

**§ 185-5. Definitions. [Amended ATM 5-1-1989 by Art. 32; ATM 5-4-1992 by Art. 35; ATM 5-5-1997 by Art. 27; STM 10-27-1997 by Art. 1; ATM 5-6-2013 by Art. 18; ATM 5-12-2014 by Art. 17; 5-2-2022 ATM by Art. 22]**

- A. For the purpose of this chapter, certain terms and words shall have the meanings given herein. Words used in the present tense include the future. The singular number includes the plural, and the plural the singular. The words "used" or "occupied" include the words "designed," "arranged," "intended" or "offered" to be used or occupied. The words "building," "structure," "lot," "land" or "premises" shall be construed as though followed by the words "or any portion thereof." The word "shall" is always mandatory and not merely directory.
- B. Terms and words not defined herein but defined in the Commonwealth of Massachusetts State Building Code shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Eleventh Edition. Uses listed in the Table of Use Regulations under the classes "Commercial/Business" and "Wholesale and Manufacturing" shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of the Census.
- C. As used in this chapter, the following terms shall have the meaning indicated:

**ACCESSORY DWELLING UNIT (ADU)** — A residential living unit that is within or attached to a single-family dwelling, or within a detached structure on the same lot as 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 it accompanies.[Added 5-1-2023ATM by Art. 19<sup>1</sup>]

**AVERAGE FINISHED GRADE** — The average of the final ground surface after development.

**BUILDING** — A combination of materials having a roof and forming a shelter for persons, animals or property. The word "building" shall be construed, where the context allows, as though followed by the words "or part thereof."

**BUILDING HEIGHT** — The vertical distance between the top of the foundation at average finished grade and the highest ridge point on the building.

**BUSINESS OR PROFESSIONAL OFFICES** — A building or part thereof, or a lot or part thereof, used for offices for the transaction of business or the provision of services, exclusive of the receipt, sale, storage, or processing of merchandise. Includes professional offices for financial, legal, architectural, engineering, and other similar uses rendered by members of recognized professions and support staff.

**CRAFT RETAIL AND PRODUCTION SHOP** — A type of retail or consumer service establishment whose principal use is the sale of consumer goods that are manufactured, produced or assembled for sale on the premises for use by consumers off the premises (although such goods may additionally be distributed at wholesale), provided that all

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1. Editor's Note: This article also repealed the former definition of "accessory department," which immediately preceded this definition.

manufacturing, production, assembly, packaging, display, and sales activities are conducted within a building and do not occupy more than 7,500 square feet of gross floor area.

**CUSTOMARY HOME OCCUPATION** — An occupation conducted in a dwelling or building accessory thereto by a person residing on the premises, provided that:

- (1) Such use is clearly incidental and secondary to the use of the premises for residential purposes.
- (2) Not more than 1 person other than residents of the premises is regularly employed thereon in connection with such use.
- (3) No offensive noise, vibration, smoke, dust, odors, heat, glare or unsightliness is produced.
- (4) There is no public display of goods or wares and there are no signs except as permitted in § 185-35.
- (5) There is no exterior storage of material or equipment, including the parking of more than one commercial vehicle; no other exterior indication of such use; and no violation of the residential character of the premises.

**DAYCARE, LARGE** – Any program that receives on a regular basis more than ten children who are unrelated to their caregivers and are younger than fourteen years old, or sixteen years, if such children have special needs, during all or part of the day for non-residential care and education outside their own homes. Such programs shall include, but not be limited to, those commonly known as child care centers, day care centers, preschools, nursery schools, child development programs, school age child care programs and before and after school programs, regardless of their location. 606 Mass. Code Regs. 7.0

**DAYCARE, SMALL** – Any program that receives on a regular basis ten or fewer children who are unrelated to their caregivers and are younger than fourteen years old, or sixteen years, if such children have special needs, during all or part of the day for non-residential care and education outside their own homes, when such services are not provided in a private residence. Such programs shall include, but not be limited to, those commonly known as child care centers, preschools, nursery schools, child development programs, school age child care programs and before and after school programs. 606 Mass. Code Regs. 7.02

**DRIVEWAY** — An open space, located on a private lot, which is constructed of impervious and semi-impervious materials (asphalt, concrete, paving stones, gravel, etc.) for access to a private garage or off-street parking space.

**DWELLING UNIT** — One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit with cooking, living, sanitary and sleeping facilities.

**FINISHED AREA** — The area of a structure with enclosed walls, floors, or ceilings of materials generally accepted for interior residential construction (e.g., windows, sheetrock, plaster, insulated walls, flooring, etc.) and is climate controlled, exclusive of storage and mechanical areas.

**FORMULA BUSINESS** — An individual retail or consumer service establishment that is required by virtue of a contract, franchise agreement, ownership or other similar legal obligation to conform or substantially conform to a set of common design and operating

features that serve to identify the establishment as one of a group of establishments for business, marketing and public relations purposes. Specifically, an establishment shall be considered a formula business if it shares at least two (2) of the following three (3) characteristics with ten (10) or more other establishments in Massachusetts or with twenty (20) or more other establishments in the United States.

