 1A.

AUTOMOBILE, MOTOR VEHICLE & TRAILER RELATED TERMS

- (1) **AUTOMOBILE REPAIR SHOP**A repair shop for automobiles and other motor vehicles utilizing power-driven machinery, welding equipment, paint sprayers, and other comparable equipment.
- (2) **MOTOR HOME**An automotive vehicle built on a truck or bus chassis and equipped as a self-contained traveling home.
- (3) **MOTOR VEHICLE SALES**Premises licensed for sale or rental of self-propelled wheeled conveyances including automobiles, motorcycles, mopeds, motorized recreational vehicles, trucks, buses, and construction or farm equipment.
- (4) **MOTOR VEHICLE SERVICE STATION**Premises devoted primarily to retail sale and on-premises dispensing of fuels and lubricants or washing of automobiles and other motor vehicles, with any repair services or other sales or services of secondary importance, not to include body work, painting, or major repairs.
- (5) **RECREATIONAL TRAILER OR VEHICLE**A vehicular portable unit without a permanent foundation, designed for travel, camping, or recreational use. This includes travel trailers, truck campers, camping trailers, motorized camper, pickup truck camper, fifth-wheel camper, tent trailer, or boat trailer.
- (6) **VEHICULAR STACKING AREA**A queuing area made up of individual stacking spaces for motorists who remain in their vehicles awaiting service at a drive-thru window or other services.

BUILDING & STRUCTURE RELATED TERMS

- (1) **BREAKAWAY WALL**Any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable materials, which are not part of the structural support of the building and which are so designed as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters.
- (2) **BUILDING AREA**The aggregate of the maximum horizontal cross-section of the building on a lot,

including accessory structures, but excluding the following:

- a. Cornices, eaves, gutters, or chimneys, projecting not more than 24 inches from the outside wall;
- b. Steps;
- c. One-story open porches; and
- d. Balconies and terraces.

(3) **BUILDING HEIGHT** Building height shall be defined as follows:

- a. For community service and public buildings, "building height" is defined as the vertical distance from the mean level of natural grade across the actual building line, across all street sides of the proposed building to the highest point of the roof or parapet for flat or shed roofs, to the deckline for mansard roofs, and to the mean height between the eaves and to the ridge for gable, hip, and gambrel roofs. That measurement shall be based on the elevation of the lot in its natural state prior to construction, grading, or filling.
- b. For all other buildings, "building height" is defined as the vertical distance from the mean level of the natural grade across the actual building line across all street sides of the proposed building to the highest point of the roof or parapet for flat or shed roofs, to the deckline for mansard roofs, and to the ridge for gable, hip, and gambrel roofs. That measurement is to be based on the elevation of the lot in its natural state prior to construction, grading, or filling.
- c. Height limitations shall apply to any extensions of the structure that are integral to the habitable space, regardless of the square footage of the extension. Height limitations shall not apply to television antennas, chimneys, spires, or minor extensions of the structure strictly ornamental in nature.

(4) **FLOOR AREA RATIO** The fixed relationship between the lot area and the floor area of any structure(s) thereon, and expressed as a fraction of gross floor area/lot area.

(5) **GROSS FLOOR AREA** The sum of the horizontal areas of all stories of a building or buildings on a lot, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of that common wall.

(6) **GROSS LEASABLE FLOOR AREA** The sum of the gross horizontal areas of all floors of all buildings, designed for business occupancy, located on a parcel and measured from the exterior faces or walls. This shall include the area of basements used for custodial, commercial, industrial, or residential purposes but not that area for housing of mechanical or central heating equipment of the building, nor areas of basements not open to the public that are used solely for the owner's and tenant's storage of merchandise or supplies.

(7) **HALF STORY** That portion of a building under any type of sloping roof, which is potentially habitable as defined under Massachusetts Building Code and within which the number of square feet in area does not exceed 1/2 of the area of the story below. If the square foot area of the subject portion is greater than 1/2 the area of the story below, that portion shall be deemed a story.

(8) **PRINCIPAL STRUCTURE** The structure in which the primary use of the lot is conducted, including porches, decks, and any other attached utility building or other projection of the structure. Setback requirements for "principal structures" shall not apply to permissible yard and court encroachments allowed under the State Building Code and to uncovered and unenclosed first-floor entry platforms if those platforms extend not more than four feet from the outside wall and are not more than four feet wide.

(9) STORYA partially or wholly enclosed floor of a building. A story, the ceiling of which is four feet or more above the average natural grade level across the building wall fronting all streets, shall be considered a "story".

(10) STRUCTURE

- a. A combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water. Anything constructed or erected, the use of which requires a fixed location on the ground or attachment to something located on the ground.
- b. A structure includes tennis or similar sports courts; a structure designed to contain water for swimming or recreational bathing as defined in the Massachusetts State Building Code 780 CMR that is more than 24 inches deep; and gas or liquid storage tanks if principally above ground. Retaining walls or fences are not included except as provided for in the paragraph below.
- c. Stonewalls, retaining walls, fences, gates, memorials, and paved driveways, or other paved driveways or other paved areas located in an Historic District created pursuant to c. 654 of the Acts of 1975 as amended and, in the opinion of the Building Commissioner visible from a public way, shall be considered structures.

(11) STRUCTURESUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred, regardless of the value or actual cost of repair work performed.

(12) STRUCTURESUBSTANTIAL IMPROVEMENT —

- a. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a structure, performed within any twelve-month period, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the initial improvement or repair is started. For the purposes of this definition, "substantial improvement" starts when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- b. For the purposes of this definition, in Velocity V Zones "substantial improvement" also includes any addition(s), improvement(s), alteration(s) or combinations thereof to a structure that would add more than 200 square feet of gross floor area. The term does not include either any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Building Commissioner and which are the minimum necessary to assure safe living conditions or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued federal or state designation as a historic structure.

CAMPGROUND

Premises used for recreational camping, subject to regulations under Article VIII of the State Sanitary Code, in which mobile homes (as distinct from travel trailers) are not accommodated.

COMMON OWNERSHIP

Ownership by one or more individuals or entities in any form of common ownership of two or more lots.

COMPREHENSIVE PLAN

See MASTER PLAN.

