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Proposed Definitional Amendments to the Ayer Zoning Bylaw

Planning Board public hearing on **March 22, 2022**

Annual Town Meeting April 25, 2022

Definitions put in correct alphabetic order

Starting on page 3 below

SECTION 1.0 TITLE, PURPOSES, AUTHORITY

1.1 Title

This Bylaw shall be known as the Zoning Bylaw of the Town of Ayer, Massachusetts, hereinafter referred to as "this Bylaw."

1.2 Authority

This Bylaw is adopted in accordance with the provisions of Chapter 40A of the General Laws, as amended by c. 808 of the Acts of 1975, and by Article 89 of the Massachusetts Constitution, the Home Rule Amendment, to regulate the use of land, buildings, and structures to the full extent of the constitutional powers of cities and towns to protect the health, safety, and welfare of the present and future inhabitants of the town.

1.3 Purposes

The purposes of this Bylaw are to promote the general welfare of the Town of Ayer; to protect the health and safety of its inhabitants; to encourage the most appropriate use of land throughout the town; to provide for adequate light and clean air, and to limit pollution; to preserve the natural, historical, scenic, and aesthetic qualities of the town; to encourage preservation of historic land uses and structures; to increase the amenities of the town; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to further the goals and policies of the Ayer Comprehensive / Master Plan; and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them.

1.4 Applicability

All buildings or structures hereafter erected, constructed, reconstructed, altered, enlarged, or modified, and the use of all premises in the Town, shall be in conformity with the provisions of these Bylaws. No building, structure, or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which such building, structure, or land is located. Where the application of this Zoning Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Zoning Bylaw shall control.

1.5 Other Laws

In their interpretation and application, the provisions of this Bylaw shall be held to be minimum requirements. Whenever the requirements of this Bylaw are at variance with the requirements of any other lawfully adopted regulations or bylaws, the most restrictive or the one imposing the highest standards shall govern.

1.6 Amendment

This Zoning Bylaw may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided for in G.L. c. 40A, Section 5.

1.7 Severability

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

SECTION 2.0 DEFINITIONS

In this Bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The abbreviation "sq. ft." shall include square foot or square feet. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The words "such as," "includes" or "including" shall not limit a term to specified examples, but are intended to extend meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied." The words "building," "structure," "lot," or "parcel" shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual.

Terms and words not defined herein but defined in the Massachusetts State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this Bylaw.

ABANDONMENT: Cessation of an activity for a period of two years or more causing the loss of any right to restore a nonconforming use or activity on a given site.

ACCESSORY APARTMENT: a dwelling unit subordinate in size and accessory to a detached single-family dwelling, which may be located within an owner-occupied single-family dwelling or in a structure accessory thereto, such as in an attached or detached garage or barn, upon the issuance of a Special Permit from the Zoning Board of Appeals (ZBA).

ACCESSORY STRUCTURE: A structure located on the same lot as, but detached from, a principal building or use, the use of which is customarily incidental to that of the principal building or use, such as detached garages, utility sheds, gazebos, and swimming pools.

ACCESSORY USE: A use customarily incidental to that of the main building or to the use of the land, not including exterior storage of junk, dismantled or abandoned cars or any other storage detrimental to the health, safety or general welfare.

ADULT DAY CARE: A day services program designed to provide assistance with activities of daily living and meet the cognitive, social, physical, and medical needs of elderly clients, and provide temporary relief for their caregivers; certified, licensed, or operated under a contract administered by the Executive Office of Elder Affairs or other state agency authorized under the laws of the Commonwealth.

ADULT USE: An adult bookstore, an adult motion picture theater, an adult dance club, an adult paraphernalia store, an adult video store and such other uses as provided by G.L. c. 40A, § 9A.

- **ADULT BOOKSTORE:** An establishment having as a substantial or significant portion of its stock in trade printed matter, books, magazines, picture periodicals, motion picture films, video cassettes, computer compact disks, computer disks or diskettes, or coin-

operated motion picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "sexual conduct" as that term is defined in G.L. c. 272, § 31, "sexual devices" or an establishment having for sale sexual devices which shall mean any artificial human penis, vagina or anus or other device primarily designed promoted or marketed to physically stimulate or manipulate the human genitals, pubic area or anal area, including dildos, penisators, vibrators, penis rings, erection enlargement or prolonging creams or other preparations or an establishment with a segment or section devoted to the sale or display of such materials.

