

^ARTICLE 2A

**DEFINITIONS APPLICABLE IN NEIGHBORHOOD DISTRICTS
and in
ARTICLE 80, DEVELOPMENT REVIEW AND APPROVAL**
(^Article inserted on February 16, 1993*)

^SECTION 2A-1. **Meaning of Certain Words and Phrases.** As used in articles of this Code specified in this Section 2A-1, the following words and phrases shall have the meanings given in the following clauses, unless a different meaning is specified within such article. This Article 2A shall apply to Neighborhood Districts as established pursuant to Section 3-1B of this Code, and to Article 80, Development Review and Approval.

(^As amended on May 9, 1996 and March 6, 2003.)

"Accessible" or **"Accessible to Physically Handicapped Persons"** shall be as defined in Chapter 521 of the Code of Massachusetts Regulations, as amended.

"Accessory Building", a structure devoted exclusively to a use accessory to a main use of the lot.

"Accessory Clinic or Office for Hospital", clinic or professional offices accessory to a hospital whether or not on the same lot.

"Accessory Drive-through Restaurant", subject to the provisions of Article 10, a use wholly incidental to a restaurant, with a vehicular queuing lane and a window where customers place orders or receive services, or both, while seated in a vehicle.

"Accessory Drive-through Retail", subject to the provisions of Article 10, a use wholly incidental to a local retail business establishment, with a vehicular queuing lane and a window where patrons place orders or receive services, or both, while seated in a vehicle.

"Accessory Home Occupation", subject to the provisions of Article 10, an occupation for profit customarily carried on in a dwelling unit by a person residing therein. Such occupation shall be carried on in a main building, require only equipment ordinarily incident to a dwelling unit, not require nonresident help, and not involve trading in merchandise. Home occupations include, but shall not be

(*Article 2A was originally inserted on April 22, 1991 and was replaced in its entirety on November 13, 1991 and February 16, 1993.)

limited to sewing, piano lessons, tutoring, and similar uses which are clearly incidental to the dwelling for dwelling purposes and do not change the character thereof.

"Accessory Industrial Use", subject to the provisions of Article 10, any nonresidential accessory use lawful in a Manufacturing Subdistrict, provided that such use is so carried on as not to be either a hazard to the health or safety of persons on any adjacent lot or a nuisance.

"Accessory Keeping of Animals", subject to the provisions of Article 10, the keeping of horses, cows, goats, poultry, pigeons, rabbits, bees, or similar animals other than pigs.

"Accessory Keeping of Laboratory Animals", subject to the provisions of Article 10, the keeping of laboratory animals incidental to an educational, institutional, or research and development use.

"Accessory Manufacture of Products", subject to the provisions of Article 10, the manufacture, assembly, or packaging of products sold on the lot.

"Accessory Office of University", subject to the provisions of Article 10, office accessory to a University which is not on the same lot as the University.

"Accessory Parking", subject to the provisions of Article 10, a garage or parking space for occupants, employees, customers, students, and visitors of a lawful use, provided that, in the case of a lot lying in two or more districts or subdistricts, such parking is accessory to a use that is lawful in the district or subdistrict in which such parking is located.

"Accessory Personnel Quarters", subject to the provisions of Article 10, permanent dwellings for personnel required to reside on a lot for the safe and proper operation of a lawful main use of such lot.

"Accessory Professional Office," subject to the provisions of Article 10, an office, within a main building, of a professional person (whether or not requiring a professional license) who resides in such building, provided that nonresident assistants do not exceed; one in a 1F subdistrict, two in a 2F, 3D, 3F, or Row House subdistrict, or three in a MFR or MFR/LS subdistrict.

(^As amended on July 27, 1993)

"Accessory Scientific Laboratory", a scientific laboratory accessory to an elementary or secondary school, university, hospital, or custodial care facility, whether or not on the same lot, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke, and vapor are effectively confined to the lot or so disposed of as not to be a nuisance or hazard to health or safety;

and provided also that no noise or vibration is perceptible without instruments more than fifty (50) feet from the lot or any part of the lot.

"Accessory Services for Apartment and Hotel Residents", subject to the provisions of Article 10, in buildings with more than fifty dwelling units, and in hotels with more than fifty (50) sleeping rooms, newsstand, barber shop, dining room, and similar services primarily for the occupants thereof, when conducted wholly within the building and entered solely from within the building.

"Accessory Services Incidental to Educational Uses", subject to the provisions of Article 10, in educational institutions with more than four hundred (400) full-time students, incidental uses and services ordinarily found in connection therewith and primarily for the staff, students, and faculty, when conducted wholly within a building.

"Accessory Services Incidental to Hospitals", subject to the provisions of Article 10, in hospitals with more than fifty (50) beds, incidental uses and services ordinarily found in connection therewith and primarily for patients or staff, when conducted wholly within a building.

"Accessory Truck or Bus Servicing or Storage", yard for storing or servicing trucks or buses accessory to a repair garage, gasoline station, carwash, or other use.

"Accessory Use", a use customarily incident to, and on the same lot as, a main use.

Subject to the provisions of Article 10, including but not limited to, any of the following, when not a main use: not more than four (4) accessory amusement game machines in a commercial establishment or in a noncommercial establishment, accessory art use, accessory drive-through restaurant, accessory drive-through retail, accessory family day care home, accessory home occupation, accessory industrial use, accessory keeping of animals, accessory keeping of laboratory animals, accessory manufacture of products, accessory outdoor cafe, accessory parking, accessory personnel quarters, accessory professional office in a dwelling, accessory repair garage, accessory services for apartment or hotel residents, accessory services incidental to educational uses or hospitals, accessory storage of flammable liquids incidental to lawful use, accessory swimming pool or tennis court, accessory wholesale business, or accessory use ordinarily incidental to a lawful main use.

Not subject to the provisions of Article 10, and whether or not on the same lot as the main use to which it is related, uses including but not limited to any of the following: accessory clinic or offices for hospitals, accessory dormitory, accessory machine shop, accessory offices for university, accessory railroad storage yard, accessory scientific laboratory, or accessory truck or bus servicing.

"Adjusted Income" is defined as it is in 24 CFR Section 813.102 (1986), as amended, or as set forth in regulations adopted in accordance with a neighborhood district article.

"Adult Bookstore" a shop for the barter, rental, or sale of printed matter, pictures, or motion picture film, if such shop is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age, or if such shop keeps a part of such stock segregated as available to only one or more classes of the public excluding any minor by reason of age; or a shop for the barter, rental, or sale of printed matter, pictures, or motion picture film bearing a legend restricting it to adults only or to one or more classes of the public excluding any minor by reason of age.

"Adult Entertainment", any of the uses listed under "Cultural Uses", "Entertainment", or "Retail Uses" if such establishment is customarily not open to the public generally but only to one or more classes of the public excluding any minor by reason of age.

"Affordable Housing", either an owner-occupied dwelling unit, requiring the expenditure by a low-income or moderate-income household for mortgage and insurance payments, real estate taxes, and condominium fees of not more than thirty-two percent (32%) (or such other percentage set by the Massachusetts Housing Finance Agency for the purpose of defining affordability) of its Adjusted Income to occupy the unit; or a renter-occupied dwelling unit, requiring the expenditure by a low-income or moderate-income household for rent payments of not more than thirty-two percent (32%) of its adjusted income (or the percentage set by the Massachusetts Housing Finance Agency).

"Agency or Professional Office", any room, studio, clinic, office or suite wherein the primary use is the conduct of business by professional persons, whether or not requiring professional license, such as attorneys, physicians, architects, insurance agents, professional managers and agents, consultants, writers, and the like.

(^As amended on July 27, 1993)

"Airport Use," means the operation of an airport and includes all subuses located on airport premises and generally associated with and related to the operation of an airport. Such subuses may include, but are not limited to: runways; access roads; flight control and meteorological facilities; vehicle maintenance, storage, parking, and rental facilities; cargo and baggage sorting, handling, and storage facilities; passenger terminals; offices; restaurants, retail stores; and hotels.

"Airport-Related Remote Parking Facility", a parking lot or parking garage from which transportation service is offered to airport premises.

(^As inserted on November 21, 1996.)

"Amusement Game Machine", a machine, apparatus, device, or mechanism, by which entertainment requiring or involving participation therein or the use of skill therein by a player or patron is furnished for profit, including, but not exclusively, video games and pinball machines, and excluding pool tables, sippio tables, billiard tables, and bowling alleys. An amusement game machine may be, but need not be, controlled by a coin, token, or slug.