DAY-CARE & CHILD-CARE RELATED TERMS

- (1) ADULT DAY CARE facility where care for the elderly or functionally impaired adults is provided in a protective setting for a portion of a twenty-four-hour day.
- (2) CHILD CARE CENTER facility operated by an entity licensed by the Massachusetts Department of Early Education and Child Care under MGL c. 15D, § 1A, which may be known as a child nursery, nursery school, kindergarten, child play school, child development center, pre-school, or other similar name and which receives children not of common parentage under seven years of age, or under 16 years of age if they are children with special needs, for nonresidential custody and care during part of the day. Child Care Center shall not include: any part of a public school system; any part of a private organized educational system, unless the services of that system are primarily limited to kindergarten, nursery, or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization in which children are cared for during short periods of time while persons responsible for the children are attending religious services; a family child care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.
- (3) FAMILY CHILD CARE HOME
 - a. A private residence operated in accordance with MGL c. 15D, §§ 1A & 6, which, on a regular basis, receives for temporary custody and care during part of or all day, children under seven years of age, or children under 16 years of age if those children have special needs. The child care home receives for temporary custody and care for a limited number of hours children of school age. The total number of children under 16 in a family child care home shall not exceed six, including participating children living in the residence. Family child care homes shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children without compensation.
 - b. A "family child care home" shall be defined as a home occupation.
- (4) GROUP DAY CARE HOME place licensed by the state which offers or provides a program of supplementary care to more than six related or unrelated persons on a regular basis for a part of the 24 hours in one or more days per week.
- (5) LARGE FAMILY CHILD CARE HOME private residence operated in accordance with MGL c. 15D, § 1A, which, on a regular basis, receives for temporary custody and care during part of or all day, children under seven years of age, or children under 16 years of age if those children have special needs. The child care home receives for temporary custody and care for a limited number of hours children of school age. The total number of children under 16 in a large family child care home shall not exceed 10, including participating children living in the residence. A large family child care home shall have at least one approved assistant when the total number of children participating in child care exceeds six. Large family child care homes shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children without compensation.

DENSITY

The number of dwelling units, households, families, or housing structures per acre of land.

DWELLING

For all terms related to dwellings, see the Residential Related Terms section.

DRIVE-THRU RELATED TERMS

- (1) DRIVE-THRU ESTABLISHMENT place of business where food, goods, or services are delivered through a pickup window, generally to a vehicle; a place of business which through design, physical facilities, service or packaging procedures, permits customers to receive services or food, or to obtain goods while remaining in their motor vehicles; or a place of business so developed that its principal

retail or service character is dependent on providing a driveway approach of parking spaces for motor vehicles so as to serve patrons while in the motor vehicle.

- (2) DRIVE-THRU WINDOW A customer service facility located in the principal structure or anywhere on the lot designed to enable the customer to transact business with a person or machine located within the structure without exiting the motor vehicle. This definition shall include without limitation: food take-out windows, ATMs, kiosks, pneumatic tubes, and drop boxes.

ENVIRONMENTAL RELATED TERMS

- (1) ALTERATION OF THE LAND FORM Any human-made change in the existing character of the land including filling, grading, paving, dredging, mining, excavation, or drilling operations other than routine excavation, well-drilling, backfilling, grading, and paving incidental to the construction of a residence or other structure for which a building permit has been issued.
- (2) BASE FLOOD ELEVATION LEVEL The level to which coastal waters may rise under the effect of wind, tide, and hurricane surge. "Base flood" means the flood having a one-percent chance of being equaled or exceeded in any year. "Base flood elevation levels" are measured in feet above mean sea level.
- (3) DUNE A naturally occurring accumulation of sand in ridges or mounds landward of the beach.
- (4) DUNE, MAN-MADE A human-made formation of sand, such as a mound or ridge, which lies generally parallel to, and landward of, the beach.
- (5) FLOOD INSURANCE RATE MAPS OF FALMOUTH Flood Insurance Rate Maps, dated July 16, 2014, as published by the Federal Emergency Management Agency and adopted by Town Meeting.
- (6) FLOODPLAIN DISTRICT Those areas subject to coastal flooding at the base flood elevation levels established in § 240-7.3 of this bylaw. The Floodplain Districts are shown on the Town Zoning Map on file in the Town Hall with the Town Clerk.
- (7) FLOODPROOFING Watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood.
- (8) MARSH Any essentially flat, frequently wet, and occasionally flooded area adjoining open water along the shores of a pond or its banks, or a stream, and lying between such open water and the adjacent natural or artificial upland.
- (9) MEAN SEA LEVEL Whenever "mean sea level" appears in this bylaw, it shall be the mean sea level datum of 1993, known as the "National Geodetic Vertical Datum."
- (10) POND A body of open water, other than a stream, a bay, or the ocean.
- (11) STREAM Any natural watercourse, generally containing water, through and along which water may flow from a pond, swamp, or similar body of water to another, to another "stream", or to the ocean.
- (12) SWAMP Any depressed area of poor drainage, subject to flooding by freshwater, where the water table is generally at or above the ground level and not caused or affected by saltwater or action of the oceanic tide.
- (13) TIDAL MARSH Tidal marshes shall include the marshes listed "a." and "b." below. Marsh indicators

include the presence of the salt marsh grasses, *Spartina alterniflora*, *Spartina patens* or *Distichlis spicata*, commonly known respectively as "thatch" or "saltwater cord grass", "salt meadow" or "high water cord grass", or "spike grass". These areas shall include all of the original contiguous area of "tidal marsh" from which saltwater is excluded at present by artificial dikes, causeways, or the like.

- a. A marsh in which action of the oceanic tide causes the surface to be flooded regularly by the spring tides in the course of the annual tidal cycle, but exclusive of storm tides, hurricane tides or tidal waves; and
 - b. A marsh area developed and maintained by incursion of the oceanic saltwater or by action of the oceanic tide.
- (14) TIDAL POND Any pond in which action of the oceanic tide causes the water to ebb and flow or the water level therein to rise and fall with some regularity, exclusive of storm tides, hurricane tides, or tidal waves, irrespective of any actual incursion or admixing of oceanic saltwater.
- (15) TIDAL RIVER Any stream in which action of the oceanic tide causes the water to ebb and flow or the water level therein to rise and fall with some regularity, exclusive of storm tides, hurricane tides or tidal waves, irrespective of any actual incursion or admixing of oceanic saltwater.
- (16) VELOCITY ZONES (V-ZONES) Those direct coastal areas within a Floodplain District which may be subject to extreme damage from the velocity of wave action or storm surge. The V-Zones are shown on the Town Zoning Map on file in Town Hall with the Town Clerk.

