

Amended 1-3-23 moved to ballot

*The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing. (NOTE: New language **emboldened and italicized**. Deleted language ~~struck through~~).*

Proposed Amendment 2023-11

Article XI - Definitions

§ 190-11.1 Word usage and definitions.

- A. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meaning indicated in this section. The present tense includes the future; the singular number includes the plural, and the plural the singular; the word "used" or "occupied" includes the words "designed, arranged, or intended to be used or occupied"; the word "person" includes an individual, partnership, firm, association, corporation, or organization; and the word "building" includes the word "structure." Subject to the foregoing rules of construction, the following definitions apply. [**Amended 3-10-2020 by Art. 3**]
- B. For the purpose of this chapter, as well as for the Building Code of Rye, New Hampshire, so called,^[1] certain terms and words are herein defined as follows:

ACCESSORY BUILDING

A subordinate building on the same lot, whether attached or unattached to the principal dwelling or principal building thereon.

[**Amended 3-12-2019 by Art. 4**]

ACCESSORY USE

Any subordinate use of premises which customarily is accepted as a reasonable corollary to the principal use thereof.

ADULT ARCADE

Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still- or motion-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

[**Added 2009**]

ADULT BOOKSTORE

An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or

Amended 1-3-23 moved to ballot

display of such material.

[Added 1994]

ADULT CABARET

A nightclub, bar, restaurant, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity; or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

[Added 2009]

ADULT ESTABLISHMENT

An adult bookstore, adult motion-picture theater, adult cabaret, adult arcade, adult video store, or establishment governed by RSA 314-A, Body Art.

[Added 1994; amended 2009]

ADULT MOTION-PICTURE THEATER

An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein.

[Added 1994]

ADULT VIDEO STORE

An establishment having as a substantial or significant portion of its trade the sale or rental of films, recordings or videotapes, whether for on-premises or off-premises use, which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

[Added 1994]

AGRICULTURE – All activities identified and defined as “agriculture” in RSA-21:32-a

ANIMAL FEEDLOT

A commercial agricultural establishment where a concentration of animals is confined and fed simultaneously.

[Added 3-11-2008]

APARTMENT HOUSE; APARTMENT

An apartment house is a building containing three or more separate dwelling units designed for, or used for, more or less permanent living quarters for persons or families on a

Amended 1-3-23 moved to ballot

commercial (rental) basis. An apartment is any separate dwelling unit so offered or furnished for more or less permanent occupancy within an apartment house, motel, hotel or other building. *A building shall be construed as an apartment house even though the owner or principal of the owner resides in a dwelling unit in the apartment house.*

AQUACULTURE

The propagation and rearing of aquatic species and marine species and includes the planting, promotion of growth, harvesting and transporting of these species in, on, or from the waters of this state, or the operation of a fishing preserve, as defined by RSA 211:62-e, as amended.^[2]

[Amended 3-18-2017]

ASSISTED LIVING FACILITY

A state-licensed facility which combines apartment living (including studio apartments) with a variety of support services, including meals, assistance with personal care, housekeeping, laundry, social and recreational programs, oversight of residents' medication, twenty-four-hour security, and on-site staff to respond to emergencies. Some assisted living facilities also offer specialized care for persons with dementia or Alzheimer's disease. See RSA 151-E:2, I.

[Added 2009]

BASEMENT

A story *of a building* wholly or partially underground and having more than 1/2 of its height below grade. A basement shall be counted as a story in a building if the vertical distance from the grade to the basement ceiling is over five feet.

BEST MANAGEMENT PRACTICES (BMP) – AGRICULTURE

Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, distributed periodically by the New Hampshire Department of Agriculture, Markets and Food, revised June 2011, as amended (<http://agriculture.nh.gov/publications-forms/documents/bmp-manual.pdf>).

[Added 3-18-2017]

BEST MANAGEMENT WETLAND PRACTICES (BMP) – AGRICULTURE

Manual of Best Management Wetlands Practices (BMWP) for Agriculture in New Hampshire, distributed periodically by the NH Department of Agriculture, Markets and Food, revised 2019, as amended (<https://www.agriculture.nh.gov/publications-forms/documents/wetlands-bmp-manual.pdf>)

BEST MANAGEMENT PRACTICES (BMP) – FORESTRY

[Added 3-18-2017]

(1) New Hampshire Best Management Practices for Erosion Control on Timber Harvesting

Amended 1-3-23 moved to ballot

Operations 2016 as amended

(https://extension.unh.edu/resources/files/Resource000247_Rep266.pdf). [**Amended 3-10-2020 by Art. 3**]

- (2) Best Management Practices for Forestry: Protecting New Hampshire's Water Quality 2005 as amended (https://extension.unh.edu/resources/files/resource000248_rep267.pdf).
- (3) Good Forestry in the Granite State (DRED) as amended (<https://extension.unh.edu/goodforestry/assets/docs/goodforestry2010finalreducedsizesecure.pdf>).