- **ADULT ENTERTAINMENT ESTABLISHMENT:** Any establishment which displays entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement, all as defined in G.L. c. 272, § 31.
- **ADULT LIVE ENTERTAINMENT ESTABLISHMENT:** Any establishment which displays live entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.
- **ADULT MOTION PICTURE THEATER:** An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating 'sexual conduct" as defined in G.L. c. 272, § 31, for observation by patrons therein.
- **ADULT MINI MOTION PICTURE THEATER:** An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to 'sexual conduct" as defined in G.L. c. 272, § 31, for observation by patrons therein.
- **SUBSTANTIAL OR SIGNIFICANT PORTION** shall mean at least that portion of retail sales accounting for at least twenty-five percent of gross sales; or merchandise accounting for at least twenty-five percent of total merchandise available for sales; or shelf space and display space which when combined is in excess of eighty (80) sq. ft.

AFFORDABLE HOUSING: A dwelling unit that is affordable for purchase or rent by a low- or moderate-income household. Each affordable housing unit shall be eligible for inclusion on the Chapter 40B Subsidized Housing Inventory, in accordance with the regulations and policies of the Massachusetts Department of Housing and Community Development (DHCD) in effect on the date of the applicant's submission to the Planning Board.

AFFORDABLE HOUSING RESTRICTION: A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Ayer, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or renter, and which provides for administration, monitoring, and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, and be enforceable under the provisions of G.L. c. 184,

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§§ 31-33 or other applicable state law. The Ayer Board of Selectmen may accept, hold, and enforce affordable housing restrictions.

AGRICULTURE, EXEMPT: as provided under G.L. c. 40A, § 3. (See also, FARM)

AGRICULTURE, NON-EXEMPT: if not exempt under G.L. c. 40A, § 3, agriculture shall include production of agricultural, floricultural or horticultural commodities; the growing and harvesting of forest products upon forest land, and the keeping and raising of domesticated animals such as horses, subject to applicable regulations of the Ayer Board of Health, but shall not include swine, cattle, or other such animals kept or raised for purposes of food or other commodities, nor fur-bearing animals.

ALTERATIONS: As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement whether by extending any wall or by increasing in height, or the moving from one (1) location or position to another.

AQUIFER: Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

AUTO REPAIR SHOP: A building or part thereof in which repairs are made to any motor vehicles.

AUTOMATED TELLER MACHINE (ATM): A machine that acts as a teller for standard banking transactions such as cash withdrawals, deposits, and checking account balances, regardless of where it is located.

AUTOMOBILE: Motorized vehicle consisting of four wheels and powered by an internal engine, and used to transport people and items from one location to another location.

BED AND BREAKFAST: Use of a portion of an owner-occupied single-family dwelling for transient overnight lodging for not more than three (3) paying guests, with breakfast service typically included in the room charge. No cooking facilities shall be located in individual guest rooms or suites. The use of that portion of the dwelling devoted to transient occupancy shall be an accessory use of the single-family dwelling and shall not change the character thereof.

BEDROOM: As defined in Title V of the Massachusetts environmental code (310 CMR 15.002) or successor regulation.

BUFFER: This term refers to both the 100 foot distance from a wetland resource area as defined in the Massachusetts Wetlands Protection Act and the area used to visually screen activities or buildings on a site from abutting properties.

BUILDING COVERAGE: See LOT COVERAGE.

BUILDING HEIGHT: Building height shall be measured as the vertical distance from the average finish grade at the perimeter of the building to the average height of the highest roof plane. Building height shall not include spires, cupolas, antennae, or similar parts of structures which do not enclose potentially habitable floor space.

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BUILDING LINE: A line through any point of the exterior of the building or structure.

BUILDING: A structure enclosed within exterior walls or firewalls, built, erected, and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property. For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed where the context requires as though followed by the words "or part or parts thereof."

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which said building is situated.

CELLAR (or BASEMENT): A portion of a building, partly or entirely below grade, which has more than one-half (1/2) of its height measured from finished floor to finished ceiling, below the average established finished grade of the ground adjoining the building.

CHILDCARE (or DAYCARE) CENTER: As defined in G.L. c. 15D, § 1, with a valid license from the Massachusetts Department of Early Education and Care (EEC) or successive agency. .

COMMERCIAL AMUSEMENT: A building or any portion thereof used for entertainment or amusement activities, such as a pool hall, bowling alley, video arcade, or cinema or movie theatre, but not including adult uses.

COMMERCIAL RECREATION, INDOOR: A facility operated as a business, open to the public for a per-visit or membership fee, for indoor recreation purposes such as tennis, racquetball, swimming, ice skating, roller skating or similar activities, including a health club or athletic club.