FARM

For definitions related to "farm," refer to the Agriculture Related Terms section.

HOME OCCUPATION RELATED TERMS

- (1) HOME OCCUPATION Use of a dwelling unit, or an accessory building, which is clearly incidental and subordinate to its use for residential purposes by its family residents for employment involving the manufacture, provision, or sale of goods or services. For the purposes of this definition the home occupation must be owned and operated by the resident of the premises.
- (2) HOME-BASED SERVICE BUSINESS A home occupation that operates from a single-family residence, or structure on an adjoining lot, provided that both lots are in common ownership with the respect to fee and not-fee interests and do not satisfy the definition of a "contractor yard", and meets the following criteria:
 - a. The single-family residence shall be the domicile of the resident owner/operator of the business;
 - b. The business employs not more than two individuals who are nonfamily members on the premises;
 - c. The business is one of the following types:
 - i. Landscaping.
 - ii. Electrical wiring
 - iii. Plumbing, including gas fitting
 - iv. Construction, including home building and remodeling, framing, masonry and foundations, siding, carpentry, drywall, air conditioning, energy services, roofing, painting, and sign making
 - v. Mobile marine services, excluding boat storage
 - vi. Other general services not more specifically listed; and

- d. The business meets all the criteria contained in § 240-9.6.B, the special permit criteria for home-based service businesses.

INDUSTRIAL RELATED TERMS

- (1) **CONTRACTOR'S YARD** Premises used by a building or construction contractor or subcontractor principally for the storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled vehicles.
- (2) **SALVAGE YARD** SA place where junk, waste, discarded materials, or salvage materials are bought, sold, exchanged, stored, bailed, packed, disassembled, or handled, including automobile wrecking yards, house wrecking yards, and structural steel and equipment storage, but not including the purchase or storage of used furniture and household equipment, used cars in operable condition, or used or salvaged materials as part of manufacturing operations.

KENNEL RELATED TERMS

- (1) **KENNEL** A shelter for four or more dogs, six months of age or over, on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel, or veterinary kennel.
- (2) **KENNEL, COMMERCIAL** A kennel, subject to MGL c. 140, §§ 136A and 137A-D, which is maintained as a business for the breeding, rearing, training, boarding, or grooming of dogs, or which sells dogs born and raised on the premises from more than one litter per year. Commercial boarding or training kennels shall not include an animal shelter or animal control facility, a pet shop licensed under MGL c. 129, § 39A, a grooming facility operated solely for the purpose of grooming and not for overnight boarding, or an individual who temporarily boards or cares for animals owned by others.
- (3) **KENNEL, KEEPER** The person, business, corporation, entity, or society having possession of a dog.
- (4) **KENNEL OWNER** The person in whose name the kennel license is issued.

LANDSCAPE RELATED TERMS

- (1) **ANNUAL** A plant with soft and fleshy stems which lives for only one or two years.
- (2) **BERM** A mound of earth covered with plants and used as a screen.
- (3) **BUFFER OR SCREEN** Any landscape object or structure (such as a fence, berm or hedge) used to hide something from view or as a barrier for privacy, security, or protection from noise, wind or dust.
- (4) **DECIDUOUS** Any woody perennial which drops its leaves in autumn or winter.
- (5) **EVERGREEN** Any woody perennial which retains its leaves throughout the year.
- (6) **FORMAL** A landscape designed primarily on classical geometric lines, typically requiring high maintenance.
- (7) **GROUND COVER** Low shrubs, herbaceous perennials, or reseeding annuals that are planted to cover the ground completely at maturity to stabilize slopes or substitute for a lawn.
- (8) **HEDGE** Shrubs planted close together in a solid line to delineate a space, form a border, or create a screen for privacy.
- (9) **HERBACEOUS PERENNIAL** A perennial plant with soft and fleshy stems which dies back to the ground in winter.

- (10) **LANDSCAPE**(noun) — the spatial relationship of the topography, structures, and vegetation. (verb)-to modify or ornament nature by altering topography, structures or vegetation.
- (11) **LANDSCAPE OBJECT**Any fixed feature in the landscape which does not require a building permit.
- (12) **MULCH**Organic material used to temporarily cover the ground until plants can reach maturity and cover it.
- (13) **NATURALIZED**A landscape designed primarily on curved lines to mimic nature and that typically requires little maintenance.
- (14) **PERENNIAL**A plant which lives for more than two years.
- (15) **SERVICE AREA**Any area which contains a loading dock, dumpster, or outdoor storage of merchandise, vehicles, or equipment.
- (16) **SHRUB**A woody perennial plant growing to a height of 15 feet or less at maturity.
- (17) **STREET TREE**A tree with characteristics (such as sturdy limbs, deep root system or lack of low branches) which makes it desirable for planting near pavement or underground utilities.
- (18) **TREE**A woody perennial plant growing to a height of 15 feet or more at maturity.
- (19) **UNDISTURBED**A landscape design which primarily utilizes existing plants in a natural state and requires no maintenance.
- (20) **VEGETATED ISLAND**An area inside a paved parking area with vegetation instead of pavement.
- (21) **XERISCAPE**A landscape designed with native, drought-tolerant species.

LODGING RELATED TERMS

- (1) **COMMERCIAL ACCOMMODATIONS**Premises for rental to transient guests, including a boarding, lodging, or tourist home; motel; hotel; or inn.
- (2) **BOARDINGHOUSE**A lodging house in which meals are served, for compensation, to the guests, or others.
- (3) **GUEST UNIT**A room or suite of rooms in commercial accommodations suitable for separate rental.
- (4) **LODGING HOUSE**A house where lodgings are let by the day, week, or month, for compensation, to four or more persons not within second degree of kindred to the person operating the lodging house in accordance with MGL c. 140, §§ 22-23. A lodging house does not include group residences licensed or regulated by agencies of the Commonwealth,
- (5) **ROOMING HOUSE**In accordance with MGL c. 111, § 199B, every dwelling unit or part thereof that contains one or more rooming units in which space is let or sublet for compensation by the owner or operator to four or more persons not within second degree of kindred to the person compensated. Rooming units shall mean the room or group of rooms let to an individual or household for use as living and sleeping quarters.