- (1) Trademark, service mark or logo, defined as a word, phrase, symbol, or design or combination thereof that identifies and distinguishes the source of the goods or services from others;
- (2) Standardized building architecture, including but not limited to facade design and signage;
- (3) Standardized color scheme used throughout the exterior of the establishment,

including color associated with signs and logos.

**FOUNDATION** — The lower portion of building structure that transfers its gravity loads to the earth.

**FRONTAGE** — The length along a street right-of-way line on which a lot bounds. No lot shall be narrower than its minimum required frontage between such right-of-way line and the required perfect square.

**GROSS FLOOR AREA** — The sum of the finished areas of all floors, as measured in square feet, of a building measured from the outside of all exterior walls.

**HALF STORY** — A story in a sloping roof, the area of which at a height 4 feet above the floor does not exceed  $\frac{2}{3}$  the floor area of the story immediately below it.

**HISTORIC** — Any building which was wholly or in part constructed during or before 1929 and which is:

- (1) Importantly associated with 1 or more historic persons or events or with the architectural, cultural, political, economic or social history of the Town of Dover or the Commonwealth of Massachusetts;
- (2) Historically or architecturally important by reason of period, style, method of construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures; or
- (3) Listed on or within an area listed on the National Register of Historic Places or the State Register of Historic Places, or pending listing on such registers.

**LOT** — An area of land in one ownership, whether by 1 or more than 1 owner, with definite boundaries ascertainable by recorded deed or plan.

**LOT LINE, FRONT** — A line separating a lot from a street.

**LOT LINE, REAR** — A line separating a lot from other lots or from land in a different ownership, being the boundary of a lot which is opposite or approximately opposite the front lot line. Where, because of irregular lot shape, the Building Inspector and the lot owner cannot agree as to whether a lot line is a side or a rear line, it shall be considered a rear line.

**LOT LINE, SIDE** — A line separating a lot from other lots or from land in a different ownership and which is not a front or a rear lot line.

**MEDICAL PROFESSIONAL OFFICES** — Medical and dental clinics, labs, or other similar facilities, excluding veterinary care.

**PARKING SPACE** — An off-street space having dimensions of not less than nine feet by 18 feet plus access and maneuvering space, for exclusive use as a parking stall for one motor vehicle, whether inside or outside a structure.

**PERFECT SQUARE** — A square, the dimensions of which are set out in the Schedule of Dimensional Requirements for each zoning district, which must fit entirely within a lot.

**PREEXISTING NONCONFORMING BUILDING OR LOT** — A building or lot that does not conform to a dimensional regulation prescribed by this bylaw for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory

buildings but which building or lot was in existence at the time the regulation became effective and was lawful at the time it was established.

**PREEXISTING NONCONFORMING USE** — A use of a building or lot that does not conform to a use regulation prescribed by this bylaw for the district in which it is located, but which was in existence at the time the use regulation became effective and was lawful at the time it was established.

**PRIVATELY OWNED WASTEWATER TREATMENT FACILITY** — Any wastewater treatment plant and its associated infrastructure, including, but not limited to, pumping stations, wastewater treatment plants, all wastewater treatment operations, sewage treatment, disinfection, advanced water treatment, wastewater recycling and reuse and discharge systems which serve primarily for the collection, treatment and discharge of wastewater owned, operated and managed by an entity other than the Town of Dover or other government agency.

**RETAIL OR SERVICE ESTABLISHMENT** — A building or part thereof, or a lot, or part thereof, that is used for a store or shopping center selling finished retail goods or providing personal services such as salons, barber shops, dry cleaners, self-service or no-service kiosks or similar facilities, housekeeping and domestic animal care, photographer, gyms and fitness studios, and other similar uses, exclusive of formula businesses.

**SETBACK** — The distance between the closest point of a structure to the nearest lot line.

**SHORT-TERM RENTAL** — A housing unit, or portion thereof, available for occupancy for less than thirty (30) consecutive days and subject to room occupancy excise tax.

**SPECIAL PERMIT GRANTING AUTHORITY** — The authority empowered to grant special permits, which shall be the Board of Appeals unless some other board is so designated in this chapter.

**STREET** — A public or private way, alley, lane, court, or sidewalk which is open or dedicated to public use.

**STRUCTURES** — A combination of materials, other than a building, except windmills. For windmills, a "structure" is defined as the supporting tower, pole or base upon which are mounted all rotating machinery and airfoil blades.

**SUBDIVISION** — The division of a tract of land into two or more lots and shall include resubdivision, and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in the city or town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or bylaw, if any, of

said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet. Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.

USE — The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

USE, ACCESSORY — An accessory use or building is a use of land or building customarily incident to and located on the same premises with the use or building to which it is accessory, but shall not include:

- (1) Use of the premises to keep thereon more than 1 commercial vehicle, except in the case of a farm;
- (2) The sale of produce other than produce raised on the premises;
- (3) The taking of more than 4 lodgers;
- (4) Any use, except signs, located upon that half of the lot nearest the front lot line(s), unless it is either 50 feet from the nearest street or in the same building to which the use is accessory.

WINDMILLS — A mechanical or electromechanical wind energy converting system (WECS), including the supporting structure and any energy transmitting conduit or shaft; includes both horizontal and vertical axis systems.