COMMERCIAL RECREATION, OUTDOOR: A facility operated as a business, open to the public for a per-visit or membership fee, for outdoor recreation purposes such as skiing, swimming, ball games, miniature golf, golf driving range, or similar customary and usual sports or recreation activities, but not including a golf course (see also, extensive uses: golf course).

COMMERCIAL STORAGE FACILITY: A building or structure for the storage of goods and materials, which may include a refrigerated storage facility (cold storage) or a warehouse for the storage of wholesale goods and merchandise. Commercial storage shall not include a self-storage facility.

COMMON DRIVEWAY: A driveway serving up to three (3) detached dwelling units or buildings.

COMMUNICATION TOWER: Any tower or structure, natural or man-made, existing or erected, used to support one or more antennas, including self-supporting lattice towers, guyed towers, or monopoles, for electromagnetic transmission and/or reception purposes such as radio and television transmission towers, microwave towers, common carrier towers, wireless communications facilities ("WCF"), alternative tower structures and the like; but not including a communication tower used by an amateur radio operator with a written license or permit from the Federal Communications Commission (FCC) to be the control operator of an amateur radio facility.

CONTIGUOUS: Sharing a common lot line or touching at any point.

CONTINUING CARE RETIREMENT COMMUNITY: A managed development that provides housing, services and nursing care primarily to persons over 55 years of age; which includes two or more of the following uses: assisted living residence, nursing home or chronic care facility, adult day care facility, or medical offices; and for which there is a legal agreement that assures life care to residents and services appropriate to each type of housing.

DAY CAMP: A lot, tract or parcel of land operated as either a commercial or non-commercial enterprise in which seasonal facilities are provided for all or any of the following: camping, picnicking, boating, fishing, swimming, outdoor games and sports and activities incidental and relating to the foregoing, but not including miniature golf grounds, golf driving ranges, mechanical amusement device, or permanent structures for housing of guests.

DOMESTICATED ANIMAL: Any of the various animals that have been tamed, through generations of captivity and breeding, to live under human control and in close association with humans, such as dogs, cats, chickens, cows, goats, sheep, and horses.

DRIVE-THROUGH FOOD SERVICE: A food service establishment in which food prepared and sold at retail may be consumed on the premises or purchased at a drive-up service window.

DRIVEWAY: An improved access, other than a street, connecting between a street and one or more parking or loading spaces.

DWELLING UNIT: ~~A building designed and occupied as the living quarters of one (1) or more families. that contains one or more dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.~~

DWELLING UNIT: a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

~~ACCESSORY APARTMENT: a dwelling unit subordinate in size and accessory to a detached single-family dwelling, which may be located within an owner-occupied single-family dwelling or in a structure accessory thereto, such as in an attached or detached garage or barn, upon the issuance of a Special Permit from the Zoning Board of Appeals (ZBA). (already defined.)~~

DETACHED SINGLE-FAMILY DWELLING: A detached residential dwelling unit designed or intended or used exclusively as a single housekeeping unit for one family, with common cooking and living facilities. As used in this Bylaw, single-family dwelling shall not include a mobile home or trailer.

TWO-FAMILY DWELLING: A detached residential building with two dwelling units, designed or intended or used exclusively as the home or residence of two families, with two separate entrances and egresses.

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MULTI-FAMILY DWELLING: A building designed or intended or used as the home or residence of three (3) or more families, each occupying a separate dwelling unit, living independently of each other and which may have a common right in halls and stairways; with the number of families in residence not exceeding the number of dwelling units provided.

TOWNHOUSE: A dwelling unit in a multi-unit building with units separated by party walls, with each unit not more than three rooms deep front to back and with separate entrances and stairways serving each unit exclusively.

EARTH REMOVAL: Extraction of sand, gravel, top soil, or other earth for sale or for use at a site removed from the place of extraction exclusive of the grading of a lot preparatory to the construction of a building for which a building permit has been issued, or the grading of streets in accordance with an approved definitive plan, and exclusive of granite operations. (See also, MINING or NATURAL RESOURCE EXTRACTION)

EDUCATIONAL USE, EXEMPT: An educational use conducted by a for-profit organization, such as a computer training program, a cosmetology school, or a trade school or training program that is not otherwise exempt under G.L. c. 40A, § 3.

EDUCATIONAL USE, NON-EXEMPT: Educational facilities not exempt under G.L. c. 40A, § 3, such as a commercial or for-profit educational use.

ESSENTIAL SERVICES: Services provided by public utility, governmental agencies, or other entity providing equivalent services through erection, construction, alteration or maintenance of underground or overhead gas, electrical, steam or water transmission or distribution systems and collection, communication, supply or disposal systems. Facilities necessary for the provision of essential services include poles, wires, fiber optic strands, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith.