BEST MANAGEMENT PRACTICES (BMP) – WETLANDS

Best Management Practice Techniques: For Avoidance and Minimization, as amended (<https://neiwpc.org/wp-content/uploads/2019/05/Wetlands-BMP-Manual-2019.pdf>).

[**Added 3-10-2020 by Art. 3**]

BEST MANAGEMENT PRACTICES (BMP) – WETLANDS CONSERVATION DISTRICT

[**Added 3-18-2017**]

- (1) Best Management Practice for Urban Stormwater Runoff, NHDES, 1996, as amended (http://des.nh.gov/organization/divisions/water/wmb/tmdl/documents/stormwater_toc.pdf).
- (2) Best Management Practices to Control Nonpoint Source Pollution: A Guide for Citizens and Town Officials, NHDES, January 2004, as amended (<http://des.nh.gov/organization/Commissioner/pip/publications/wd/documents/wd-03-42.pdf>).
- (3) Innovative Stormwater Treatment Technologies Best Management Practices Manual, NHDES, 2002, as amended (<http://scholars.unh.edu/cgi/viewcontent.cgi?article=1314&context=prep>).

BUILDING

Any structure, either temporary or permanent, having a roof or other covering and designed or used for the shelter or enclosure of any person, animal, or property of any kind.

BUILDING, ATTACHED

A building connected to another building by a common wall.

BUILDING, DETACHED

A building which is not connected to another building by a common wall. For example, a garage connected to a dwelling by a breezeway is a detached building.

BUILDING HEIGHT

The height of a building is the vertical distance from the grade elevation to the highest point of the roof. See definition of "grade."

Amended 1-3-23 moved to ballot

BUSINESS

Trade or activity carried on for *pecuniary* gain, including goods, services, and facilities offered or furnished to others for monetary or similar consideration.

CARPORT

A roofed, wall-less or semi-walled shed, projecting from the side of a building or entirely separated therefrom, that is used primarily as a shelter for vehicles.

CELLAR

Synonymous with basement; see definition of "basement."

CERTIFIED WETLANDS SCIENTIST

A person who, by reason of his or her special knowledge of hydric soils, hydrophytic vegetation, and wetland hydrology acquired by course work and experience, as specified by RSA 310-A:84, II-a and II-b, is qualified to delineate wetland boundaries and to prepare wetland maps; to classify wetlands; to prepare wetland function and value assessments; to design wetland mitigation; to implement wetland mitigation; to monitor wetlands functions and values; and to prepare associated reports, all in accordance with standards for identification of wetlands adopted by the New Hampshire Department of Environmental Services or the United States Army Corps of Engineers or their successors, and who has been duly certified by the State Board of Natural Scientists.

[Added 3-18-2017; amended 3-10-2020 by Art. 3]

CHURCH

Buildings used or intended for use as places of worship, or for other religious uses such as meetings, training, instruction and communal dwelling places for religious personnel, including parish houses, convents, monasteries, rectories and parsonages.

COMMERCIAL

Having to do with or pertaining to business, such as the business use of property being called commercial. See definition of "business."

COMMERCIAL RECREATION

A privately owned use providing indoor or outdoor nonmotorized recreational activities, or a combination of both, with or without seating for spectators, including basketball, football, baseball, softball, ice hockey, wrestling, soccer, tennis, racquetball, handball, squash, volleyball, rope courses, zip lines, miniature golf, golf driving range, skateboarding, cycling, bowling, swimming, weightlifting, gymnastics, and health and fitness, but not including firearms shooting ranges. A commercial recreation use may include accessory uses such as snack bars, restaurants (but no sales or service of alcoholic beverages) and retail sales of related recreational, sports or health and fitness items. Special events must comply with all Town permitting requirements.

[Added March 2012]

Amended 1-3-23 moved to ballot

CONDITIONAL USE PERMIT

In this chapter, the term "conditional use permit" is synonymous with the term "special use permit," as used in the New Hampshire Revised Statutes Annotated.