"Amusement Game Machines in Commercial Establishment", the maintenance and operation of more than four (4) mechanical, electronic, and/or coin-operated games and/or devices in a commercial establishment for the amusement of the general public.

"Amusement Game Machines in Noncommercial Establishment", the maintenance and operation of more than four (4) mechanical, electronic, and/or coin-operated amusement game machines in a private club, dormitory, fraternity house, or similar noncommercial establishment.

"Ancillary Use", auxiliary, assisting. Any use on a lot adjacent to, or across the street from, but in the same district as, a lawful use to which it is ancillary and ordinarily incident and for which it would be a lawful accessory use if it were on the same lot; and any such use on such a lot in another district or subdistrict unless such use is a use specifically forbidden in such other district or subdistrict.

"Animal Hospital", a clinic or hospital, with or without outside runs, for the diagnosis, treatment, or hospitalization of household pets.

"Annual Income" is defined as it is in 24 CFR Section 813.106 (1986), as amended, or as set forth in regulations adopted in accordance with a neighborhood district article.

"Apartment Hotel", a building primarily for persons who have their residence therein, containing four or more apartments which do not have kitchens.

"Applicable Institutional Master Plan" or **"Applicable IMP,"** with respect to a Proposed Institutional Project, means an Institutional Master Plan of the proponent of such Proposed Institutional Project approved by the Boston Redevelopment Authority and the Zoning Commission in accordance with applicable provisions of the code, and covering the project location.

"Applicant", any person or entity having a legal or equitable interest in a Proposed Project subject to the provisions of this Code, or the authorized agent of any such person or entity.

(^As amended on May 9, 1996.)

"Art Use", the creation, manufacture, or assemblage of visual art, including two- or three-dimensional works of fine art or craft, or other fine art objects created, manufactured, or assembled for the purpose of sale, display, commission, consignment, or trade by artists or artisans; or classes held for art instruction.

^"Artists' Mixed-Use", the use of all or a portion of a Building for both habitation and either Art Use or Arts Studio use, or a combination thereof, provided that any portion of a Building devoted to such use shall be (a) occupied by persons certified as artists pursuant to the Boston Redevelopment Authority's Artist Certification Process, (b) design in accordance with Boston Redevelopment Authority standards and guidelines for artists' mixed-use space, and (c) subject to an agreement for artists' housing with the Boston Redevelopment Authority.

(^As amended on September 9, 2004.)

^"Authority", the Boston Redevelopment Authority.

(^As inserted on May 9, 1996.)

"Automatic Telephone Exchange", a non attended telephone switching or transmitting service.

"Automatic Teller Machine", a machine accessible to banking customers by means of a coded celluloid card or other similar device which permits limited automated consumer banking transactions, such as deposits, cash withdrawals, balance inquiries, and the purchase of travelers checks.

"Back Office", the use of a structure or land principally for clerical, data processing, or support staff functions and related services and occupations.

"Bakery", a place where baked goods are made or sold for off-premises consumption.

"Bank", a facility for the extension of credit and the custody, loan, or exchange of money, without a drive-in window.

"Bank, Drive-in", a bank which provides, as all or part of its services, one or more teller's windows for the use of persons while seated in motor vehicles.

"Banking and Postal Uses", automatic teller machine; bank; drive-in bank; or post office.

"Bar", an establishment devoted primarily to the retailing and on-premises drinking of alcoholic beverages. Such establishment may or may not serve food, and may or may not include dancing or entertainment.

"Barber Shop or Beauty Shop", a barber shop, beauty shop, or other facility where haircutting, hairdressing, shearing, facials, manicures, or related services are performed.

"Basement", that portion of a building which is more than thirty-five percent (35%) of the height of the story below grade.

"Bay Window", a fenestrated projection from the face of a building entirely contained within the following dimensions: (a) depth not to exceed five feet, (b) width not to exceed eighteen feet or seventy percent of the width of the building, whichever is the lesser, and (c) each side to form an angle with the face of the building of not less than one hundred thirty-five degrees. (Illustrated in Appendix 2 of this Code.)

"Bed and Breakfast", any owner-occupied dwelling unit in which three or fewer rooms or apartments without kitchen facilities are let on an overnight basis, primarily the temporary abode of persons who have their residence elsewhere, provided that food and beverage service is limited to breakfast for registered paying overnight guests at no additional cost, that there are no exterior signs, that there are no retail sales on premises, and that the length of occupancy does not exceed fourteen days.

"Block", the lot or lots fronting on the same side of the same street between two streets intersecting such street on such side with no other such intersecting street intervening.

"Board of Appeal", the Board of Appeal in the Inspectional Services Department of the City.

"Boat Rental Establishment", any use or establishment that involves the renting, hiring, or instruction in the use of any sailboat, rowboat, or other Recreational Vessel that does not require an operator's license by the United States Coast Guard or the conferring of seasonal use privileges in a fleet of such Recreational Vessels.

"Body Art", the practice of physical body adornment by permitted establishments and practitioners using, but not limited to the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification, but does not include practices that are considered medical procedures by the Board of Registration of Medicine, which are prohibited. This definition excludes the piercing of the earlobe with a pre-sterilized single-use stud-and-clasp system manufactured exclusively for ear piercing.

(^As inserted on April 9, 2001)

^"**Body Art Establishment**", a location, place, or business where the practices of body art are performed.

(^As inserted on April 9, 2001)

"**Building**", a structure forming a shelter for persons, animals, or property and having a roof, exclusive, however, of such frameworks and tents as are customarily used exclusively for outdoor carnivals, lawn parties, or like activities. Where the context allows, the word "building" shall be construed as though followed by the words "or part thereof".

"**Building Line**", the line in conformity with the alignment of existing buildings in the same block, at a distance from the street line equal to the yard depth occurring most frequently on that block, as measured by lot widths along the street line. The distance from the street line to the building line shall be calculated in accordance with the method described in the definition of "Existing Building Alignment".

"**Building Commissioner**", the Building Commissioner, or successor, including but not limited to the Commissioner of Inspectional Services, of the City.

^"**Building Height**", the vertical distance from grade to the top of the highest point of the roof beams of a flat roof, or the mean level of the highest gable or of the slope of a hip roof, excluding belfries, cupolas, domes, monuments, church spires, water, observation, radio and transmission towers, windmills, chimneys, smokestacks, silos, derricks, conveyors, masts, flagpoles, aerials, elevator penthouses, water tanks, monitors, signs, or other roof structures and penthouses normally built above the roof and not used or designed to be used for human occupancy, but such structures shall be erected only to such heights, and cover only such areas, as are necessary to accomplish the purpose they are intended to serve, provided that in any event, the total area of such roof structures and penthouses does not exceed 33 1/3 percent of the total of all roof areas, measured horizontally, of such building. A mansard roof shall be considered a flat roof.

Where a maximum building height is specified in this Code, or in a second numerical suffix in the designation of subdistrict as provided in a neighborhood district article, no building or part of a building in a district, and devoted to a use specified, shall exceed the number of stories or feet in height so specified except as provided herein.

Whenever a legally existing structure not excepted above exceeds the height limit specified in a neighborhood district article on a lot in the same district as , and adjoining, the lot on which such legally existing structure is located a

structure may be built to a height greater than said height limit, but shall not project above a line drawn between the highest point of said legally existing structure and any point at the height limit whose distance from said highest point is three times the height of said highest point above the height limit.

(^As amended on March 15, 2006)

"**Bulkhead**", a vertical structure used to create an edge between the land and the water against which Vessels can be placed to unload or engage in other activities.

"**Chapter 91**", M.G.L. Chapter 91 and implementing regulations, codified as of the effective date of this article at 310 C.M.R. 9.00, as said statute and regulations may, from time to time, be amended.

^"**Check Cashing Business**," an establishment offering cash in exchange for checks, money orders, or the like, where the transaction involves a fee or an exchange at other than face value and is not principally in payment for the purchase of goods or services. "Check chasing business" does not include a bank or automatic teller machine.

(^As inserted on October 6, 1994)

"**City**", the City of Boston.

"**Cleaning Plant**", a laundry plant, dry-cleaning plant, or rug cleaning plant.

"**Clinic**", a place for the medical or similar examination and treatment of persons as outpatients.