LOT & YARD RELATED TERMS

- (1) **LOTA** designated tract, parcel, or area of land established by subdivision, approval not required plan, or as otherwise established by law, having specific boundaries, and delineated by a solid closed line. A continuous parcel of land under one ownership delineated by a solid closed line and shown on a plan endorsed by the Planning Board and filed at the Land Court or the Registry of Deeds.

- (2) **LOT AREA**The horizontal area of the lot exclusive of any area in a street or recorded way open to public use. Land under any water body, freshwater or coastal wetland, beach, dune, flat, marsh, or swamp as defined in § 235-9B of the Town of Falmouth Wetlands Protection Bylaw, shall not be included in the "lot area" required for zoning compliance. This definition shall not apply to a lot shown on a plan or described in a deed duly recorded at the Registry of Deeds as of April 1, 1996, which, at the time of the Zoning Bylaw change, conformed to the then existing requirements for the zoning district in which it is located.
- (3) **LOT FRONTAGE**That portion of a lot fronting upon and having legal rights of access to a street to be measured continuously along one street line between the side lot lines and their intersection with the street line, or in the case of a corner lot, the combined frontage to the point of intersection with the street lines extended. Frontage requirements for up to three lots on the arc of the curve at the end of a cul-de-sac may be reduced to no less than 60% of the required minimum for the district.
- (4) **LOT WIDTH**The diameter of the largest circle that can be inscribed in the lot boundaries. Land under any water body, freshwater or coastal wetland, beach, dune flat, marsh, or swamp, as defined in § 235-9B of the Town of Falmouth Wetlands Protection Bylaw, shall not be included in the lot width required for zoning compliance. This definition shall only apply to a new lot created after April 13, 1998.
- (5) **SETBACK**The distance between a lot line and the line beyond which a structure may be built or an allowed use may occur.
- (6) **YARD**An area open to the sky, located between a street or other property line and any structure or element thereof other than a fence, wall, other customary yard accessory or projection allowed to encroach on building lines by the Commonwealth of Massachusetts State Building Code. Depth is to be measured perpendicular to the street or property line.
- (7) **YARD, FRONT**A front yard includes both of the following:
 - a. That area of a lot between the front walls (including offsets) of the principal building and the lot frontage adjacent to the street the lot adjoins; and
 - b. The area between the lot frontage adjacent to the street and lines drawn from the two front corners of the building parallel to the lot frontage until they intersect a side lot line.

Note: A lot may have more than one front yard. The Building Commissioner may designate the primary front yard for the purpose of maintaining a front yard setback. A front yard not designated as a primary front yard may maintain a side or rear yard setback.

- (8) **YARD, REAR**That portion of a lot extending across the full width of the lot between the rear wall(s) of the principal structure and the rear lot line. The depth of the required "rear yard" shall be measured horizontally from the nearest part of the rear lot line toward the nearest part of the principal structure.
- (9) **YARD, SIDE**That portion of a lot between the principal structure and the side lot line extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required "yard" shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

MARIJUANA TREATMENT CENTERS RELATED TERMS

- (1) **MARIJUANA-INFUSED PRODUCT (MIP)**A product infused with marijuana that is intended for use or consumption, including, but not limited to, edible products, ointments, aerosols, oils, and tinctures.
- (2) **MARIJUANA TREATMENT CENTER/REGISTERED MARIJUANA DISPENSARY**An entity

registered under 105 CMR 725.000 that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, including development of related marijuana-infused product (MIP), related supplies, or educational materials to registered qualifying patients or their registered personal caregivers.

- (3) **QUALIFYING PATIENT**A Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J). "Registered qualifying patient" means a qualifying patient who has applied for and received a registration card.

MASTER PLAN

A Master Plan, also known as a Local Comprehensive Plan, is a statement, through text, maps, illustrations, or other forms of communication, designed to provide a basis for decision-making regarding the long-term planning and development of the municipality. The Master Plan shall be internally consistent in its policies, goals, and strategies, and implementation actions.

(MRCOD) MIXED RESIDENTIAL AND COMMERCIAL OVERLAY DISTRICT TERMS

- (1) **AFFORDABLE HOUSING RESTRICTION**A deed restriction meeting statutory requirements in MGL C. 184, § 31, in a form consistent with MA Department of Housing and Community Development (DHCD) Local Initiative Program (LIP) guidelines or otherwise allows for inclusion of an affordable dwelling unit on the Town's Subsidized Housing Inventory (SHI) which runs with the land and is recorded with the Barnstable Registry of Deeds or Land Court Registry District, and which effectively restricts the occupancy of a low or moderate income housing unit to income eligible households. The term of affordability shall be in perpetuity or for the longest term allowed by law. The restriction shall contain terms and conditions for the resale of a home ownership unit, including definition of the maximum permissible sale price, and for the subsequent rental of a rental unit, including definition of the maximum permissible rent. The restriction shall require that tenants of rental units and owners of homeownership units shall occupy the units as their principal residences.
- (2) **AS OF RIGHT**Development that may proceed under the Zoning Bylaw without the need for a special permit, variance, zoning amendment, or other discretionary zoning approval.
- (3) **ELIGIBLE HOUSEHOLD**An individual or household whose annual income is less than or equal to 80% of the area-wide median income as determined by the US Department of Housing and Urban Development (HUD) adjusted for household size for Barnstable County, with income computed using HUD rules for attribution of income to assets.
- (4) **ELIGIBLE LOCATION**Areas that by virtue of their infrastructure, transportation access, existing underutilized facilities or location make highly suitable locations for residential or mixed-use zoning districts, including without limitation (1) areas near transit stations, bus and ferry terminals, or (2) areas of concentrated development, including town centers and other existing commercial districts.
- (5) **MIXED USE DEVELOPMENT**A development containing a mix of residential uses and non-residential uses, including, without limitation, commercial, institutional, or other uses, as well as modifications to existing buildings.
- (6) **MRCOD APPLICANT**The person or persons, including a corporation or other legal entity, who applies for approval of a multiunit/mixed use development. The applicant must own or be the beneficial owner of all the land included in the development or have authority to act for the owners or hold an option or contract duly executed by the owners and the applicant giving the applicant the right to acquire or lease the land to be included in the development.