EXTERIOR STORAGE: The storage of any materials related to the principal or accessory use of a property that are located outside the principal or accessory buildings on a property.

FAMILY: Any number of individuals related by blood, marriage, domestic partnership, or adoption; or any number of individuals with disabilities occupying a group home owned or operated by a public agency or non-profit organization; or up to four (4) unrelated individuals, living and cooking together on the premises as a single housekeeping unit.

FAMILY DAY CARE HOME: Child care provided for compensation in an owner-occupied single-family dwelling, for compensation during all or a portion of the day on a regular basis, for not more than six children including children living in the residence, and with a valid license from the Massachusetts Office for Children under G.L. c. 15D, § 1.

FARM STAND: A facility for the sale of produce, dairy products or other agricultural, floricultural or horticultural commodities, as defined in G.L. c. 40A, § 3.

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FARM: Five or more contiguous acres of land under one ownership devoted primarily to commercial agriculture or horticultural use, including a farm stand and other accessory buildings and structures, vehicles, animals and equipment. (See also, AGRICULTURE)

FLOOR AREA, GROSS: The total square feet (sq. ft.) of floor space within the outside dimensions of a building including each floor level, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features. The computation of gross floor area shall include garages and basements with ceiling heights of six (6) feet or more.

FLOOR AREA, HABITABLE: The temperature controlled, finished floor area within a building or dwelling unit exclusive of finished garages, attics and cellars.

FORESTRY: Cultivating and harvesting of forest products, including the sale of firewood, on five or more acres of land.

GASOLINE STATION: A building or part of a building and the land thereof used in connection with tanks, pumps and other appliances to supply motor vehicles with gas, air, oil, water, and similar supplies, and which may include routine vehicle maintenance services as an accessory use. All maintenance and service, other than minor service and emergency repairs, shall be conducted entirely within a building. For purposes of this Bylaw, a gasoline station shall not mean a motor vehicle repair shop.

HAZARDOUS MATERIALS: See TOXIC OR HAZARDOUS MATERIALS.

HELIPORT: An area of land or water or a structure used or intended to be used for the take-off or landing of a helicopter, which may include auxiliary facilities such as waiting room, hangar, parking, fueling or maintenance facilities.

HOME OCCUPATION: An occupation conducted as an accessory use in an owner-occupied dwelling or a detached accessory structure, by the resident owner or members of the owner's family. Any home occupation that requires outdoor equipment to be stored in the yard must obtain a Special Permit from the ZBA, with the exception of Class II vehicles and one-ton pick-up trucks, as approved by the Building Commissioner.

HOMEOWNERS ASSOCIATION: A corporation or trust owned or to be owned by the owners of lots or dwelling units within a tract approved for residential development, which holds the title to open land and which is responsible for the costs and maintenance of said open land and any other facilities to be held in common.

HOSPITAL: An acute or chronic care facility with an original license from the Massachusetts Department of Public Health, pursuant to G.L. c. 111, § 51, to provide medical, surgical, skilled nursing or rehabilitation services to in-patients or institutionalized persons; or an ambulatory surgery center. Such facility may include ambulatory care and emergency services, specialty medical diagnostic or treatment services, and accessory facilities and integral functions such as laboratories, out-patient departments, training, staff offices, and similar adjunct facilities and functions.

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HOTEL OR MOTEL: A building or part thereof, or a group of buildings on a single lot, providing transient overnight lodging accommodations and accessory services to the general public. For a hotel or motel with units equipped with independent cooking facilities, such units shall not be occupied by any guest for more than two (2) continuous months, nor may guests reoccupy any unit within thirty (30) days of a continuous two-month stay or stay more than a combined total of four (4) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

IMPERVIOUS: Any area impenetrable by surface water. For purposes of this Bylaw, impervious includes semi-pervious or semi-porous paving materials.

INTERIM WELLHEAD PROTECTION AREA (IWPA): For public water systems using wells or wellfields that lack a DEP-approved Zone II, DEP will apply an IWPA, which is defined as the one-half mile radius measured from the well or wellfield for sources whose approved pumping rate is 100,000 gpd or greater.

JUNK: Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

JUNKYARD: The use of any area or any lot, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, scrap or discarded materials, or the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts thereof.

LIGHT MANUFACTURING: Fabrication, processing, packaging, or assembly operations, employing only electric or other substantially noiseless and inoffensive motor power, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents such as odors, gas, fumes, smoke, cinders, refuse matter, electromagnetic radiation, heat, vibration, or noise; provided that all operations are located entirely within an enclosed building and there is no outside storage of materials or finished goods.