"**College or University Use**," means college or university use, including subuses such as classrooms, dormitories, student housing, eating facilities, research laboratories, athletic facilities, libraries, faculty and other offices, museums, auditoria and other facilities of public assembly, parking, and other similar uses. Property owned or occupied by a college or university not having a use that is substantially related to education at the post-secondary level, research, scholarship, or student life shall not be deemed to be a college or university use merely by reason of such ownership or occupancy. College or university use shall not include property held by a college or university for investment purposes only. College or university subuses shall not be treated as accessory or ancillary uses subject to Article 10 or as independent uses. The substitution of one such subuse for another such subuse shall not by itself constitute a Proposed Institutional Project unless the new subuse is a High Impact Subuse. A college or university subuse is a High Impact Subuse if it is a dormitory, student housing, athletic facility, facility of public assembly, parking facility, power plant, or centralized heating or cooling plant.

"**Columbarium**", a vault with niches for cinerary urns.

"**Commission**", the Zoning Commission of the City.

"**Commonwealth Tidelands**" has the meaning ascribed in Chapter 91.

"**Community Center**", a facility providing educational, recreational, and social services to the community.

"**Community Uses**", adult education center; community center; day care center; day care center, elderly; library; place of worship; monastery; convent; or parish house.

^"**Container Redemption Center**," a facility that is registered with the Massachusetts Department of Environmental Protection, Bureau of Waste Prevention, Division of Solid Waste Management, or any successor agency thereto, as a facility for the redemption of beverage containers subject to deposit.

(^Inserted on September 30, 1993)

"**Cultural Uses**", art gallery; art use; auditorium; cinema; concert hall; museum; public art display space; studio, arts; studio, production; theatre; or ticket sales.

"**Custodial Care Facility**", a facility which provides protective supervision and guardianship for drug addicts, alcoholics, or mentally ill or mentally deficient persons.

"**Day Care Center**", any facility operated on a regular basis whether known as a day nursery, nursery school, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children not of common parentage under seven years of age, or children under sixteen years of age if such children are children with special needs as defined in Massachusetts General Laws, Chapter 28A, Section 9, for nonresidential custody and care during part or all of the day separate from their parents. Day care center shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of such system are primarily limited to nursery or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor.

"Day Care Center, Elderly", any facility operated on a regular basis which receives elderly persons for nonresidential custody or care during part or all of the day.

"Dormitory", any dwelling (other than a fraternity or sorority house) occupied primarily as a place of temporary abode by persons attending educational institutions.

"Dormitory and Fraternity Uses", a dormitory, or fraternity.

"Downtown", the Downtown districts, as established pursuant to Section 3-1C of this Code, and those portions of the Downtown Interim Planning Overlay District, established pursuant to Article 27D, that are included in subdistricts H, L, O, and M, as depicted in Appendix A and described in Appendix B to Article 27D.

(^As inserted on May 9, 1996.)

"Dumpster", any dumpster, container, drum or compactor greater than one cubic yard in volume used for the storage of waste, refuse, garbage, construction debris or similar material. For the purpose of this Code, a dumpster shall be treated as an Accessory or Ancillary use where the dumpster is serving as the primary means for disposal for a Main Use, including the storage of construction debris generated on the respective lot on which said Main use is located, and a dumpster or storage of dumpsters shall be treated as an Accessory or Ancillary use when used in conjunction with the ongoing operation of a permitted site with explicit legal use and occupancy as a dumpster repair facility, waste hauling contractor yard, or site assigned and licensed solid waste management facility.

(^As inserted on September 18, 2000)

"Dwelling", a building or structure used in whole or in part for human habitation.

"Dwelling, Detached", a dwelling which is designed to be and is substantially separate from any other structure or structures except accessory buildings.

"Dwelling, Multifamily", a building containing four or more dwelling units, but not including a motel.

"Dwelling, Semi-Attached", a dwelling attached to another dwelling on a separate lot by a firewall only on one side, and containing one or two dwelling units.

"Dwelling Unit", a room or group of rooms forming a habitable unit for one family, or one group residence limited as defined in this Section 2A-1, with

facilities used or intended to be used for living, sleeping, cooking, and eating; but not including any use contained in artists' mixed uses.

"Educational Uses", college or university; elementary or secondary school; kindergarten; professional school; or trade school.

"Elderly Housing", a multifamily dwelling occupied exclusively by elderly residents, containing a common eating area, and providing social and personal care, but not medical care.

"Entertainment Uses", adult entertainment; amusement game machines in commercial establishment; amusement game machines in noncommercial establishment; bar; bar with live entertainment; bowling alley; billiard parlor; dance hall; drive-in theater; fitness center or gymnasium; private club not serving alcohol; private club serving alcohol; restaurant with live entertainment not operating after 10:30 p.m.; or restaurant with live entertainment operating after 10:30 p.m.

"Erect", to construct or reconstruct or excavate, fill, drain, or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or to move a building or structure upon a lot.

"Executive Suites", any dwelling (other than a boarding house, dormitory, fraternity, lodging house, sorority house, hotel, motel, or apartment hotel) in which living space, with kitchen facilities, is let to fewer than ten persons who are not related by blood, marriage, adoption or other analogous family union, primarily the temporary abode of persons living elsewhere.

(^As amended on March 13, 2008)

"Existing Building Alignment", the distance between the street line and the face of the building which, as measured by lot widths along said street line, occurs most frequently. The method for making this calculation shall be as follows:

1. For each developed lot on the same side of the same street the distance between the street line and the nearest building is measured. The measurement is rounded off to the nearest half foot if the said buildings are attached and to the nearest foot if the said buildings are detached. The width of each lot is then measured. These measurements may be scaled off from a reliable plan or map.
2. The widths of all lots with the same front yard depth are added up.
3. The front yard depth with the largest total width is the minimum front yard depth for the block. If two or more front yard depths have equal

lot widths, the one closest to the required front yard shall be the minimum front yard depth.

The existing building alignment may also be referred to as the modal front yard depth.

In a block in which there is a uniform or dominant building line at the upper story level which differs from the modal front yard depth because of ground floor projections, no structure in excess of one story shall be built between the minimum front yard depth and the faces of abutting buildings at the upper story levels.

"Extend", to increase in area or volume.

"Facility of Public Assembly", auditorium, theater, concert hall, dance hall, drive-in theater, or stadium.

"Family", one person or two or more persons related by blood, marriage, adoption, or other analogous family union occupying a dwelling unit and living as a single, non-profit housekeeping unit, provided that a group of five or more persons who are enrolled as full-time, undergraduate students at a post-secondary educational institution shall not be deemed to constitute a family. A group residence, limited, as defined in this Section 2A-1 shall be deemed a family.

(^As amended on March 13, 2008)

"Family Day Care Home", any dwelling unit which on a regular basis receives, for temporary custody and care during part or all of the day, children under seven years of age, or children under sixteen years of age if such children are children with special needs as defined in Massachusetts General Laws, Chapter 28A, Section 9; provided, however, in either case, (1) the unit is licensed by the Massachusetts Office of Child Care Services (or a successor agency responsible for the state licensing of home-based child care facilities) for the number of participating children, and (2) that the total number of children under sixteen in a family day care home shall not exceed ten, including participating children living in the dwelling unit. Family day care home shall not mean a dwelling unit used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor.

(^As amended on May 30, 2000)

"FAR", floor area ratio.

"Filled Tidelands", former submerged lands and tidal flats which are no longer subject to tidal action due to the presence of fill.

^"Floor Area, Gross", the sum of areas of the several floors of the structure, as measured by the exterior faces of the walls, including fully enclosed porches and the like as measured by the exterior limits thereof, but excluding (a) garage space which is in the basement of a building or, in the case of garage space accessory to a dwelling, is at grade, (b) basement and cellar areas devoted exclusively to uses accessory to the operation of the structure, (c) areas elsewhere in the structure devoted to housing mechanical equipment customarily located in the basement or cellar such as heating and air conditioning equipment, plumbing, electrical equipment, laundry facilities and storage facilities, and (d) public transit improvements by or for a Public Agency within the Lot, above or below grade, including head houses and/or structures designated for use by, access to or egress from public transit services, provided that any exterior changes are subject to Small Project Review.