- (7) **MULTI-FAMILY DWELLING**A building designed and constructed so as to contain three or more suites of one or more rooms, each suite provided with individual cooking and other facilities for independent housekeeping, used or intended to be used for the non-transient housing of three or more family units.
- (8) **PERMIT GRANTING AUTHORITY**The Planning Board shall be the sole permit granting authority pursuant to any provision of this bylaw.
- (9) **THREE QUARTER STORY**That portion of a building under any type of sloping roof, which is potentially habitable as defined under the Massachusetts Building Code and within which the number of square feet in area is never more than 3/4 of that of the story below. If the square foot area of the subject portion is greater, that portion shall be deemed a story.

NONCONFORMING (USE, BUILDING, STRUCTURE, AND LOT)

Uses, buildings, structures, and lots lawfully in existence or that lawfully had begun before the first publication of a notice of a public hearing to amend this bylaw in accordance with MGL c. 40A, § 5, which do not comply with the regulations for the district in which they now exist.

NONCRIMINAL DISPOSITION

A process used for a violation of a Town bylaw or of the rules and regulations of a municipal officer, board, or department subject to a specific penalty as authorized pursuant to MGL c. 40, § 21D.

NUISANCE

An interference with the enjoyment and use of property greater than normally expected in the general area. Interference in the health and comfort of people to an unreasonable extent.

RESIDENTIAL/DWELLING/HOUSING/FAMILY RELATED TERMS

- (1) **AFFORDABLE DWELLING UNIT**A dwelling unit that complies with 760 CMR 56, or successor regulations, regarding unit inclusion on the state subsidized housing inventory.
- (2) **DWELLING**A building or portion thereof used exclusively for residential occupancy (living, sleeping, cooking, and eating) including one-family, two-family, and multifamily dwellings. This does not include commercial accommodations used, or intended for use, by single or multiple families, as the case may be,
- (3) **DWELLING UNIT**A room or enclosed floor space within a dwelling used or intended for use by one-family or a household, for living, sleeping, cooking, and eating.
- (4) **FAMILY**A "family" may include any of the following:
 - a. An individual residing in one dwelling unit;
 - b. A group of persons related by marriage, blood, or adoption, including domestic employees, residing in one dwelling unit;
 - c. A group of unrelated individuals, not to exceed five, residing cooperatively in one dwelling unit, Where the taking of boarders is expressly prohibited; or
 - d. A group of unrelated individuals, determined to be handicapped by the Building Commissioner under the Federal Fair Housing Act, state law, or this bylaw, residing cooperatively in one dwelling unit with up to five individuals or at a density of not more than two individuals per bedroom, whichever is greater.
- (5) **MULTIFAMILY DWELLING**A building designed and constructed so as to contain three or more suites

of one or more rooms, each suite provided with individual cooking and other facilities for independent housekeeping, used or intended to be used for the non-transient housing of three or more family units.

- (6) **MULTIFAMILY USE** Any combination of dwellings, as defined, on a single lot resulting in three or more dwelling units.
- (7) **SINGLE-FAMILY DWELLING** A detached dwelling designed for and occupied by a single family, but not including a mobile home.
- (8) **SEMI-DETACHED DWELLING** Two one-family dwellings built together at the same time and separated by a fireproof division with no openings.
- (9) **TIME-SHARE OR TIME-INTERVAL OWNERSHIP DWELLING UNIT** A dwelling unit in which the exclusive right of use, possession, or ownership circulates among various owners or lessees in accordance with a fixed or floating time schedule on a periodically recurring basis, whether such use, possession, or occupancy is subject to either:
 - a. A time-share estate, in which ownership or leasehold estate in property is devoted to a time-share fee (tenants-in-common, time-span ownership, interval ownership) and a time-share lease; or
 - b. A time-share use, including any contractual right of exclusive occupancy which does not fall within the definition of time-share estate including, but not limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership, or vacation bond.
- (10) **TWO-FAMILY DWELLING** A detached dwelling designed for two families.

RESTAURANT RELATED TERMS

- (1) **RESTAURANT** An establishment in which food is prepared and served and customers' orders are taken and served at dining tables. A single inside takeout station may be considered accessory to a conventional "restaurant".
- (2) **RESTAURANT CLASS I** Any establishment which has a rating of 199 or less as measured by the table of performance indicators for restaurant classifications found in § 240-13.2B of the Zoning Bylaw.
- (3) **RESTAURANT CLASS II** Any establishment which has a rating of 200 to 265 as measured by the table of performance indicators for restaurant classifications found in § 240-13.2B of the Zoning Bylaw.
- (4) **RESTAURANT CLASS III** Any establishment which has a rating of 266 to 299 as measured by the table of performance indicators for restaurant classifications found in § 240-13.2B of the Zoning Bylaw.
- (5) **RESTAURANT CLASS IV** Any establishment which has a rating of 300 or more as measured by the table of performance indicators for restaurant classifications found in § 240-13.2B of the Zoning Bylaw.
- (6) **RESTAURANT, FAST-FOOD** An establishment for the immediate sale of food or drink prepared on or off premises and served in disposable containers or wrappers for consumption on or off premises unless such sales are wholly incidental to a conventional restaurant or other use such as a grocery or convenience store or food market or other use defined in Article 3. Service is usually cafeteria style or from a serving counter. The establishment may include inside seating, but table service is usually not provided or only incidental. All restaurant establishments providing in-car, drive-through service are included in this definition.

SOLAR - GROUND MOUNTED SOLAR PHOTOVOLTAIC ARRAY

A system of solar panels structurally mounted on the ground and generating electricity to be used on-site or sold to the wholesale electricity market.

STREET, ROADS, & DRIVEWAYS RELATED TERMS

(1) CLEAR SIGHT TRIANGLE

- a. **STREET INTERSECTIONS**An area free of obstructions which might interfere with a driver's ability to see other vehicles approaching an intersection.
 - b. **DRIVEWAYS**In accordance with Chapter 199 - Streets and Sidewalks, Article III of the Town Code, driveways shall be located and constructed in accordance with a clear sight triangle corresponding to the posted speed limit; no permanent obstructions or plant materials over three feet high shall be placed within the clear sight triangle.
- (2) **COMMON DRIVEWAY**A vehicular way, which is not a street, providing access to three or more residential, industrial, or commercial lots.
 - (3) **CUL-DE-SACA** dead-end street with a turnaround at the closed end having an outside street radius of not more than 60 feet.
 - (4) **STREET**An accepted Town way, or a way established by or maintained under county, state or federal authority, or a way established by a subdivision plan approved in accordance with the Subdivision Control Law (MGL c. 41, §§ 81K - 81GG), or a way in existence when the Subdivision Control Law became effective in the Town of Falmouth, determined by the Planning Board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

USE RELATED TERMS

- (1) **MULTIPLE USE**Any combination of uses allowed as a matter-of-right or by special permit on a single lot which may require separate permits for construction, occupancy, business certification, license to sell food or alcohol, or other municipal approval.
- (2) **USE**A purpose for which land or a building is arranged, designed, or intended or for which land or a building is or may be occupied.