[Added 2007]

CONDOMINIUM OWNERSHIP

Ownership of common real property vested in unit owners pursuant to New Hampshire's Condominium Act, NH RSA 356-B, as amended.

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, *clearing, site preparation*, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTRICT

A district includes all the land, water, buildings, and uses within certain designated boundaries and constitutes a use classification within such boundaries as herein defined and as shown on the Zoning Map which is incorporated as part of this chapter and the amendments thereto.

DRIVEWAY

A private way for vehicles which provides entrance, exit, access or approach to or from land in Rye to/from a public street. Driveways are regulated by the Rye Planning Board Land Development Regulations: ~~a~~A-permit is required. Driveways may not be constructed within 10 feet of an abutting property line.

[Added 3-12-2019 by Art. 4; amended 3-8-2022 by Art. 3]

DWELLING

A building designed for or used primarily by one or more families for living quarters, but not including mobile homes, trailers of any kind, hotels, motels, lodging houses, institutional homes, residential clubs, tourist camps, cabins, or other commercial accommodations offered for occupancy.

[1991]

DWELLING, SINGLE-FAMILY

A detached building designed for or occupied exclusively by one family.

DWELLING, TWO-FAMILY

A detached building designed for or occupied by two families exclusively, living independently and separately of each other therein.

DWELLING UNIT

One or more rooms arranged for the use of one or more persons living together as a single

Amended 1-3-23 moved to ballot

housekeeping unit, and having cooking, living, sanitary and sleeping facilities, but not including a hotel, motel, tourist cabin (camp), lodging house, institutional home, residential club units or other similar commercial accommodations offered for *transient* occupancy.

[Amended 1991]

DWELLING UNIT, ACCESSORY

A residential living unit that is within or attached to a single-family dwelling and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

[Added 3-18-2017]

DWELLING UNIT, SEASONAL

A dwelling unit not suitable for year-round occupancy due to the presence of any one of the following conditions: water supply and/or waste disposal pipes, *inadequate insulation*, pumps or other facilities susceptible to freezing; no central year-round heating system; or NHDES restriction of septic system to seasonal use. If uncertainty exists, the Building Inspector shall determine the seasonal or year-round status of a dwelling unit.

[Added 2007]

EARTH EXCAVATION

The *removal, extraction, mining, commercial-taking, storage, or stockpiling* of earth, as *that term is defined in* ~~by~~ RSA 155-E:1, I and H.

[Added 3-11-2008]

FAMILY

A family is an individual; group of two or more persons related by blood, marriage, or adoption; or not more than three other persons not so related, provided that in each of the foregoing, all three persons constituting any such group are normally living together and sharing the same living quarters.

FARM

Any parcel of land used primarily for agricultural purposes.

FENCE

A barrier, railing or other upright structure, typically of wood or wire, enclosing an area of ground to mark a boundary, control access or prevent escape.

[Added 3-8-2022 by Art. 3]

FIREWORKS

Fireworks as defined in 27 CFR 555.11.

Amended 1-3-23 moved to ballot

[Added March 2011]

FLOOR

The more or less horizontal platform or portion of a building used to support the occupants and their furnishings and uses, generally laid perpendicular to and between the walls thereof.

FLOOR, GROUND

The floor of a building immediately above, and generally attached to, the foundation.

FORESTRY

Includes the growing, stocking, cutting, or sale of forest trees of any size for habitat management, for producing timber, or for other forest products, and pre-commercial silvicultural activities, including but not limited to timber stand improvement.

[Added 3-18-2017]

FOUNDATION

For the purposes of this chapter, a foundation of a building or structure used for human habitation shall mean a continuous wall of masonry, masonry units, concrete, or similar materials supporting or intended to support such building or structure, the base of which is not less than three feet below ground level at the building line.

FRONTAGE

All that continuous side of a lot or tract of land abutting on one side of a street, or proposed street, measured along the street line.

[Amended 3-18-2017]

GARAGE

An accessory building, joined or attached or entirely separate from the dwelling or principal building it serves, and having a garage-style door(s), the primary use of which is the storage or parking of not more than three motor vehicles. If the garage is used in conjunction with a multi-unit dwelling, the number of bays shall not exceed the number of units.

[Amended 3-11-2008; 3-12-2019 by Art. 4]

GARAGE, PUBLIC

A building designed or primarily used for the storage, maintenance, and repair of motor vehicles.

GRADE

The elevation of the ground before any construction or alteration begins shall be referred to as the grade.