(^As amended on June 27, 2001)

"Floor Area Ratio", the ratio of gross floor area of a structure to the total area of the lot. Except as otherwise provided in this Code, the ratio which the gross floor area of all structures on a lot exclusive of floor area required to meet the off-street parking requirements of this Code bears to the area of the lot shall not exceed the maximum floor area ratio specified in this Code. In calculating the area of the lot for the purpose of determining floor area ratio, the following parts of the lot shall be excluded: (a) every part required by any other structure or use to comply with any requirements of this Code, and (b) every part the ownership of which is transferred subsequent to the effective date of this Code if such part is required for compliance with the provisions of this Code concerning minimum lot size, lot width, lot frontage, minimum usable open space per dwelling unit, and front yard, side yard, and rear yard inclusive, applicable to the lot from which such transfer is made. (Illustrated in Appendix 2 of this Code.)

"Flowed Tidelands", present submerged lands and tidal flats which are subject to tidal action at the time of license application under Chapter 91.

"Fraternity", a fraternity or sorority house, or other facility for housing a social or service organization of college students.

"Funerary Uses", a cemetery; columbarium; crematory; funeral home; or mortuary chapel.

"Garage with Dispatch", a building or part of a building wherein motor vehicles, such as taxicabs or ambulances, are dispatched from and are housed or stored when not in use.

"Gasoline Station", an area of land, including any structures on the area, used for the retail sale of motor fuel and lubricants. A gasoline station shall not

include an automobile laundry, car wash, repair garage, or local retail business establishment.

"General Manufacturing", includes plants, factories, mills, or other facilities engaged in the mechanical or chemical transformation of materials or substances into new products (which may also include the blending of materials or the assembling of component parts of manufactured products), where such processes do not consist entirely of a light manufacturing use and do not include a restricted industrial use. Performance standards, as defined in this Article, are applicable to general manufacturing.

"General Office", the use of a structure or land principally for office space. Such use shall not involve manufacturing, repair, or storage of materials, goods, or products which are physically located on the premises.

"General Retail Business", a department store, furniture store, general merchandise mart, or other store serving the general retail business needs of a major part of the city, including accessory storage.

"Grade", the average elevation of the nearest sidewalk at the line of the street or streets on which the building abuts, except in the case of a building not abutting on a street, the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer; but in no event shall the average elevation of such ground be taken to be more than five (5) feet above or below the average elevation of the ground immediately contiguous to the building.

"Green Building", structures and their surrounding landscapes designed, constructed, and maintained to decrease energy and water usage and costs, to improve the efficiency and longevity of building systems, and to decrease the burdens imposed on the environment and public health.

(^As inserted on January 10, 2007)

"Ground Floor Ceiling Height", the height of the underside of the floor structure of the second floor.

"Grounds for Sport, Private", private grounds for games and sports, not conducted for profit, including but not limited to areas providing private recreational facilities such as playgrounds, parks, swimming pools, and playing fields.

"Group Care Residence, General", premises for the residential care or supervision (but not including custodial care) of ex-alcoholics, ex-drug addicts, pre-release or post-release convicts or juveniles under seventeen years of age who are under the care of correctional agencies of the Commonwealth, but not including premises licensed, regulated, or operated by the Commonwealth of

Massachusetts or operated by a vendor under contract with the Commonwealth for the residential living, care, or supervision in any single dwelling unit of five or more mentally ill or mentally retarded persons or persons with disabilities.

"Group Residence, Limited", premises licensed, regulated or operated by the Commonwealth of Massachusetts or operated by a vendor under contract with the Commonwealth for the residential living, care, or supervision in any single dwelling unit of five or more mentally ill or mentally retarded persons or persons with disabilities.

"Harborpark", includes: (i) the Harborpark District, as established pursuant to Section 3-1D of this Code; (ii) in the Port Norfolk Neighborhood District, established pursuant to Article 35, any Waterfront Lot, as that term is used in said Article 35; (iii) in the East Boston Neighborhood District, established pursuant to Article 53, any Waterfront Subdistrict and any Tidelands subject to M.G.L. Chapter 91.

(^As inserted on May 9, 1996.)

"Health Care Uses", clinic; clinical laboratory; custodial care facility; group care residence, general; hospital; or nursing or convalescent home.

"High Impact Subuse", any subuse of an Institutional Use that is identified as a High Impact Subuse in the definition of such Institutional Use.

(^As inserted on May 9, 1996.)

"High/Low Tide Line", the present arithmetic mean of the water heights observed at high or low tide, as applicable, over a specific 19-year Metonic Cycle (the National Tidal Datum Epoch) and shall be determined using hydrographic survey data of the National Ocean Survey of the U.S. Department of Commerce.

"Historic Building", any building listed from time to time in the Massachusetts Register of Historic Places.

"Homeless Shelter", a facility providing temporary housing for one or more individuals who are otherwise homeless.

"Hospital Use", means hospital use, including subuses such as health care facilities, patient rooms, eating facilities, offices, out-patient clinics, research and clinical laboratories, libraries, auditoria and other facilities of public assembly, nursing schools, nursing residences, parking, and other similar uses. Property owned or occupied by a hospital not having a use that is substantially related to the provision of in-patient or out-patient health care, including care for those with acute illnesses or injuries, shall not be deemed to be a hospital use merely by reason of such ownership or occupancy. Hospital use shall not

include property held by a hospital for investment purposes only. Hospital subuses shall not be treated as accessory or ancillary uses subject to Article 10 or as independent uses. The substitution of one such subuse for another such subuse shall not by itself constitute a Proposed Institutional Project unless the new subuse is a High Impact Subuse. A hospital subuse is a High Impact Subuse if it is a facility of public assembly, nursing residence, parking facility, power plant, centralized heating or cooling plant, or ambulatory clinical care facility.

(^As amended on May 9, 1996.)

"Hotel", a building (other than a dormitory) containing four or more apartments without kitchens, or containing sleeping accommodations for ten or more persons, primarily the temporary abode of persons who have their residences elsewhere.

"Hotel and Conference Center Uses", bed and breakfast; conference center; executive suites; hotel; or motel.

"Impact Area", the geographic district within which an impact on the Transportation Network can reasonably be attributed to the Proposed Project under review.

(^As inserted on May 9, 1996.)

"Industrial Park", (a) any area designated as an Industrial Park in an Economic Development Plan (EDP) approved by the Boston Economic Development Industrial Corporation (EDIC), or its successor organization, if any, and used for the purposes described in such EDP; and (b) any Marine Industrial Park, as defined in 310 CMR 9.00 as it may be amended from time to time.

(^As inserted on May 9, 1996.)

"Industrial Uses", artists' mixed-use; cleaning plant; general manufacturing use; light manufacturing use; printing plant; or restricted industrial use.

"Inspectional Services, or Inspectional Services Department, Commissioner of": See "Building Commissioner."

"Institutional Master Plan Review", the review described as Institutional Master Plan Review in Section 80D-1.

(^As inserted on May 9, 1996.)

"Institutional Uses", College or University Uses, Hospital Uses or Nursing or Convalescent Home Uses.

"**Kenel**", a facility for the breeding or boarding of animals that has outside enclosures for the animals.

^"**Large Project Review**", the review described as Large Project Review in Section 80B-1.

(^As inserted on May 9, 1996.)

^"**LEED**", Leadership in Energy and Environmental Design Green Building Rating System are nationally accepted standards for green buildings developed by the USGBC. LEED standards include the following: LEED NC for new construction and major renovation projects; LEED CI for commercial interior projects; LEED H for homes; LEED ND for neighborhood development. The Green Building Guide for Health Care, developed by Healthcare without Harm, in conjunction with the USGBC is the appropriate standards for hospitals.

(^As inserted on January 10, 2007)

^"**Level of Service**", the functional capacity of a traffic intersection, as measured by the ratio between the volume of vehicles passing through the intersection and the capacity of the intersection, or by the average delay per vehicle passing through the intersection.

(^As inserted on May 9, 1996.)

"**Light Manufacturing** ", manufacturing typically having low impacts on the surrounding environment. Light manufacturing includes the design, development, compounding, processing, fabrication, altering, assembly, finishing, packaging, repairing, servicing, renting, testing, handling, or transfer of products. Examples of light manufacturing include, but are not limited to, the manufacture of such products as:

Ceramic products, including pottery and glazed tile;
Construction equipment and products;
Gas, diesel, and electrical machinery, equipment, or supplies;
Electronic and communication products, including, but not limited to, computer equipment, sound equipment, and household appliances;
Fish or other food products, except processing;
Instruments for engineering, medical, dental, diagnostic, scientific, photographic,
optical, or other similar professional use;
Metal and wood products;
Office equipment or machinery;
Pharmaceutical or diagnostic products;

Cosmetics and toiletries;
Textile products including, but not limited to, products from the following:
 canvas, burlap, cotton, knit goods, rope, and twine;
Photographic supplies, including processing solutions; and
Supplies related to printing or engraving.