WATER RESOURCE PROTECTION RELATED TERMS

- (1) **AQUIFER**Geologic formation composed of rock, sand, or gravel containing sufficient saturated material in order to yield potable groundwater to public or private wells.
- (2) **IMPERVIOUS SURFACE**Material or structure on, above, or below the ground that prevents precipitation or surface water from penetrating directly into the soil.
- (3) **MINING**The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.
- (4) **RECHARGE AREAS**Areas that collect precipitation or surface water and carry it to aquifers, designated as Zones I, II or III, as defined in 310 CMR 22.00.
- (5) **TOXIC OR HAZARDOUS MATERIAL**Any substance or combination of substances, not including any liquid petroleum product, posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or combination were discharged to land or water of the Town of Falmouth. "Toxic or hazardous materials" include all substances defined as "toxic or hazardous" under Massachusetts General Laws, hereinafter referred to as MGL c. 21C and 21E and 310 CMR 30.00.
- (6) **WATER RESOURCE PROTECTION OVERLAY DISTRICT (WRPOD)**The zoning district defined to

overlay other zoning districts in the Town of Falmouth. The WRPOD may include specifically designated recharge areas.

WATERFRONT RELATED TERMS

- (1) **COMMUNITY DOCK** A single pier, dock, or float located on a recreation or open space lot in a Planned Residential Neighborhood subdivision approved by the Planning Board pursuant to § 240-9.8, with a common right-of-use by the homeowners association, and having common rights-of-interest in the recreation or open space lot. It can be used by the property owners for loading and unloading of passengers and cargo and the tying of dinghies.
- (2) **MARINA** municipally or commercially operated landing and mooring place for yachts and other noncommercial boats and vessels, consisting of bulkheading or finger piers, and including facilities for the retail sale of fuel, lubricants, water and ice, shore telephone and power service, and the disposal of refuse in a manner approved by the Board of Health.

WIND ENERGY SYSTEM RELATED TERMS

- (1) **ACCESSORY LAND USE** The wind energy system (WES) shall be incidental to and supplement the power needs of the principal use(s) located on the same lot, or on land held in common ownership as part of a planned residential development. (See § 240-9.9)
- (2) **AMBIENT SOUND LEVEL** The background A-weighted decibel average that is exceeded 90% of the time (L90) measured during operational hours.
- (3) **BROADBAND SOUND** Noise that does not contain a distinguishable note or tone, and is comprised of multiple (low, mid and high) frequency components.
- (4) **FLICKER** The moving shadow created by the sun shining on the rotation of the blades of the wind turbine.
- (5) **LARGE WIND ENERGY SYSTEM (LWES)** A wind energy system with a rated capacity greater than 60 kilowatts but not more than 250 kilowatts.
- (6) **METEOROLOGICAL (MET) TOWER** A temporary tower equipped with devices to measure wind speed and direction, used to determine how much wind power a site can be expected to generate.
- (7) **NET METERING** The difference between the electricity supplied over the electric distribution system and the electricity generated by the wind energy system which is fed back into the electric distribution system over a given billing period.
- (8) **POWER GRID** The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.
- (9) **PURE TONE SOUND** A condition produced when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by three decibels or more.
- (10) **PUBLIC OUTREACH AREA** Those properties located in the area between 300 to 1,500 feet of the property line.
- (11) **RATED CAPACITY** The maximum rated output of electric power production equipment, as certified by the manufacturer. The rated capacity is the maximum power produced at optimum wind speed.
- (12) **SMALL WIND ENERGY SYSTEM (SWES)** A wind energy system with a rated capacity equal to or less than 60 kilowatts.

- (13) **SYSTEM HEIGHT**The vertical distance from ground level (natural grade) to the tip of the wind generator blade at its highest point.
- (14) **WIND ENERGY SYSTEM (WES)**All equipment, machinery, and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage equipment, substations, transformers, service and access roads, and one or more wind turbines.
- (15) **WIND TURBINE**A single device that converts wind energy to rotational energy that drives an electrical generator, typically consisting of a rotor and blade assembly, nacelle body and tower.

WOODWORK MILL, PORTABLE

Equipment for producing lumber from logs, without permanent installation.

YARDS

For definitions related to "Yards," refer to the Lot & Yard Related Terms section.

§ 240-7.5 Mixed Residential and Commercial Overlay District

§ 240-7.5A Purpose

- (1) The Purpose and intent of Section 240-75 is:
 - a. To enable the town to reach its goal of 10% of its housing on the Subsidized Housing Inventory (SHI).
 - b. To incentivize developers and property owners to create workforce, senior, and affordable family rental and ownership housing opportunities by increasing residential density and mixed use where appropriate.
 - c. To promote economic vitality and a greater diversity of housing opportunities in Falmouth.
 - d. To mitigate traffic congestion by promoting housing proximate to compatible commercial uses.
 - e. To promote consistency, quality, and flexibility in site layout and building design.
 - f. To provide housing for people at all stages of life and all levels of income, as set forth in the town's Local Comprehensive Plan.
 - g. To enable the creation of livable, walkable neighborhoods in the town's business districts.

§ 240-7.5B Establishment/delineation

- (1) There is hereby established a Mixed Residential and Commercial Overlay District which is an overlay district superimposed at certain eligible locations in existing B-1, B-2, and Business Redevelopment zoning districts. The underlying zoning shall remain in effect and the associated regulations for use, dimension, and all other provisions of the Zoning Bylaw governing those district(s) shall remain in full force.
- (2) The aforesaid eligible locations are shown on a map entitled "Mixed Residential and Commercial Overlay District, Town of Falmouth" dated November 15, 2021, scale: 1:2,500 feet. This map, as it may be amended from time to time, is hereby made part of the Town Zoning Bylaw and is on file at the office of the Town Clerk.