[Amended 3-10-1999; 3-18-2017]

Amended 1-3-23 moved to ballot

- (1) Measurement from grade for buildings is determined by one of the following methods:
 - (a) For lots with front yard depth of 100 feet or less, grade shall be the elevation of the existing ground at the center of the exterior wall on the street side.
 - (b) For building lots with frontage on more than one street, grade shall be the elevation of the existing ground at the center of the exterior wall on the nearer or nearest street side.
 - (c) For lots with all yard depth to streets of more than 100 feet, grade shall be the average elevation of the ground *at each of the corners of* ~~around~~ the building.
- (2) For structures that are not buildings, grade shall be measured from the lowest point of the ground occupied by the structure.

GROUNDWATER

Subsurface water that occurs beneath the water table in soil and geological formations.

[Added 3-11-2008; amended 3-12-2013]

GROUNDWATER MANAGEMENT ZONE (GMZ)

An area designated by the state through permit process as a component of the remediation of contaminated groundwater. The state issues permits or other similar controls for such zones that establish a time period and process for the monitoring and/or remediation of the groundwater.

[Added 3-12-2013]

GROUNDWATER RECHARGE

The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface water, including lakes, streams and wetlands.

HABITABLE FLOOR

Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

HEIGHT

See definition of "building height."

HOME

A person's place of abode or residence; essentially synonymous with one's dwelling. See definition of "dwelling."

HOME OCCUPATION

A business customarily carried on from the home, which is an accessory use only of, or to, the dwelling concerned, and which employs not more than one person outside the immediate family, and which is operated by a member of the family occupying the

Amended 1-3-23 moved to ballot

dwelling.

HOTEL

A building designed for or used commercially as more or less temporary/*transient* living quarters for persons who are lodged with or without meals in which are 10 or more sleeping rooms usually occupied singularly or by families of transients.

HOUSEKEEPING CABIN

A building designed, or used, for temporary living quarters for one person or a single family occupying it exclusively on a commercial (rental) basis and having a kitchen or cooking facilities therein.

HOUSE TRAILER

See definition of "mobile home."

HYDRIC SOIL

A soil that formed under conditions of saturation, flooding or ponding long enough during the growing season to develop anaerobic conditions in the upper part. See New Hampshire Administrative Rules Section Env-Wq 1002.32.

[Added 3-14-2000; amended 3-10-2020 by Art. 3]

HYDROGEOLOGIST

A person who by education and experience is able to quantitatively analyze and interpret hydrology and is a licensed geologist, specializing in hydrology, in the State of New Hampshire.

[Added 3-11-2008; amended 3-10-2020 by Art. 3]

IMPERVIOUS COVERAGE or IMPERVIOUS

Any modified surface that cannot effectively absorb or infiltrate water. Examples of impervious surfaces include, but are not limited to, roofs and, unless designed to effectively absorb or infiltrate water, decks, patios, and paved, gravel, or crushed stone driveways, parking areas, and walkways, storage areas, compacted gravel, including drives and parking areas, oiled or compacted earthen materials, stone, concrete or composite pavers and wood. (From NH RSA 483-B:4, Shoreland Water Quality Protection Act.)

[Amended 3-10-2015]

ISOLATED, NON-BORDERING WETLANDS

Those areas of 3,000 square feet or less which satisfy the definition of "wetlands" but which (1) are not within 100 feet of any other wetland and do not abut tidal lands, ponds, 1st - 4th order streams or rivers, vernal pools, and freshwater marshes, (2) do not contribute to flood storage or the proper conveyance of surface water runoff; and (3) are not identified as a vernal pool. (See also "WETLANDS").

Amended 1-3-23 moved to ballot

JUNKYARD

The use of any lot or parcel of land, or any part of a lot or parcel of land, for the open or exposed storage, keeping, sale, disposal or abandonment of food, garbage, refuse, old, used, wholly or partially dismantled, useless, broken or damaged articles, machines, machinery, automobiles, motor vehicles of any sort, clothing, furniture, building materials, building debris or things of any sort. Such storage, keeping, or placing for sale, disposal or abandonment of ~~two or~~ **two or** more unused, inoperative or unregistered motor vehicles on any lot or parcel of land, or portion thereof, shall constitute a junkyard. The term "junkyard" as so defined shall not be deemed to include any municipal dump or municipal refuse disposal area.

[Amended March 2012]

LEACHABLE WASTES

Waste materials, including but not limited to solid wastes, sludge and agricultural wastes, that are capable of releasing contaminants to the surrounding environment, but not including leachate from on-site waste disposal systems.