Performance standards, as defined in this Article, are applicable to light manufacturing.

"Landmark", any building or structure from time to time designated a landmark pursuant to Chapter 772 of the Acts of 1975, as amended.

"Local Retail Business", a store primarily serving the local retail business needs of the residents of the neighborhood, but not constituting an adult bookstore or adult entertainment business, including, but not limited to, store retailing or renting one or more of the following: food, baked goods, groceries, drugs, videos, computer software, tobacco products, clothing, dry goods, books, flowers, paint, hardware, and minor household appliances, but not including a bakery or liquor store.

"Lodging House", any dwelling (other than a dormitory, fraternity, sorority house, hotel, motel, or apartment hotel) in which living space, with or without common kitchen facilities, is let to five or more persons, who do not have equal rights to the entire dwelling and who are not living as a single, non-profit housekeeping unit. Board may or may not be provided to such persons. For the purposes of this definition, a family is one person.

(^As amended on March 13, 2008)

"Lot", a parcel of land including land under water, whether or not platted, in single ownership, and not divided by a street.

"Lot Area", the horizontal area of the lot exclusive (a) of any area in a street or private way open to public use, and (b) of any fresh-water area more than ten (10) feet from the shoreline, and (c) of any salt-water area below the mean high-tide line. In computing the area of a lot or the dimensions of the yards required for any building or use, there shall not be included any land which was used to meet the minimum area or minimum yard space required by law for any other building or use at the time of its erection or inception, and which would be required to meet the requirements of this code for such other building or use. This prohibition shall apply whether or not such land is still in the same ownership as when it was used as aforesaid.

"Lot Area per Dwelling Unit", where a minimum lot area for each additional dwelling unit is specified in this Code, the minimum lot area for the first dwelling unit on the lot shall be the minimum lot size; and the minimum additional lot area for each additional dwelling unit thereon shall be the minimum lot area

for each additional dwelling unit specified in said code. For residential structures not divided into dwelling units, each two (2) sleeping rooms for single or double occupancy and each four (4) beds in sleeping rooms that contain beds for more than two (2) persons shall be deemed to constitute one (1) dwelling unit; provided that a limited group care residence as defined in this Article shall be deemed to constitute one (1) dwelling unit for purposes of this Article. For nonresidential structures, and for structures where nonresidential uses are combined with residential uses, each fifteen hundred (1,500) square feet of gross floor space devoted to nonresidential uses shall be deemed to constitute one (1) dwelling unit.

"Lot, Corner", a lot with boundaries abutting on, and meeting at the intersection of, two streets when the lines of such boundaries form within such lot at such intersection an angle of not more than 135 degrees. In the case of a curved boundary, the tangent to such curved boundary at its point of intersection with another boundary of the lot shall be deemed to be the line of such boundary for the purposes of this definition.

"Lot, Depth", the horizontal distance between the front and rear lot lines measured by the length, within the lot, of a straight line connecting the midpoint of a straight line between the foremost points of the side lot lines with the midpoint of a straight line between the rearmost points of the side lot lines.

"Lot Line, Front", the line separating the lot from the street. The owner of a lot abutting on two or more streets may designate as the front lot line whichever of the two widest streets he chooses.

"Lot Line, Rear", the line which most nearly qualifies as the line most distant and opposite from the front lot line; where the lot is irregularly shaped, a line perpendicular to the mean direction of the side lot lines, and at least ten feet in length within the lot.

"Lot Size", where a minimum lot size is specified in this Code, no main building shall be erected, nor main use established, on any lot for which such size is specified, if such lot is of lesser size, except if specifically provided.

"Lot Width", the shortest horizontal distance between the side lot lines measured perpendicular to the mean direction of two straight lines, one between the foremost and rearmost points of one side lot line, and the other between the foremost and rearmost points of the other side lot line. Where a minimum lot width is specified in this Code, no main building shall be erected on that part of a lot where the lot width is less than that specified, except if specifically provided.

"Low-Income Household", any household whose Annual Income does not exceed fifty percent (50%) of the median gross income of households in the Boston Standard Metropolitan Statistical Area.

"Main Building", a building, not including a dwelling, that is not an accessory building.

"Main Shipping Channel", the shipping channel for deep draft vessels in the Boston Inner Harbor as depicted by dashed lines on that certain chart issued by National Oceanic and Atmospheric Administration as chart number 13272 and entitled "Boston Inner Harbor," 39th Edition, dated November 24, 1984.

"Mansard Roof", a sloping roof having a pitch of more than sixty (60) degrees to the horizontal. The floor under a mansard roof shall be considered a Story as defined below.

"Median Gross Income" is defined as it is by the United States Department of Housing and Urban Development, pursuant to 24 CFR Section 813.102 (1986), as amended, or as set forth in regulations adopted in accordance with a neighborhood district article.

"Mobile Home", a dwelling, other than a recreational vehicle, that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation.

"Mobile Home Park", a parking space for two or more mobile homes used as dwellings.

"Modal Front Yard depth": See "Existing Building Alignment".

"Moderate-Income Household", any household whose annual income does not exceed eighty percent (80%) of the median gross income of households in the Boston Standard Metropolitan Statistical Area.

"Mortuary Chapel", a facility in a cemetery in which bodies are prepared for burial or cremation or funeral services are conducted.

"Motel", a hotel primarily for transients travelling by automobile, with a parking space on the lot for each lodging unit, and with access to each such unit directly from the outside.

"Motor Freight Terminal", a building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi-trailers, including tractor and/or trailer units, and other trucks are parked or stored.

"Motor Vehicle", a self-propelled, wheeled, non-rail conveyance with gas-, electric-, solar- or other non-muscle powered engine (such as cars, trucks, motorcycles, minibikes, pocket bikes, mopeds, power scooters, electric skateboards) with the exception of : (a) personal mobility devices designed for use on sidewalks and pedestrian areas (such as Electronic Personal Assistive

Mobile Device or “EPAMD”s and segways) as well as those with impaired mobility (such as wheelchairs); and (b) motor vehicles with primarily an agricultural or industrial purpose (such as tractors and riding lawn mowers).

(^As inserted on March 15, 2006)

"Music store", a store for the sale of musical instruments and sheet music.

"Natural High/Low Tide Line", the historic high/low tide line that would be observed except for alteration of the shoreline by filling, dredging, or impounding.

"Neighborhood Council", any neighborhood-based council established by the Mayor to render advice to neighborhood residents, the Mayor, city departments, and the Boston Redevelopment Authority regarding any municipal issues of neighborhood concern.

"Neighborhoods", the Neighborhood Districts, as established pursuant to Section 3-1B of this Code, and any other area of the City of Boston not included in the Downtown or the Harborpark, as defined in this Article.

(^As inserted on May 9, 1996.)

"Nonconforming Use", a use of a structure or lot that does not conform to a regulation prescribed by this code for the district in which it is located; provided that such use was lawfully in existence on the effective date of this code or, in the case of a use made nonconforming by an amendment of this code, on the effective date of such amendment.

"Nursing or Convalescent Home Use," means nursing or convalescent home use, including subuses such as patient rooms, health care facilities, nursing residences, eating facilities, mechanical facilities, and other similar uses. Property owned or occupied by a nursing or convalescent home not having a use that is substantially related to the provision, by a facility licensed by the state as a nursing, convalescent, or rest home, of care and minor medical treatment for patients in order that they may recover from a medical infirmity, or of long-term care of the elderly or infirm, shall not be deemed to be a nursing or convalescent home use merely by reason of such ownership or occupancy. Nursing or convalescent home use shall not include property held by a nursing or convalescent home for investment purposes only. Nursing or convalescent home subuses shall not be treated as accessory or ancillary uses subject to Article 10 or as independent uses. The substitution of one such subuse for another such subuse shall not by itself constitute a Proposed Institutional Project unless the new subuse is a High Impact Subuse. A nursing or convalescent home subuse is a High Impact Subuse if it is a facility of public assembly, nursing residence, parking facility, power plant, or centralized heating or cooling plant.