§ 240-7.5C Definitions

For definitions related to the Mixed Residential and Commercial Overlay District (MRCOD) see Article 3, Definitions.

(MRCOD) MIXED RESIDENTIAL AND COMMERCIAL OVERLAY DISTRICT TERMS

- (1) **AFFORDABLE HOUSING RESTRICTION**A deed restriction meeting statutory requirements in MGL

C. 184, § 31, in a form consistent with MA Department of Housing and Community Development (DHCD) Local Initiative Program (LIP) guidelines or otherwise allows for inclusion of an affordable dwelling unit on the Town's Subsidized Housing Inventory (SHI) which runs with the land and is recorded with the Barnstable Registry of Deeds or Land Court Registry District, and which effectively restricts the occupancy of a low or moderate income housing unit to income eligible households. The term of affordability shall be in perpetuity or for the longest term allowed by law. The restriction shall contain terms and conditions for the resale of a home ownership unit, including definition of the maximum permissible sale price, and for the subsequent rental of a rental unit, including definition of the maximum permissible rent. The restriction shall require that tenants of rental units and owners of homeownership units shall occupy the units as their principal residences.

- (2) **AS OF RIGHT**Development that may proceed under the Zoning Bylaw without the need for a special permit, variance, zoning amendment, or other discretionary zoning approval.
- (3) **ELIGIBLE HOUSEHOLD**An individual or household whose annual income is less than or equal to 80% of the area-wide median income as determined by the US Department of Housing and Urban Development (HUD) adjusted for household size for Barnstable County, with income computed using HUD rules for attribution of income to assets.
- (4) **ELIGIBLE LOCATION**Areas that by virtue of their infrastructure, transportation access, existing underutilized facilities or location make highly suitable locations for residential or mixed-use zoning districts, including without limitation (1) areas near transit stations, bus and ferry terminals, or (2) areas of concentrated development, including town centers and other existing commercial districts.
- (5) **MIXED USE DEVELOPMENT**A development containing a mix of residential uses and non-residential uses, including, without limitation, commercial, institutional, or other uses, as well as modifications to existing buildings.
- (6) **MRCOD APPLICANT**The person or persons, including a corporation or other legal entity, who applies for approval of a multiunit/mixed use development. The applicant must own or be the beneficial owner of all the land included in the development or have authority to act for the owners or hold an option or contract duly executed by the owners and the applicant giving the applicant the right to acquire or lease the land to be included in the development.
- (7) **MULTI-FAMILY DWELLING**A building designed and constructed so as to contain three or more suites of one or more rooms, each suite provided with individual cooking and other facilities for independent housekeeping, used or intended to be used for the non-transient housing of three or more family units.
- (8) **PERMIT GRANTING AUTHORITY**The Planning Board shall be the sole permit granting authority pursuant to any provision of this bylaw.
- (9) **THREE QUARTER STORY**That portion of a building under any type of sloping roof, which is potentially habitable as defined under the Massachusetts Building Code and within which the number of square feet in area is never more than 3/4 of that of the story below. If the square foot area of the subject portion is greater, that portion shall be deemed a story.

§ 240-7.7 Water Resource Protection Overlay District

§ 240-7.7A Overview

- (1) The purpose of the Water Resource Protection Overlay District (WRPOD) is to:
 - a. Promote the health, safety, and general welfare of the community by ensuring an adequate quality and

quantity of drinking water;

- b. Preserve and protect existing and potential sources of drinking water supplies;
 - c. Conserve the natural resources of the Town; and
 - d. Prevent temporary and permanent contamination of the environment.
- (2) Delineation of the Water Resource Protection Overlay District (WRPOD).
- a. The WRPOD is an overlay district that shall apply to all new construction, reconstruction, or expansion of existing buildings, and new or expanded uses.
 - b. There are hereby delineated within the Town certain water resource protection areas consisting of aquifers or recharge areas which are shown a map, at a scale of one inch to 1,500 feet, and entitled "Water Resource Protection District, Town of Falmouth," dated March 29, 2011. This map, as it may be amended from time to time by Town Meeting, is hereby made a part of the Zoning Bylaw and is on file in the office of the Town Clerk.
 - c. Applicable activities or uses which fall within the WRPOD must comply with the requirements of this district as well as with the underlying zoning.
- (3) **Definitions - For definitions related to this section, see Article 3 - Definitions.**

WATER RESOURCE PROTECTION RELATED TERMS

- (1) **AQUIFER**Geologic formation composed of rock, sand, or gravel containing sufficient saturated material in order to yield potable groundwater to public or private wells.
 - (2) **IMPERVIOUS SURFACE**Material or structure on, above, or below the ground that prevents precipitation or surface water from penetrating directly into the soil.
 - (3) **MINING**The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.
 - (4) **RECHARGE AREAS**Areas that collect precipitation or surface water and carry it to aquifers, designated as Zones I, II or III, as defined in 310 CMR 22.00.
 - (5) **TOXIC OR HAZARDOUS MATERIAL**Any substance or combination of substances, not including any liquid petroleum product, posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or combination were discharged to land or water of the Town of Falmouth. "Toxic or hazardous materials" include all substances defined as "toxic or hazardous" under Massachusetts General Laws, hereinafter referred to as MGL c. 21C and 21E and 310 CMR 30.00.
 - (6) **WATER RESOURCE PROTECTION OVERLAY DISTRICT (WRPOD)**The zoning district defined to overlay other zoning districts in the Town of Falmouth. The WRPOD may include specifically designated recharge areas.
- (4) **Boundary disputes** - If the location of the district boundary, as delineated on the Water Resource Protection Overlay District Map in relation to a particular parcel is in doubt or dispute, the burden of proof shall be on the property owner(s) of the land in question to show where the boundaries should properly be located. At the request of the owner(s), the Town may engage a professional engineer, hydrologist, geologist, or soil scientist to determine the boundaries of the district more accurately with

respect to individual parcels of land and may charge the owner(s) for all or part of the cost of the investigation.

§ 240-9.7B Definitions

See Article 3 - Definitions for definitions related to marijuana treatment center.