[Added 3-11-2008]

LIVING QUARTERS

Any structure, or any portion of a structure, designed for or used primarily for living and sleeping accommodations by a person or family, and generally including cooking and sanitary facilities.

LIVING SPACE

All rooms or portions of a dwelling or structure designed for, or used primarily for, living, cooking, eating, sanitary, recreational, or sleeping accommodations by a person, or family, as distinguished from storage or other such dead space. A screened porch/deck is not living space. A porch/deck which is enclosed part or all of the year with glass or other material is living space, whether or not heated. Where possible living space shall be calculated based on the exterior wall to wall dimensions of a dwelling unit for each floor having living space. For attached dwelling units and where storage, ***or areas that do not constitute living space are*** ~~dead area~~ is adjacent to living space, measurements shall be from the mid-point of wall studs. Where upper floors do not extend the full width of the exterior walls (such as a cathedral ceiling and partial second floor), the calculation of living space shall be adjusted accordingly.

[Amended 3-8-2016]

LOT

The whole area of a single parcel of land, whether buildable or not, with any amount of square footage and ascertainable boundaries, undivided by a street.

LOT AREA

The extent in square feet of the surface of a lot. The lot area shall not include any part of the

Amended 1-3-23 moved to ballot

street upon which the lot fronts or abuts.

LOT, CORNER

A lot situated at the junction of two or more streets.

LOT DEPTH

The average distance between the front or street line of the lot and the rear property line(s) measured perpendicular (or radial) to the street line.

[Amended 1996]

LOT LINES

The lines bounding a lot and dividing the lot from other lots, street, land, or water.

LOT OF RECORD

A lot described in a deed which has been lawfully recorded in the Registry of Deeds for the County of Rockingham or which, if not so deeded, is a lot which is part of a subdivision, the plan of which has been lawfully recorded in such Registry of Deeds.

LOT WIDTH

The mean distance between the lot side lines measured on a line which is the mean direction to the front and rear lot lines.

LOW-IMPACT DEVELOPMENT TECHNIQUES

Low-impact development is a site planning and design strategy intended to improve, maintain or replicate predevelopment hydrology through the use of site planning, source control, and small-scale practices integrated throughout the site to prevent, infiltrate and manage runoff as close to its source as possible.

[Added 3-18-2017]

MANUFACTURED HOUSING

Any structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or when erected on site is 320 square feet 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 systems contained therein.

MARINA

A public, private or commercial facility for docking and servicing of two or more boats, which for the purposes of this chapter will be so limited as to number of slips, docks, moorings, gasoline pumps, storage facilities, and servicing facilities as not to be detrimental or injurious to the neighborhood.

MAY

Is permissive.

Amended 1-3-23 moved to ballot

[Added March 2012]

MEMBERSHIP CLUB

An organized group sponsoring community, social or recreational activity.

MINING OF LAND

The removal of geological materials such as topsoil, sand and gravel, metallic ores, or bedrock, (*See also "EARTH EXCAVATION"*).

[Added 3-11-2008]

MOBILE HOME

Any vehicle, trailer, manufactured housing or assembled structure or portion of a structure designed for, or with accommodations for, occupancy as living quarters, which is readily moveable from place to place upon its own accessory wheels or trucks. Any such unit shall constitute a mobile home whether or not it constitutes such living quarters in a single structural unit or in two or more such units readily assembled as such living quarters upon a site. No mobile home or trailer of any sort shall be deemed a dwelling by reason of its being placed upon, or having installed around or under it, a foundation of any sort.

MOTEL

A building or group of buildings containing rooms or living quarters in separate units, designed for or used principally for providing temporary living accommodations for automobile travelers on a commercial (rental) basis, and generally providing nearby automobile parking space serving such rooms or units.

MOTEL UNIT

A single overnight or living quarters unit of a motel.

MULTIFAMILY DWELLING

A building containing three or more dwelling units.

[Added 3-9-2010]

MULTIFAMILY DWELLING DEVELOPMENT

A land development consisting of two or more multifamily dwellings located on the same parcel.

[Added 3-9-2010]

NEIGHBORHOOD

An area of land local to the use concerned, generally, *but not exclusively*, lying within a radius of 1,000 feet of such use for the purpose of this chapter, but including all areas farther away from such use whenever the use creates a condition which by reason of *traffic*, noise, smoke, vibration, lighting, or other cause creates a detriment, hazard, or injury to an area more extensive in size.

Amended 1-3-23 moved to ballot

NONCONFORMING LOT

Any lot which does not conform to the area, frontage or depth requirements of the district in which it is located.