"**Occupied**" shall include the words "designed, arranged, or intended to be occupied".

"**Office Uses**", agency or professional office, back office, or general office.

"**Open Space**," open space in public ownership dedicated to or appropriated for active or passive recreational use or to the conservation of natural resources; including but not limited to the waterway areas, beaches, reservations, parks, and playgrounds within the boundaries of the City of Boston; or open space in private ownership for active or passive recreational use or for the conservation of natural resources.

"**Open Space Recreational Building**", a structure on an open space area that is necessary and/or appropriate to the enhanced enjoyment of the particular open space area.

"**Open Space Uses**", golf driving range; grounds for sport, private; open space; open space recreational building; outdoor place of recreation for profit; or stadium uses.

"**Outdoor Storage of Damaged or Disabled Vehicles**", outdoor storage of damaged or disabled motor vehicles, with no dismantling of motor vehicles or sale of used parts on the lot.

"**Outdoor Storage of Junk and Scrap**", outdoor storage of second-hand lumber or other used building material, junk, scrap, paper, rags, unrepaired or uncleaned containers, or other articles.

"**Outdoor Storage of New Materials**", outdoor storage of new building materials, contractor's equipment, machinery, metals (other than scrap and junk), and the like.

"**Parapet Line**", a horizontal line at the mean height of the wall of the building nearest to, and substantially parallel with, the lot line from which a setback is being measured.

^"**Pawnshop**", any business, establishment or enterprise that engages in or carries on the business of loaning money upon mortgages, deposits or pledges, deposited with the lender, of wearing apparel, jewelry, ornaments, household goods or other personal property, or of purchasing such property on condition of selling it back again at a stipulated price.

(^As inserted on April 9, 2001)

"**Penal Institution**", a facility for the incarceration of persons under warrant, awaiting trial on felony or misdemeanor charges, or serving a sentence upon conviction.

"Performance Standards", requirements to be met by all Light Manufacturing uses, General Manufacturing uses, and Restricted Industrial uses. The following effects shall not be allowed from any such use:

1. Any emission of any air, water, or other pollutants or of radiation or any release of toxic or biohazardous material in violation of federal, state, or local standards or regulations.
2. Any emission beyond the boundaries of the lot that is known to or can be shown to endanger human health or cause significant damage to property or vegetation.
3. Any surface water or groundwater contamination that exceeds any applicable state or federal regulations.
4. For a Light Manufacturing use, any noise, air pollutant, vibration, dust, odor, change of temperature, or direct glare of lighting that emanates beyond the boundaries of the lot on which the use is located, is detectable at such distance by human senses without aid of instruments, and is of sufficient quantity or duration to cause significant annoyance or interference with normal activities.

For a General Manufacturing use, any noise, air pollutant, vibration, dust, odor, change of temperature, or direct glare of lighting, that emanates (a) beyond any boundary of the lot that abuts a Residential Subdistrict or a Conservation Protection Subdistrict; or (b) more than twenty (20) feet beyond any boundary of the lot that abuts any subdistrict (other than a Residential Subdistrict or a Conservation Protection Subdistrict) where a General Manufacturing use is not designated "A" (allowed) in the applicable table of uses; or (c) more than fifty (50) feet beyond any boundary of the lot that abuts a subdistrict where a General Manufacturing use is designated "A" (allowed) in the applicable table of uses; if any such effect is detectable at such distances by human senses without aid of instruments and is of sufficient quantity or duration to cause significant annoyance or interference with normal activities.

For a Restricted Industrial use, any noise, air pollutant, vibration, dust, odor, change of temperature, or direct glare of lighting that emanates beyond the boundaries of the subdistrict in which the use is located, is detectable at such distance by human senses without aid of instruments, and is of sufficient quantity or duration to cause significant annoyance or interference with normal activities.

"Physically Handicapped Person" shall be as defined in Chapter 521 of the Code of Massachusetts Regulations, as amended.

"**Pier**", any structure that extends seaward of the High Tide Line, but excluding any floating structure.

"**Pierhead Line**", the seaward limit of Pier construction as established in applicable law of the Commonwealth of Massachusetts.

^"**Planned Development Area Development Plan**", or "PDA Development Plan", the development plan required for a Planned Development Area, pursuant to Section 3-1A.a.

(^As inserted on May 9, 1996.)

^"**Planned Development Area Master Plan**", or "PDA Master Plan", a master plan setting forth the development concept for a PDA, as provided for in Section 3-1A.a.

(^As inserted on May 9, 1996.)

^"**Planned Development Area Review**", the review described as Planned Development Area Review in Section 80C-1.

(^As inserted on May 9, 1996.)

"**Planning and Zoning Advisory Committee**", any neighborhood-based committee appointed by the Mayor to render advice to neighborhood residents, the Mayor, city departments, and the Boston Redevelopment Authority regarding land use planning and zoning issues.

"**Private Club**", facilities used or operated for a purpose such as, but not limited to, a fraternal, social, recreational, or athletic purpose, including a health club.

"**Private Tidelands**" has the meaning ascribed in Chapter 91.

"**Professional School**", an institution which offers courses of instruction in any of several fields of study and/or in a number of professions or occupations, and which is not part of a college, university or trade school.

"**Proposed Institutional Project**," a Proposed Project occupied or to be occupied for Institutional Uses upon issuance of a building, use, or occupancy permit.

"**Proposed Project**", the erection, extension, or substantial demolition of any structure or part thereof, or the change of use of any structure or land, for which the Applicant is required to obtain a building or use permit.

"Public Agency", a department, agency, board, commission, authority, or other instrumentality of the Commonwealth of Massachusetts, or of one or more political subdivisions of the Commonwealth, or of the United States.

"Public Assembly Uses", for the purposes of off-street parking requirements, such uses are entertainment uses, funerary uses, places of worship, or restaurant uses.

"Public Boat Ramp", any ramp structure that provides public access to or egress from the water for Vessels.

"Public Open Space", an open space in public ownership devoted or to be devoted to a public use with only minor accessory buildings, if any. No structure that exceeds twenty (20) feet in height or two thousand (2,000) square feet in gross floor area shall be considered to be a part of such public open space. "Public open space" shall be construed to include a street.

"Public Service Uses", automatic telephone exchange; courthouse; fire station; telecommunications data distribution center; penal institution; police station; pumping station; recycling facility (excluding toxic waste); solid waste transfer station; substation; telephone exchange; or payphone(s).

(^As amended on March 15, 2006)

"Pumping station", a public service facility for transporting water, including pumps, piping, valves, and controls.

"Recreational Marina", any arrangement of docks, slips, Piers, pilings, moorings, or other facilities in or adjacent to the water, for use primarily by Recreational Vessels, including, but not limited to, any such facility associated with a yacht club or boat club.

"Recycle", to recover materials or byproducts: (a) which are to be reused, or (b) which are to be employed as an ingredient or a feedstock in an industrial or manufacturing process to make a product, or (c) which are to be employed in a particular function or application as an effective substitute for a commercial product or commodity. Recycle does not mean to recover energy from the combustion of a material.

"Recycling Facility", a facility which recovers and recycles solid waste for reuse. A recycling facility shall not include a drop-off center for general commercial or household waste.

"Research and Development Uses", basic laboratory; or product development or prototype manufacturing.

"Residential Uses", congregate living complex; elderly housing; group residence, limited; homeless shelter; lodging house; mobile home; mobile home park; multifamily dwelling; one-family detached dwelling; one-family semi-attached dwelling; orphanage; row house; temporary dwelling structure; three-family detached dwelling; townhouse; transitional housing; two-family detached dwelling; or two-family semi-attached dwelling.

"Restaurant", lunch room, restaurant, cafeteria, or other place for the service or sale of food or drinks for on-premises consumption, provided that there is no dancing nor entertainment other than phonograph, radio and television, and that neither food nor drink is served to, or consumed by, persons while seated in motor vehicles.

"Restaurant Uses", a drive-in restaurant, restaurant, or take-out restaurant.