LOT: A continuous parcel of land with legally definable boundaries.

LOT AREA: The horizontal area of the lot exclusive of any area in a street or recorded way open to public use.

LOT, CORNER: A lot with two (2) or three (3) adjacent sides abutting upon streets or other public spaces.

LOT COVERAGE: The proportion of the area of a lot which is covered by principal and accessory structures. For purposes of calculating lot coverage, the area of an enclosed structure shall be taken as all of the horizontal area within outside walls. The projection of cornices, eaves, and other similar architectural projections shall not be included in the calculation of coverage. Coverage shall include all principal and accessory buildings including dwellings, garages, carports, greenhouses, lath houses, enclosed patios, and equipment and tool sheds. Coverage shall not include areas paved at grade for driveways, walkways, uncovered parking, uncovered

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or unenclosed swimming pools, walls or fences, covered but unenclosed patios, or structures used for beautification or landscaping such as arbors, trellises, and flagpoles.

LOT, DEPTH OF: The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

LOT FRONTAGE: A lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot, said line to be measured continuously along a single street or along two (2) intersecting streets if their angle of intersection is greater than one hundred and twenty (120) degrees. Unless otherwise approved by the Planning Board, vehicular access to a building site on the lot shall be exclusively through the frontage of the lot. On a lot with frontage on more than one street, frontage on one street only may be used to satisfy the minimum lot frontage. For setback purposes in the case of lots fronting on multiple streets, the front yard shall correspond to the street with the longest frontage, though vehicular access can be obtained via either the front or side yard lot lines.

LOT LINE: A line dividing one lot from another, or from a street or any public place. On a corner lot, the rear lot line shall be the furthest lot line opposite the front lot line.

LOT WIDTH, MINIMUM: The required minimum lot frontage extending from the front lot line to the front building line of the principal building on the lot.

MANUFACTURING: The indoor assembly, fabrication, packaging, or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services. Manufacturing includes but is not limited to the processing, fabrication, assembly, treatment or packaging of food, textiles, leather, wood, paper, chemicals, plastic, or metal products.

MEDICAL CLINIC OR AMBULATORY SURGERY CENTER: An outpatient care facility licensed or approved by the Massachusetts Department of Public Health to provide medical or surgical services. Such facility may include emergency services, specialty medical diagnostic or treatment services, and accessory facilities and integral functions such as laboratories, training, staff offices, and similar adjunct facilities and functions, but no in-patient facilities.

MEDICAL OR DENTAL OFFICE: A building designed or intended or occupied and used by one or more physicians providing outpatient health care, including dental care, with accessory facilities such as specialty diagnostic services, laboratories, and administrative offices, with no accommodations for overnight stays; not including a hospital, medical clinic or an ambulatory surgery center.

MINING or NATURAL RESOURCE EXTRACTION: The process by which soil, sand or gravel is removed from any open pit, borings or any other underground workings and produced for sale, exchange or commercial use or otherwise removed from the site, and all shafts, slopes, drifts or inclines leading thereto and including all buildings, structures and equipment above and below the surface of the ground used in connection with such process. Natural resource extraction shall not be deemed to include exploratory activities, the drilling or boring of wells for the purpose of

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obtaining water, nor the removal of soil and other related material as necessary to establish another permitted use upon the same site.

MOBILE HOME: Any vehicle or object designed and constructed or reconstructed or added to by means of accessories or facilities to permit the use and occupancy thereof for human habitation; whether resting on wheels, jacks or other foundations, and shall include the type of vehicle known as a house trailer, which shall mean a dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary foundation for living quarters.

MOTOR VEHICLE: Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or alleys, or other public ways.

MUNICIPAL FACILITY: Any facility owned or operated by the Town of Ayer.
MUSEUM: An institution devoted to the procurement, care, study, and display of objects of scientific interest, value, or historic significance.

MUSEUM: An institution devoted to the procurement, care, study, and display of objects of scientific interest, value, or cultural or historic significance.

NONCONFORMING STRUCTURE: Any structure which does not conform to the dimensional requirements of this Bylaw, or which is located on a lot which does not comply with the frontage or lot size requirements, which was existing and lawful at the time of the adoption or subsequent amendment of this Bylaw.

NONCONFORMING USE: A use of a building or land, existing and lawful at the time of the adoption or subsequent amendment of this Bylaw, which does not conform to the regulations of this Bylaw.

NURSING HOME: An extended or intermediate care facility licensed by the Department of Public Health under G.L. c. 111, § 71 to provide full-time convalescent or chronic care, and may include adult day care.