NONCONFORMING STRUCTURE

Any building or structure, in whole or part, which does not conform to the regulations of the district in which the building or structure is located.

NONCONFORMING USE

Any use of land and/or a structure that does not conform to the provisions of the district in which it is located.

NURSING FACILITY

A state-licensed facility which is primarily engaged in providing twenty-four-hour care for residents needing:

[Added 2009]

- (1) Skilled nursing care, medical monitoring, and related services;
- (2) Rehabilitation services for the rehabilitation of injured, chronically disabled or sick;
- (3) Medication administration or instruction and supervision; or
- (4) On a regular basis, health-related care and services (above the level of room and board) which can be made available to them only through facilities which provide twenty-four-hour care. See RSA 151-E:2, V.

OFFICIALLY APPROVED

Conforming to Town standards for similar construction or development and approved as so conforming by the Board of Selectmen or the appropriate Town official or board.

OPEN SPACE

An unoccupied area of land not covered in any manner and open to the skies.

OVERNIGHT CABIN

A building designed or used for temporary living quarters for one person or a single family occupying it exclusively on a commercial (rental) basis, but having no kitchen or cooking facilities therein.

PASSIVE RECREATION

Nonmotorized recreational activities that typically occur in a natural setting, that do not have significant adverse impacts to natural, cultural, scientific, or agricultural values of the setting and do not require structures. Such passive recreation uses include, but are not limited to, walking, hiking, picnicking, nature observation, and cross-country skiing.

[Added 3-18-2017]

Amended 1-3-23 moved to ballot

PERMANENT USE or PERMANENT STRUCTURE

Any use or structure designed for, intended to be used, or used for a lengthy or extended duration of time, and generally intended for use, or used, for more than six months in any one year.

PERVIOUS COVERAGE ~~or~~ OR PERVIOUS

Any surface, whether natural, man-made, or modified, that can effectively absorb or infiltrate water, including, but not limited to, vegetated surface, such as woodlands, planted beds, and lawns, and those pavements specifically designed and maintained to effectively absorb and infiltrate water. (~~from~~ *From* NH RSA 483-B:4; Shoreland Water Quality Protection Act).

[Added 7-13-2021 by Art. 3]

PRINCIPAL BUILDING

A building in which is conducted the principal use of the site on which it is situated.

[Added 3-12-2019 by Art. 4]

PRINCIPAL DWELLING

The primary or predominant structure to which a property is or may be devoted to a residential use and to which all other uses and structures on the premises are subordinate or accessory.

RECHARGE AREA

The land surface areas from which groundwater recharge occurs. In this chapter, the recharge areas are considered to be co-terminus with the boundaries of the Aquifer and Wellhead Protection District.

[Added 3-11-2008]

RETAINING WALL

A structure for holding in place a mass of earth or the like, as at the edge of a terrace or excavation. A retaining wall is designed, and constructed, to resist the lateral pressure of soil or other material, when there is a desired change in ground elevation.

[Added 3-8-2022 by Art. 3]

SHALL

Is always mandatory and not directive.

[Added March 2012]

SHED

Is a structure. See definition of "structure."

Amended 1-3-23 moved to ballot

[Added March 2012]

SHOULD

Directory, as in a requirement that is expected but is not mandatory but is subject to the discretion of a reviewing board or administrative official.

[Added March 2012]

SIGN

Any permanent or temporary advertisement, direction or communication, other than an identification sign, produced in whole or in part by the construction, erection, affixing or placing of the structure, device, letter, banner, pennant, streamer or placard on or over any land or on any structure, or produced by affixing or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface or suspended between any buildings or structures or which is designed to be seen from outside a building; provided, however, that signs placed or erected by the Town or state for the purposes of showing street names or traffic directions or regulations or for other municipal or governmental purposes shall not *constitute signs* ~~be included~~ herein.

[Amended 1993; 1997]

SIGN, BUSINESS DIRECTIONAL

A sign that provides directional information only to any privately owned business. Such sign shall contain only the name of the business, a directional arrow, distance and symbols (if applicable) arranged in accordance with Figures 1, 3, and 5 of the New Hampshire Department of Transportation Specifications for Business Directional Signs, Section 660. Such signs shall have a blue background over the entire sign face, and all copy shall be white. Where the New Hampshire Department of Transportation Specifications conflict with the size limitations of § 190-5.1F(1) of this chapter, this chapter shall govern.