"Restricted Industrial Use", a heavy manufacturing use typically having substantial impacts on the environment in which articles are usually mass produced from raw materials. A restricted industrial use includes any use which is objectionable or offensive because of special danger or hazard, or because of cinders, dust, smoke, refuse matter, flashing, fumes, gases, vapor or odor not effectively confined to the lot. Examples of restricted industrial uses include, but are not limited to:

- Batching or casting of concrete, including handling and/or storage of cement,
 - lime, sand, stone, or other aggregates.
- Blending of disinfectants, exterminating agents, fungicides, or insecticides.
- Curing, dyeing, or finishing of fur or leather.
- Curing, drying or smoking of fish, meat, or poultry.
- Disposal, handling, or storage of radioactive waste.
- Energy production facilities.
- Incineration or reduction of garbage or organic waste.
- Manufacture or refining of
 - Asphalt or asphalt products.
 - Fossil fuel products.
 - Fertilizers.
 - Gases in amounts exceeding two thousand (2,000) cubic feet a day.
 - Rubber (natural or synthetic) including tires, tubes, or similar products.
 - Soaps or detergents, including fat rendering.
 - Toxic chemicals including acetylene, aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black or bone black, cleaning or polishing preparations, creosote, industrial alcohol, potash, plastic materials or synthetic rosins, or hydrochloric, picric, or sulphuric acids or derivatives.

Reduction, refining, or smelting of metal or metal ores.
Removal of gravel, loam, sand, or stone except for reuse on the same lot or incidental to the erection of a building on such lot.
Sewage disposal plant.
Storage of gases in amounts exceeding ten thousand (10,000) cubic feet.
Storage and processing of salvage materials.

Performance standards, as defined in this Article, are applicable to all restricted industrial uses.

"Retail Uses", adult bookstore; bakery, general retail business; liquor store; local retail business; outdoor sale of garden supplies; or similar use.

"Rounding Numbers, Rule For", when a decimal must be rounded to the nearest whole number, as in the case of off-street parking requirements, or to the nearest foot, and when the only digit dropped is .5, then if the last digit retained is an even number, it shall be left unchanged; but if the last digit retained is an odd number, it shall be increased to the next higher digit. In the case of rounding to the nearest half foot to determine the existing building alignment, if the only digits dropped are .25, the preceding digit shall be left unchanged; but if the only digits dropped are .75, the preceding digit shall be raised to the next higher number.

"Row House Building" or **"Row House"**, one of a group of three or more residential buildings on different Lots sharing common or party walls or fire walls, on one or both side lot lines.

"Roxbury Land Trust", a trust or other organization to be formed for the purpose of establishing a process for community participation in the disposition of certain publicly owned land in the Roxbury Neighborhood District.

"School", buildings, premises and parts thereof in which a regular course of public or private instruction is given.

"Scientific Laboratory", a facility devoted to the testing and analysis of scientific and applied research hypotheses through experimentation. No manufacturing is conducted on the premises except for experimental or testing purposes or the development of prototypes.

"Seasonal Dry Storage", the storage of Recreational Vessels on land for periodic use in the water during the active boating season, generally from April through October.

"Service Uses", animal hospital; barber or beauty shop; caterer's establishment; dry-cleaning shop; kennel; laundry, retail; laundry, self-service; photocopying establishment; shoe repair; tailor shop; or similar use.

"Shall", shall be considered mandatory and not directory.

"Sides" of a Pier means the edges of the Pier other than the edge connecting the Pier with dry land and other than the End of the Pier.

"Sign", any structure, device, light, letter, word, model, banner, pennant, insignia, trade flag, or representation which is designed to be seen from outside a building and which advertises or announces a use conducted or goods, products, services or facilities available, including electric signs in windows or doors, but excluding window displays of merchandise and signs incidental to the display of merchandise.

"Sign Area":

1. For a sign, either free-standing or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
2. For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording, and accompanying designs or symbols together with any background of a different color than the natural color of the building.
3. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, canopy, awning, wall, or window, the area shall be considered to be that of the smallest rectangle or other geometric shape which encompasses all of the letters or symbols.
4. Only one face of a two-faced sign shall be counted in computing the area of a sign, or the total area of signs on a sign frontage or on a lot.

"Sign, Awning", a sign on or attached to a temporary retractable shelter which is supported entirely from the exterior wall of a building.

"Sign, Canopy", a sign on or attached to a permanent overhanging shelter which projects from the face of a building and is supported only partially by said building.

"Sign Design, Comprehensive", a plan submitted to the Urban Design Department of the Boston Redevelopment Authority for signs and related architectural features on a sign frontage, a building front, or a group of buildings.

^"**Sign, Electronic**", an on-premise sign that allows for periodic changes in copy, images and/or symbols by electronic means.

(^As inserted on April 25, 2007)

"**Sign Frontage**", the length in feet along a ground floor building front, facing a street or a private way accessible from a street, which is occupied by a separate and distinct use; the length along a ground floor building side facing a street, which is occupied by a separate and distinct use or by the same use which occupies the front of said building.

"**Sign, Marquee**", a sign on or attached to a permanent overhanging shelter which projects from the face of a building and is entirely supported by said building.

"**Sign, Off-Premise**", a sign which advertises or announces a use conducted or goods available elsewhere than on the lot on which the sign is located.

"**Sign, On-Premise**", a sign which advertises or announces a use conducted or goods available on the lot on which the sign is located.

^"**Small Project Review**", the review described as Small Project Review in Section 80E-1.

(^As inserted on May 9, 1996.)

"**Solid Waste Transfer Station**", a facility where solid wastes are brought, stored, and transferred to vehicles for transport to the location of further processing or treating or ultimate disposal.

"**State Building Code**", the state building code and amendments and rules and regulations thereto as promulgated by the board of building regulations under sections ninety-three, ninety-four, and ninety-five of Chapter One Hundred Forty Three of the General Laws.

"**Storage (Outdoor or Enclosed) of Solid Fuel or Minerals**", storage, outdoors or in silos or hoppers, of coal, coke or other solid fuel or of crushed stone, sand, or similar material.

"**Storage Uses, Major**", outdoor storage of new materials; outdoor storage of damaged or disabled vehicles; outdoor storage of junk and scrap; outdoor or enclosed storage of solid fuel or minerals; storage of flammable liquids and gases; warehousing; or wrecking yard.

"**Story**", that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above, except that a space

used exclusively for the housing above the roof of mechanical equipment of a building shall not be considered to be a story if access to such space may be had only for maintenance of such equipment.

"Story, First", the lowest story of which sixty-five percent (65%) or more of the height is above grade.

"Story, Half", a story used or designed to be used for human occupancy that has a floor area measured four (4) feet vertically from the floor of not more than one-half (1/2) the area of the floor next below and in which the ceiling area or plane, measured at a height of seven and one-third (7-1/3) feet above the floor, is a minimum of one-third (1/3) the area of the floor. For the purpose of determining Building Height, the floor area of a dormer on a dwelling shall not be included in the floor area calculation for a half story; provided that such dormer is not wider than eight (8) feet and the ridge line of the dormer does not exceed the ridge line of the existing structure of which it is a part, or thirty-five (35) feet, whichever is less; and provided further that only the floor area of two such dormers shall not be included in the floor area calculation of a half story. However, the floor area of such dormers shall be included in gross floor area of the dwelling.

"Street", a public way, alley, lane, court, sidewalk, and such parts of public squares and public places as form traveled parts of highways.

"Street Line", the line separating a street from a lot.

"Street Wall" means the portion of the exterior wall (including recesses, bays, windows, doors, and other features) of a proposed project that fronts on a public street (excluding public alleys) and is below the streetwall height specified in a Neighborhood District article.

"Structure", a combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole, or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part thereof".

"Studio, Arts", a studio for professional work or teaching of music, dancing, or theatrical arts to students.

"Studio, Production", a studio for production of motion pictures, videos, or radio or television programs; or for radio or television broadcasting.

"Substantially Rehabilitate", to cause alterations or repairs to be made to a structure or structures within any period of twelve (12) months, if such alterations or repairs cost more than fifty percent (50%) of the physical value of the structure or structures. Physical value shall be based on the assessed

value, as recorded on the assessment rolls of the City as of the January 1 preceding the date of the filing of a Project Notification Form for Large Project Review, pursuant to Section 80D-5.1.

(^As inserted on May 9, 1996.)

"Substation", a public service facility for transforming electricity for distribution to customers.

"Take-out Restaurant", sale over the counter, not wholly incidental to a local retail business, restaurant, or drive-in restaurant, of food or drink prepared on premises for off-premises consumption or for on-premises consumption if, as so sold, such food or drink is ready for take-out. A take-out restaurant shall include any restaurant with an accessory drive-through restaurant and any restaurant which serves its food and beverages primarily in disposable containers and provides disposable tableware.