OPEN SPACE: The space on a lot unoccupied by buildings or structures, and not devoted to streets, driveways, off-street parking or loading spaces and expressed as a percentage of the total lot area. Open space shall be unobstructed to the sky by man-made objects. Walks, above-ground or temporary swimming pools, and terraced areas may be part of a lot's open space. Open space within a cluster or open space development is prohibited from development.

PARKING AISLE: The area immediately adjacent to the car parking stalls which permits maneuvering of cars entering and leaving a parking stall, and which connects the parking stalls to the driveway.

PASSIVE RECREATION, OPEN SPACE OR CONSERVATION: Use of land in its natural state or improved with trails or resource management programs that do not significantly alter its natural state, or water resource or wildlife management programs.

PERSONAL SERVICE ESTABLISHMENT: An establishment whose primary business relies on customers coming and going on a regular basis and which provides a service directly to the consumer, such as a barber, hairdresser, manicurist, caterer, decorator, dressmaker or tailor, optician, photographer, shoemaker or upholsterer, and similar uses, but not including professional or business office or medical office uses.

POSTAL SERVICE: A post office or similar establishment for the delivery and receipt of mail or parcels, but not including a parcel distribution facility.

POTENTIAL DRINKING WATER SOURCES: Areas which could provide significant potable water in the future.

RATED NAMEPLATE CAPACITY: The maximum rated output of electric power production of a solar energy photovoltaic system in direct current (DC).

RECHARGE AREAS: Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II, Zone III or Interim Wellhead Protection Areas.

REPAIR SHOP: A building used for the repair of appliances, office equipment, bicycles, lawn mowers or similar household or small-business equipment, but not including repair of automobiles, motorcycles or large vehicles or equipment.

RESEARCH AND DEVELOPMENT: An establishment or other facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating end products employing only electric or other substantially noiseless and inoffensive motor power, and free from neighborhood disturbing agents such as odors, gas, fumes, smoke, cinders, refuse matter, electromagnetic radiation, heat, vibration, or noise; provided that all operations are located entirely within an enclosed building and there is no outside storage of materials or finished goods.

REST HOME: A facility licensed by the Department of Public Health to provide 24-hour supervision and supportive services for individuals who do not routinely need nursing or medical care.

RESTAURANT: A food service establishment where food is prepared, served and consumed inside a building or on an attached patio or other outdoor seating area on the premises, and provides seating accommodations for all patrons to be served at any one time. A restaurant may include a bar or lounge as an accessory use, or the taking of food and drink from the building as incidental. "Restaurant" does not include an establishment that operates exclusively or principally as a caterer, a food processing establishment, a retail food store or a take-out food service establishment, nor does it include drive-through service.

RETAIL: Any facility selling goods to consumers regardless of whether it is specifically listed in the Table of Uses.

ROOMING HOUSE (or BOARDING HOUSE): An owner-occupied, detached single-family dwelling in which long-term, non-transient lodging, with or without meals, is supplied for compensation to not more than three (3) persons unrelated to the owner; without cooking facilities for the exclusive use of individual occupants. As used in this Bylaw, boarding house does not mean or include transient quarters such as a motel, hotel, or bed and breakfast or inn. Any food service provided shall be in compliance with applicable regulations of the Ayer Board of Health.

SEASONAL RESIDENCE: A residence that is used for fewer than 180 days per year. Evidence to document whether a residence is seasonal or year-round may include utility bills, United States Post Office records, principal place of garaging, or sworn affidavits by three year round residents.

SELF-STORAGE FACILITY: A building or buildings consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods, automobiles, boats or contractor's supplies.

SHOP FOR CUSTOM WORK: Manufacture of crafts or custom work to be sold at retail only on the premises.

SIGN: Any words, lettering, parts or letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention. Where the following terms are used in this Bylaw, they shall have the following meanings:

AGRICULTURAL SIGN: A sign which may have wording that may be changed periodically to advertise products raised or grown principally on the premises.

AWNING SIGN: A permanent sign which is affixed to or consists of a permanent or retractable awning or marquee permanently mounted to the exterior surface of a building.

BANNER SIGN: A sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind. National flags, flags of political subdivisions and symbolic flags of any institution or business shall not be considered "banners" for the purpose of Section 9.5.

BILLBOARD SIGN: A sign which advertises a business, service, product, commodity, entertainment or similar object or activity which is conducted, sold or offered on a lot other than the lot on which the sign is erected.

BUILDING FRONTAGE: The building elevation facing a street and providing public access to the building. When a building provides public access on more than one elevation, maximum sign area shall be based on primary building frontage, or the building elevation containing the main entrance.