[Added 1993; amended 1996]

SIGN, IDENTIFICATION

An outdoor sign displaying the name or address of the occupant or identifying a permitted use or an accessory use.

[Added 1993]

SIGN, OFF-PREMISES

Any sign identifying, advertising or giving directions to a business, person, activity, property or service not located on the premises where the sign is located.

[Added 1993]

SLUDGE

Residual materials produced by the sewage treatment process.

Amended 1-3-23 moved to ballot

[Added 3-11-2008]

SOLID WASTE

Any discarded or abandoned material, including refuse, or sludge, as defined by New Hampshire Administrative Rules Chapter Env-Hw 100 and Chapters Env-Sw 400 to 2000. Solid waste includes solid, liquid, semisolid, or contained gaseous waste material resulting from residential, industrial, commercial, mining and agricultural operations and from community activities.

[Added 3-11-2008; amended 3-10-2020 by Art. 3]

SPECIAL EXCEPTION

Exceptions to the terms of this chapter ~~regarding the types of use~~ which may be permitted in a particular district *upon satisfaction of designated criteria*. Such exceptions are specifically listed by the terms of a particular district.

SPECIFIED ANATOMICAL AREAS

Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola, and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

[Added 1994]

SPECIFIED SEXUAL ACTIVITIES

Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

[Added 1994]

STORMWATER

As defined by RSA 149-I:6-a, II, as may be amended.

[Added 3-12-2013; amended 3-10-2020 by Art. 3]

STONE WALL

A structure built of rough stones, which may or may not be filled together with mortar.

[Added 3-8-2022 by Art. 3]

STORY

That part of a building or structure comprised between a floor and the floor or roof next above it.

STORY, HALF

A story in a sloping roof, the area of which at a height of four feet above the floor does not

Amended 1-3-23 moved to ballot

exceed 2/3 of the floor area of the story immediately below it. A half story may also consist of a story of a building built at a different floor level than the story or stories of the same building to which it is attached and has access, so that at least 1/2 of its floor to ceiling height is below grade of the building.

STREET

A public roadway which has been accepted by the Town, or such a roadway otherwise established by law as a Town or state highway, or an officially approved private road if not less than 40 feet in width, which affords means of access to abutting property.

STRUCTURAL ALTERATION

Any change or addition to the basic structure of a building, including changes in supporting members of a building, such as bearing walls, columns, beams or girders, or any change in the interior or exterior walls, or any floor, roof or ceiling, or the addition of a room.^[3]

STRUCTURE

Any temporary or permanently constructed, erected or placed material or combination of materials in or upon the ground, including but not limited to buildings, mobile homes, radio towers, retaining walls, sheds and storage bins, storage tanks, portable carports, swimming pools, tennis courts and parking lots. The following are structures but are exempt from the dimensional requirements unless covered in other parts of the ordinance and codes:

[Amended 2001; 3-12-2013; 3-8-2022 by Art. 3]

- (1) Subsurface waste disposal facilities (see § **190-2.2E** and Building Code, § **35-15B**);
- (2) Fences and stone walls (see § **190-5.10**);
- (3) Driveways (~~*But*~~ see Chapter **202**, Land Development Regulations, Appendix E: Driveway Regulations. Driveways may not be constructed within ~~10 *ft.*~~ feet of an abutting property line.); ~~and~~
- (4) Fuel storage tanks (see NFPA requirements)-;~~and~~
- (5) Retaining ~~*Walls*~~ walls less than ~~3 *ft.*~~ six feet in height.

TEMPORARY USE or TEMPORARY STRUCTURE

Any use or structure designed for, intended to be used, or used only for a brief or short duration of time, and in no case intended for use, or used, for more than six months in any one year.

TOURIST CAMP

Any parcel of land where two or more overnight or housekeeping cabins are located or to be located.

TOURIST CAMP UNIT

A section of ground in any tourist camp used, or designed for use, as a location for a single

Amended 1-3-23 moved to ballot

overnight or housekeeping cabin.