MARIJUANA TREATMENT CENTERS RELATED TERMS

- (1) **MARIJUANA-INFUSED PRODUCT (MIP)** A product infused with marijuana that is intended for use or consumption, including, but not limited to, edible products, ointments, aerosols, oils, and tinctures.
- (2) **MARIJUANA TREATMENT CENTER/REGISTERED MARIJUANA DISPENSARY** An entity registered under 105 CMR 725.000 that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, including development of related marijuana-infused product (MIP), related supplies, or educational materials to registered qualifying patients or their registered personal caregivers.
- (3) **QUALIFYING PATIENT** A Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J). "Registered qualifying patient" means a qualifying patient who has applied for and received a registration card.

MASTER PLAN

A Master Plan, also known as a Local Comprehensive Plan, is a statement, through text, maps, illustrations, or other forms of communication, designed to provide a basis for decision-making regarding the long-term planning and development of the municipality. The Master Plan shall be internally consistent in its policies, goals, and strategies, and implementation actions.

§ 240-9.9C Definitions

See Article 3 - Definitions, for definitions related to wind energy systems.

WIND ENERGY SYSTEM RELATED TERMS

- (1) **ACCESSORY LAND USE** The wind energy system (WES) shall be incidental to and supplement the power needs of the principal use(s) located on the same lot, or on land held in common ownership as part of a planned residential development. (See § 240-9.9)
- (2) **AMBIENT SOUND LEVEL** The background A-weighted decibel average that is exceeded 90% of the time (L90) measured during operational hours.
- (3) **BROADBAND SOUND** Noise that does not contain a distinguishable note or tone, and is comprised of multiple (low, mid and high) frequency components.
- (4) **FLICKER** The moving shadow created by the sun shining on the rotation of the blades of the wind turbine.
- (5) **LARGE WIND ENERGY SYSTEM (LWES)** A wind energy system with a rated capacity greater than 60 kilowatts but not more than 250 kilowatts.
- (6) **METEOROLOGICAL (MET) TOWER** A temporary tower equipped with devices to measure wind speed and direction, used to determine how much wind power a site can be expected to generate.

- (7) **NET METERING**The difference between the electricity supplied over the electric distribution system and the electricity generated by the wind energy system which is fed back into the electric distribution system over a given billing period.
- (8) **POWER GRID**The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.
- (9) **PURE TONE SOUND**A condition produced when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by three decibels or more.
- (10) **PUBLIC OUTREACH AREA**Those properties located in the area between 300 to 1,500 feet of the property line.
- (11) **RATED CAPACITY**The maximum rated output of electric power production equipment, as certified by the manufacturer. The rated capacity is the maximum power produced at optimum wind speed.
- (12) **SMALL WIND ENERGY SYSTEM (SWES)**A wind energy system with a rated capacity equal to or less than 60 kilowatts.
- (13) **SYSTEM HEIGHT**The vertical distance from ground level (natural grade) to the tip of the wind generator blade at its highest point.
- (14) **WIND ENERGY SYSTEM (WES)**All equipment, machinery, and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage equipment, substations, transformers, service and access roads, and one or more wind turbines.
- (15) **WIND TURBINE**A single device that converts wind energy to rotational energy that drives an electrical generator, typically consisting of a rotor and blade assembly, nacelle body and tower.

§ 240-14.3C Definitions

For definitions of landscape terms, see Article 3 Definitions, "Landscape Related Terms"

LANDSCAPE RELATED TERMS

- (1) **ANNUAL**A plant with soft and fleshy stems which lives for only one or two years.
- (2) **BERM**A mound of earth covered with plants and used as a screen.
- (3) **BUFFER OR SCREEN**Any landscape object or structure (such as a fence, berm or hedge) used to hide something from view or as a barrier for privacy, security, or protection from noise, wind or dust.
- (4) **DECIDUOUS**Any woody perennial which drops its leaves in autumn or winter.
- (5) **EVERGREEN**Any woody perennial which retains its leaves throughout the year.
- (6) **FORMAL**A landscape designed primarily on classical geometric lines, typically requiring high maintenance.
- (7) **GROUND COVER**Low shrubs, herbaceous perennials, or reseeding annuals that are planted to cover the ground completely at maturity to stabilize slopes or substitute for a lawn.
- (8) **HEDGE**Shrubs planted close together in a solid line to delineate a space, form a border, or create a screen for privacy.

- (9) HERBACEOUS PERENNIALA perennial plant with soft and fleshy stems which dies back to the ground in winter.
- (10) LANDSCAPE(noun) — the spatial relationship of the topography, structures, and vegetation. (verb)-to modify or ornament nature by altering topography, structures or vegetation.
- (11) LANDSCAPE OBJECTAny fixed feature in the landscape which does not require a building permit.
- (12) MULCHOrganic material used to temporarily cover the ground until plants can reach maturity and cover it.
- (13) NATURALIZEDA landscape designed primarily on curved lines to mimic nature and that typically requires little maintenance.
- (14) PERENNIALA plant which lives for more than two years.
- (15) SERVICE AREAAny area which contains a loading dock, dumpster, or outdoor storage of merchandise, vehicles, or equipment.
- (16) SHRUBA woody perennial plant growing to a height of 15 feet or less at maturity.
- (17) STREET TREEA tree with characteristics (such as sturdy limbs, deep root system or lack of low branches) which makes it desirable for planting near pavement or underground utilities.
- (18) TREEA woody perennial plant growing to a height of 15 feet or more at maturity.
- (19) UNDISTURBEDA landscape design which primarily utilizes existing plants in a natural state and requires no maintenance.
- (20) VEGETATED ISLAND An area inside a paved parking area with vegetation instead of pavement.
- (21) XERISCAPEA landscape designed with native, drought-tolerant species.

§ 240-14.4D Definitions

See Article 3 Definitions, § 240-3.3, Agriculture and Farm Related Terms, for definitions associated with agriculture.

- (1) FARM A parcel of land containing at least five acres devoted exclusively to and currently maintaining one or more agricultural uses as defined under MGL c. 128, § 1A, or to parcels two acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in areas not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. For such purposes, land divided by a public or private way or a waterway shall be construed as one parcel.
- (2) FARM RELATED BUSINESSA business operated on a farm parcel, related to or supportive of agricultural activities such as agricultural tourism, farm vacations, active and passive recreational opportunities, blacksmithing, farm implement repairs, sale of small or light garden supplies, equipment and tools customary and incidental to the sale of garden plants and nursery stock.