COMMERCIAL MESSAGE: Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

CONSTRUCTION SIGN: A sign identifying the proposed building, the owner or intended occupant and the contractor, architect and engineers. A construction sign for more than a single lot will be considered to be a "subdivision sign."

DIRECTIONAL OR INFORMATIONAL SIGN: A sign which is necessary for the safety and direction of vehicular or pedestrian traffic.

DIRECTORY SIGN: A sign listing the name and location of the occupants of a site or building.

DISPLAY AREA: See "sign area."

ERECTING: Any installing, constructing, reconstructing, replacing, relocating, relettering, except as specifically provided, extending, altering or otherwise changing of a sign. "Erecting" shall not include repairing or maintaining an existing sign.

EXTERIOR SIGN: A wall sign, projecting sign or awning sign placed on or about the exterior of any structure.

FLAG: See "banner."

FREESTANDING SIGN: A nonmovable sign not affixed to any building but constructed in a permanently fixed location of the ground with its own support structure, including a monument sign, and displaying a sign face on not more than two (2) sides.

GASOLINE PUMP SIGN: The standard type of gasoline pump bearing thereon in the usual size and form the name or type of gasoline and the price thereof.

HORIZONTAL BLADE SIGN: A short, wide sign that projects from and is supported by a wall of a building and is oriented perpendicular to the face of the building.

INDIVIDUAL LETTER SIGN: A wall sign consisting of individual letters mounted to a building surface without any background or frame.

MARQUEE: Any permanent, roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN: Any sign attached to, in any manner, or made part of a marquee.

MOVABLE SIGN: Any sign not permanently attached to the ground or to a building or permanent structure, which is designed to be portable, such as an A-frame, H-frame, T-frame, banner or flag, trailer sign placed on the surface of the ground, temporarily staked into the ground or a sign attached to a motor vehicle (registered or unregistered).

NEON SIGN: A sign which features exposed glass tubing filled with fluorescent gas.

OFFICE PARK OR INDUSTRIAL PARK: See "business center."

PENNANT SIGN: Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

PERMANENT SIGN: A sign that is permanently attached to a building or having in-ground supporting structure(s) or braces.

POLITICAL SIGN: A sign designated to influence the action of voters for the passage or defeat of a measure, or the election of a candidate to a public office at a national, state, county or local election.

PROJECTING SIGN: A sign which is permanently affixed to the exterior surface of a building or structure with the display area positioned perpendicular to the wall to which the sign is mounted.

REAL ESTATE SIGN: A sign which is used to offer for sale, lease or rent the property upon which the sign is placed.

ROOF SIGN: A sign attached to or erected wholly upon and over the roof of any building and supported solely on the roof structure.

SHOPPING CENTER: Any aggregation of three (3) or more business or industrial tenants which share a common parking area.

SIGN AREA: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, without deduction for open space or other irregularities. Structural members not bearing advertising matters shall not be included unless internally or decoratively lighted. Where sign faces are placed back-to-back and face in opposite directions, the sign area shall be defined as the area of one (1) face of the sign.

SPECIAL EVENT SIGN: A sign, which is to be portable, to announce a church bazaar, fair, circus, festival, business or shop opening, special sale by a store or business or similar event. Such sign shall identify the event and the date of the event, and it may display the event's sponsor, organizer or main feature.

SUBDIVISION SIGN: A sign to identify the name of the residential subdivision and located on the property of the subdivision.

TEMPORARY SIGN: A sign that is used only temporarily, for a period of time not to exceed thirty (30) days, and is not permanently mounted.

TRAILER SIGN: A sign mounted on a vehicle normally licensed by the state as a trailer and used for advertising or promotional purposes.

WALL SIGN: A sign which is painted or otherwise permanently affixed to a vertical exterior surface of a building or structure with the display area positioned parallel with the wall to which the sign is mounted, and including such a sign affixed to a parapet or to the lower slope of a gambrel or mansard roof.

WINDOW SIGN: A sign, picture, symbol or message that is placed inside a window, drawn, painted or etched on the window pane or glass or otherwise attached in or on a window and visible from the exterior of the window, not including any part of a customary window display of merchandise or other product.

SOLID WASTE DISPOSAL FACILITY: Refuse transfer station, composting plant, solid waste recycling operation and any other works or use approved by the Massachusetts Department of Public Health and the Ayer Board of Health for processing, handling, treating, and disposing of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items, and sludges but not raw sewage, and similar waste items.

SPECIAL PERMIT GRANTING AUTHORITY: The Ayer Zoning Board of Appeals, the Ayer Planning Board and in some cases the Ayer Board of Selectmen, as designated within this zoning bylaw having the authority to grant special permits.