"Telephone Exchange", a telephone switching or transmitting service which is not automatic.

"Theatre", a structure used for dramatic, operatic, motion picture, or other performances.

"Ticket Sales", a structure or building or portion thereof, for the retail sale of tickets to performing, visual arts, sports, cultural or community events.

"Tidelands", present and former submerged lands and tidal flats lying between the Natural High Tide Line and the seaward limit of state jurisdiction.

"Town House Building" or **"Town House"**, one of a group of three or more residential buildings on one lot, sharing common or party walls or fire walls, with each building having a separate entrance.

"Trade Uses", a carpenters shop; electrician's shop; machine shop; photographer's studio; plumber's shop; radio/television repair shop; upholsterer's shop; or similar use.

"Transit Corridor", any interstate, state, or local highway or rail line which lies below the grade level of abutting parcels of land, not including abutting transit corridors which lie below grade level.

"Transitional Housing", a building, or portion thereof, in which temporary residential accommodations are provided for persons or families who are not related to the owner, operator, or manager. Such residential accommodations shall be operated by a nonprofit organization, and shall include social services, on site or off site, to assist individuals or families living there. Transitional

housing may contain a common kitchen and eating area and shared bathroom facilities.

^Transportation Access Plan", a document prepared in accordance with Section 80B-3.1 that identifies the impact of a Proposed Project on the Transportation Network and describes proposed mitigation and monitoring measures.

(^As inserted on May 9, 1996.)

^Transportation Network", the elements of the publicly-owned facilities and accessible ways within the Impact Area of a Proposed Project, as set forth pursuant to Section 80B-3.1, and all aspects of operation and maintenance of such ways and facilities.

(^As inserted on May 9, 1996.)

Transportation Uses", an airport; bus terminal; garage with dispatch; helicopter landing facility; motor freight terminal; rail freight terminal; railroad passenger station; or water terminal.

Truck or Bus Servicing or Storage", yard for storing or servicing trucks or buses.

^Underlying Zoning", the zoning regulations applicable to the location of a Proposed Project or site, as set forth in this Code, without regard to the provisions of any applicable PDA Development Plan, PDA Master Plan, or Institutional Master Plan.

(^As inserted on May 9, 1996.)

Usable Open Space", space suitable for recreation, swimming pool, tennis court, gardens, or household service activities, such as clothes drying. Such space must be at least seventy-five percent (75%) open to the sky, free of automotive traffic, parking, and undue hazard, and readily accessible by all those for whom it is required.

Where a minimum usable open space per dwelling unit is specified in this Code, there shall be allotted and maintained for lawful outdoor uses other than off-street parking on every lot within the district, and devoted to the use specified, for each dwelling unit intended for family occupancy the minimum usable open space so specified. So much of the front, side, and rear yards required by this Code for the lot as is not devoted to an accessory building or off-street parking or driveway purposes shall be included in computing usable open space for the purposes of this Article.

Minimum usable open space per dwelling unit requirements shall not apply to hotels, motels, hospitals, dormitories, or other residential structures intended and designed primarily for transient occupancy.

"**Use**", as a verb, shall be construed as if followed by the words "or is intended, arranged, designed, built, altered, converted, rented, or leased to be used".

^"**USGBC**", United States Green Building Council, a nonprofit organization comprised of leaders from the building industry formed to encourage sustainability by promoting buildings that are environmentally responsible, profitable, and healthy places to live and work.

(^As inserted on January 10, 2007)

"**Vacant Public Land**", any land owned by a public agency that is not in use for an essential public purpose.

^"**Vehicular Uses**", bus servicing or storage; carwash; gasoline station; indoor installation of automotive parts; indoor sale of motor vehicles; outdoor sale of new and used motor vehicles; parking garage; parking lot; rental agency for cars; rental agency for trucks; repair garage; or truck servicing or storage uses.

(^As amended on March 15, 2006)

"**Vessel**", means any watercraft, including, but not limited to, a Commercial Vessel or Recreational Vessel, but not including any floating structure permanently moored or attached to land or a Pier.

"**Vessel, Commercial**", any Vessel used for the principal purpose of engaging in a water-related commercial activity, including, but not limited to, charter boat, fishing boat, tug boat, cruise boat, freighter, or barge.

"**Vessel, Recreational**", any Vessel used principally for recreational purposes.

"**Warehousing**", the holding or storing of goods, wares, or merchandise as a main use in a building, whether for the owner or for others.

"**Water Terminal**", a water freight or passenger terminal facility, including docks, piers, wharves, storage sheds for water-borne commodities, and rail and truck facilities accessory to a waterborne freight terminal.

"**Wholesale Business**", a facility for the sale of goods, merchandise, or commodities, in gross, primarily for the purpose of resale.

"**Wholesale Use**", or a wholesale business.

"Wrecking Yard", wrecking and dismantling of motor vehicles.

"Yard, Front", an open space extending across the full width of the lot and lying between the front lot line and the nearest building. Where a minimum depth of front yard is specified in this Code, so much of every lot within the district or subdistrict specified, and devoted to the use specified, as lies between the street line and a line inside the lot parallel to, and such minimum depth from, the street line is hereby required as a front yard. Within a required front yard, no planting other than shade trees shall be maintained more than five (5) feet above the average natural grade of the front yard and no structure shall be erected except: (1) fences and walls not over five (5) feet in height above the average natural grade in such front yard; (2) steps, terraces, open porches without roofs, and the like, if not extending more than three (3) feet above the floor of the first story; and (3) signs that conform with Article 11. (See also "Lot Area".)

In the case of lots to which the existing building alignment depth applies, the required front yard shall be that portion of the lot as lies between the street line and a line inside the lot parallel to and at the depth calculated to be the existing building alignment depth.

"Yard, Rear", an open space immediately behind the rearmost main building on the lot and extending across the full width of the lot. Except as otherwise provided in this Code, where a minimum depth of rear yard is specified for a district or subdistrict, so much of every lot within the district or subdistrict specified, and devoted to the use specified, as lies between the rear lot line and a line inside the lot parallel to, and such minimum depth from, the rear lot line is hereby required as a rear yard within which no structure shall be erected, except those projections allowed into side yards (see "Yard, Side" requirements) may project the same distance into rear yards but in no case within ten (10) feet of a rear lot line or within eight (8) feet of an accessory building. (See also "Lot Area".)

"Yard, Side", an open space along the side line of a lot, extending from the front yard line to the rear yard line; in the case of a side yard abutting on a street, extending to the rear lot line. Except as otherwise provided in this Code, where a minimum width of side yard is specified in this Code, so much of every lot within the district or subdistrict specified, and devoted to the use specified, as lies between the lot line on one side of such lot and a line inside the lot parallel to, and such minimum width from, such lot line, and also so much of every such lot as lies between the lot line on the other side of such lot and a line inside the lot parallel to, and such minimum width from, such lot line, are hereby required as side yards.

Within a required side yard, no planting other than shade trees shall be maintained more than six (6) feet above the average natural grade in such yard and no structure shall be erected except: (a) fences and walls not over six feet in

height above said average natural grade in such side yard, (b) steps, terraces, open porches without roofs and the like, if not extending more than three (3) feet above the floor of the first story, (c) porches not over half the length of the side wall, ground story bays and open iron fire escapes, if not coming within three (3) feet of any side lot line and not extending more than three and one half (3-1/2) feet into the side yard, (d) other fire escapes, bays, balconies, chimneys, and flues, if not coming within three (3) feet of any side lot line and not extending into the side yard more than one-third (1/3) of the width of such yard nor more than three and one-third (3-1/3) feet in any event, (e) belt courses, leaders, sills, pilasters, lintels, and ornamental features, if not coming within three (3) feet of any side lot and not more extending more than one (1) foot into the side yard, and (f) cornices and gutters, if not coming within three (3) feet of any side lot line and not extending more than two (2) feet into the side yard. (See also "Lot Area".)

^"**Zoning Relief**", any zoning variance, exception, conditional use permit, interim planning permit, zoning map or text change, PDA Development Plan or PDA Master Plan approval, Institutional Master Plan approval, or any other relief granted by the Zoning Commission or the Board of Appeal.

(^As amended on May 9, 1996.)

SECTION 2A-2. **Rules of Construction.** Words importing the singular shall include the plural; and words importing the plural shall include the singular.