TOXIC AND/OR HAZARDOUS MATERIALS

Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic *and/or* hazardous materials include, without limitation, volatile organic chemicals, *petroleum*, petroleum products and additives such as MtBE, heavy metals, *medical wastes*, and radioactive materials as defined in New Hampshire Administrative Rules Chapter Env-Or 700, Groundwater Release Detection Permits, *substances for which ambient groundwater quality standards have been established in accordance with RSA 485-C:6, and substances listed under 40 CFR, as amended*. Wastes generated by, but not limited to, the following commercial activities are presumed to be toxic *and/or* hazardous, unless and except to the extent that anyone engaging in such activity can demonstrate the contrary to the satisfaction of the Planning Board:

[Added 3-11-2008; amended 3-10-2020 by Art. 3]

- (1) Airplane, boat and motor vehicle service and repair.
- (2) Chemical and bacteriological laboratory operation.
- (3) Dry cleaning.
- (4) Electronic circuit manufacturing.
- (5) Junk and salvage lots.
- (6) Metal plating, finishing and polishing.
- (7) Motor and machinery service and assembly.
- (8) On-site handling, disposal, discharge, storage, processing or recycling of toxic *and/or* hazardous materials, including bulk storage of toxic materials for resale or distribution (except for routine delivery of heating oils).
- (9) Paint production and painting, paint stripping, wood preserving and furniture.
- (10) Pesticide and herbicide production.
- (11) Photographic processing.
- (12) Printing.

TRANSMISSIVITY

A measure of the rate at which water will move through an aquifer. Transmissivity incorporates the hydraulic conductivity of the aquifer, aquifer thickness, water temperature and fluid properties to describe water movement.

Amended 1-3-23 moved to ballot

[Added 3-11-2008]

UNIT

For the purposes of this chapter, as applicable, the word "unit" shall mean generally a distinct part of a whole structure or thing.

UNNECESSARY HARDSHIP

Owing to special conditions of the property that distinguish it from other properties in the area:

[Added 3-10-2020 by Art. 3]

- (1) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (2) The proposed use is a reasonable one. [NH RSA 674:33, I(b)(1)]

UPLAND SOILS

Soils ~~other than which are~~ non-wetland soils *and slopes less than 20% (as calculated by the feet of elevation change over a distance of 20 feet)*. Such soils may be any soil other than poorly drained or very poorly drained soils, as delineated by high-intensity soils (HIS) mapping done by a certified soils scientist, or any non-hydric soil, as mapped by a certified soils scientist.

[Added 3-14-2000]

VARIANCE

A variation from the requirements of this chapter *pursuant to RSA 674:33, I(a)(2)*.

VERNAL POOL

A surface water or wetland which provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by such pools and which typically has the following characteristics: cycles annually from flooded to dry conditions, although the hydroperiod, size, and shape of the pool might vary from year to year; forms in a shallow depression or basin; has no permanently flowing outlet; holds water for at least two continuous months following spring ice-out; lacks a viable fish population; and supports one or more primary vernal pool indicators, or three or more secondary vernal pool indicators as described in Identification and Documentation of Vernal Pools in New Hampshire, Third Edition, 2016, published by the New Hampshire Fish and Game Department.

[Added 2012; amended 7-13-2021 by Art. 3]

WETLANDS

~~These~~ *An* areas that ~~is~~ *are* inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions do support, a

Amended 1-3-23 moved to ballot

prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. (*See also "ISOLATED, NON-BORDERING WETLANDS"*)

[Added 2012; amended 7-13-2021 by Art. 3]

WORKFORCE HOUSING

Housing as defined by RSA 674:58, as amended.

YARD

An open unoccupied space surrounding or adjoining a building on a lot, and in particular shall mean as follows:

[Amended 3-12-2019 by Art. 4]

(1) FRONT YARD

The required open space extending across the whole width of the front, or street side, of the lot between the side lines of the same lot, and running from the front (or street) line of the lot to the front line of the building, except for a corner lot as to which the front yard shall extend across both sides of the principal building nearest the streets.

(2) REAR YARD

The required open space extending across the whole width of the lot in the rear of the principal building.

(3) SIDE YARD

The required open space extending along the side lot lines from the front line extended of the principal building to the rear line extended of the same building.

YIELD PLAN

A plan or plan set that shows the maximum number of conforming building lots that is reasonably achievable under a conventional subdivision that conforms to the requirements of this chapter and Chapter **202**, Land Development Regulations.

[Added 3-9-2010]

ZERO LOT LINE DEVELOPMENT

A land development in which there are not lot lines. Dwellings (including single-family detached dwellings and two-family dwellings) may be owned as condominiums, with all land areas placed in either common ownerships or limited common ownerships.

Amended 1-3-23 moved to ballot

[Added 3-9-2010]

[1] Editor's Note: See Ch 35, Building Code

[2] Editor's Note: The definition of "aquifer," added 3-11-2008, which immediately followed this definition, was repealed 3-18-17.

[3] Editor's Note: The definition of "substantial improvement" which immediately followed this definition was repealed 3-18-17.