STREET: An accepted town way, or a way established by or maintained under county, state, or federal authority, or a way established by a subdivision plan approved in accordance with the subdivision control law, or a way determined by the planning board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

STREET LINE: The right-of-way line of a street.

STRUCTURE: A combination of materials assembled at a fixed location to give support or shelter, such as a building, retaining wall which retains more than four (4) feet of unbalanced fill, tent of one hundred twenty (120) sq. ft. or more and for the use of ten (10) or more persons, reviewing stand, platform, fence six (6) feet or more in height, sign, flagpole, recreational tramway, mast for radio antenna, solar panel arrays and their supports, or the like.

SUBSTANTIAL RECONSTRUCTION: Extensions or alterations for which the cost of building construction exceeds twenty-five (25%) percent of the assessed value of the existing building(s) on a lot, and any project involving demolition of an existing building.

TAKE-OUT FOOD SERVICE: A food service establishment in which food prepared and sold at retail may be consumed on the premises if purchased from a counter or a walk-up service window and consumed off the premises; but not a drive-through service.

AYER ZONING BYLAW MARCH 19, 2018
amended OCTOBER 22, 2018, JUNE 10, 2019,
OCTOBER 28, 2019

TEMPORARY STRUCTURE: A structure without any foundation or footings to be removed within a twelve-month time period. Said structure shall conform to the requirements of the Schedule of Density and Dimensional Requirements and shall require a permit or a certificate of zoning compliance from the Building Inspector.

TENANT: As applied to commercial or industrial development, a business or other establishment occupying space within a building under an agreement with the owner, or the owner-occupant of the building.

TOXIC OR HAZARDOUS MATERIAL: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water in the Town of Ayer. Toxic or hazardous materials include, without limitation; synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (G.L.) Chapter (c.) 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

USES: The purpose for which a building or land is arranged or intended for which a building or tract of land is or may be used, occupied or maintained.

WIRELESS COMMUNICATIONS FACILITY: A wireless communications facility ("WCF") shall mean a facility used for the purpose of commercial or public wireless communications uses, such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, personal wireless communications services, paging services and the like, as defined in Section 704 of the Federal Telecommunications Act of 1996, as amended. Such facilities shall include towers, antennae, antennae support structures, panels, dishes, communication buildings, communication structures and accessory structures in their entirety or as separate components.

COMMUNICATION BUILDING: Any building utilized primarily for the installation and operation of equipment for generating or receiving electromagnetic radiation and which is accessory to a communication structure.

COMMUNICATION STRUCTURE: Any structure intended to support equipment used for the transmission and/or reception of electromagnetic radiation, including communication monopoles, antennas, wiring or other devices attached thereto. Such a structure shall not include a lattice tower.

COMMUNICATION MONOPOLE: Any cylindrical pole intended to support equipment used for the transmission and reception of electromagnetic radiation including antennas, wiring or other devices attached thereto.

LATTICE TOWER: A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

MOUNT: The structure or surface, upon which antennas are mounted, including the following four (4) types of mounts.

ROOF-MOUNTED: Mounted on the roof of a building.

SIDE-MOUNTED: Mounted on the side of a building.

GROUND-MOUNTED: Mounted on the ground.

INTERIOR-MOUNTED: Mounted within a building such that the WCF is not visible from the exterior of the building/structure.

RADIOFREQUENCY (Rf) ENGINEER: An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

RADIOFREQUENCY RADIATION (RFR): The emissions from WCFs.

WETLANDS: Any wetland resource area subject to the provisions of G.L. c 131, § 40.

YARD: A space open to the sky, located between a building or structure and a lot line, unoccupied except by fences, walls, poles, paving, and customary yard accessories.

YARD, FRONT: A yard extending the full width of the lot and situated between the street line and the nearest point of the building. No structures as defined herein shall be placed within front yard setbacks.

YARD, REAR: A yard the full width of the lot and situated between the rear lot line and the nearest part of the main building projected to the side line of the lot.

YARD, SIDE: A yard situated between the nearest point of the building and the side lot line and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

ZONE I: The DEP approved protective 400-foot radius surrounding a public water supply well that must be owned by the water supplier or controlled through a recorded conservation restriction.

ZONE II: The area of an aquifer which contributes water to a well under the most severe recharge and pumping conditions that can be realistically anticipated (180 days of pumping safe yield with no recharge from precipitation), as defined in 310 CMR 22.00.

ZONE III: The land area beyond the Zone II from which surface and groundwater drain into the Zone II, as defined in 310 CMR 22.00.