

N.H. Code Admin. R. Env app B

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Appendix B - STATUTORY DEFINITIONS

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RSA 431:3

VII. "Fertilizer" means any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other products exempted by rule by the commissioner. "Fertilizer" shall not include any horticultural growing medium as defined in RSA 433-A:3, VI.

RSA 483-B:4

I. "Abutter" means any person who owns property that is immediately contiguous to the property on which the proposed work will take place, or who owns flowage rights on such property. The term does not include those properties separated by a public road or more than 1/4 mile from the limits of the proposed work. If contiguous properties are owned by the person who is proposing the work, then the term includes the person owning the next contiguous property, subject to the 1/4 mile limitation.

II. "Accessory structure" means a structure, as defined in paragraph XXII of this section, on the same lot and customarily incidental and subordinate to the primary structure, as defined in paragraph XIV of this section; or a use, including but not limited to paths, driveways, patios, any other improved surface, pump houses, gazebos, woodsheds, garages, or other outbuildings.

IV. "Commissioner" means the commissioner of the department of environmental services or designee.

V. "Department" means the department of environmental services.

VI. "Disturbed area" means an area in which natural vegetation is removed, exposing the underlying soil.

VII. "Ground cover" means any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Ground cover shall not include lawns, landscaped areas, gardens, invasive species as listed by the department of agriculture, markets, and food in accordance with RSA 430:53, III, exotic species as designated by rule of the department of environmental services in accordance with RSA 487:24, VII, imported organic or stone mulches, or other artificial materials.

VII-b. "Impervious surface" means any modified surface that cannot effectively absorb or infiltrate water. Examples of impervious surfaces include, but are not limited to, roofs, and unless designed to effectively absorb or infiltrate water, decks, patios, and paved, gravel, or crushed stone driveways, parking areas, and walkways.

VII-c. "Horticultural professional" means any arborist, landscape architect, or gardening consultant whose function is that of providing services relative to horticulture.

VIII. "Lot of record" means a legally created parcel, the plat or description of which has been recorded at the registry of deeds for the county in which it is located.

X. "Municipality" means a city, town, village district if specifically authorized to zone by the legislature, or county in respect to unincorporated towns or unorganized places or any combination thereof pursuant to RSA 53-A.

XI-c. "Nonconforming lot of record" means an existing lot which does not conform to the provisions of this chapter.

XI-d. "Nonconforming structure" means a structure that, either individually or when viewed in combination with other structures on the property, does not conform to the provisions of this chapter, including but not limited to the impervious surface limits of RSA 483-B:9, V(g).

XI-e. "Ordinary high water mark" means the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate marks that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernable, the ordinary high water mark may be determined by the department of environmental services.

XII. "Person" means a corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state, and any political subdivision of a state or any agency or instrumentality thereof.

XIII. "Primary building line" means a setback for primary structures of 50 feet from the reference line.

XIV. "Primary structure" means a structure as defined in paragraph XXII of this section that is central to the fundamental use of the property and is not accessory to the use of another structure on the same premises.

XV. "Protected shoreland" means, for natural, fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies, except private garden water features and ponds of less than 10 acres, and for coastal waters and rivers, all land located within 250 feet of the reference line of public waters. For river segments of third order or lower designated as protected under RSA 483:15 which are either designated after or for which specific exemptions are repealed after December 31, 2015, "protected shoreland" means all land located within 50 feet of the reference line of public water.

XVI. "Public waters" shall include:

- (a) All lakes, ponds, and artificial impoundments greater than 10 acres in size.
(b) Coastal waters, being all waters subject to the ebb and flow of the tide, including the Great Bay Estuary and the associated tidal rivers.
(c) Rivers, meaning all year-round flowing waters of fourth order or higher and all rivers and river segments designated as protected under RSA 483:15. Stream order shall be determined using the New Hampshire hydrography dataset archived by the geographically referenced analysis and information transfer system (GRANIT) at the complex systems research center of the university of New Hampshire, and developed by GRANIT in collaboration with the department of environmental services. A listing of the streams of fourth order and higher shall be prepared and periodically updated by the GRANIT at the complex systems research center of the university of New Hampshire and delivered to the commissioner 30 days after the effective date of this subparagraph.

XVII. "Reference line" means:

- (a) For all lakes, ponds, and artificial impoundments greater than 10 acres in size, the surface elevation as listed in the Consolidated List of Water Bodies subject to the shoreland water quality protection act as maintained by the department.
(b) For coastal waters, the highest observable tide line, which means a line defining the furthest landward limit of tidal flow, not including storm events, which can be recognized by indicators such as the presence of a strand line of flotsam and debris, the landward margin of salt tolerant vegetation, or a physical barrier that blocks further flow of the tide.
(c) For rivers, the ordinary high water mark.

XVIII. "Removal or removed" means girdled, felled, cut, sawed, pruned, pushed over, buried, burned, or any other activity conducted to the extent that it otherwise kills the vegetation.

XVIII-a. "Repeat violation" means a violation that occurs within 3 years of notification by the department of a prior violation, as defined in RSA 483-B:18, I, whether on the same site or by the same person or entity on a second site. Each day of continuing violation after notification of that violation shall be considered a repeat violation.

XVIII-b. "Repair" means work conducted to restore an existing, legal structure by partial replacement of worn, broken, or unsound parts or to fix a specific defect, during which all of the exterior dimensions are intact and remain so at the conclusion of construction.

XVIII-c. "Replace in kind" means the substitution of a new structure for an existing legal structure, whether in total or in part.

XVIII-d. "Replacement system" means a septic system that is not considered new construction under RSA 485-A:29-44 and rules adopted to implement it.

XIX. "Residential unit" means a structure, or portion thereof, providing complete and independent living facilities, including permanent facilities for living, sleeping, eating, cooking, and sanitation which are used in common by one or more persons.

XX. "Sapling" means any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point 4 1/2 feet above the ground.

XX-a. "Shoreland frontage" means the actual shoreland frontage along the water front measured at the reference line.

XXI. "Shrub" means any multi-stemmed woody plant which normally grows to a mature height of less than 20 feet.

XXII. "Structure" means anything constructed or erected for the support, shelter or enclosure of persons, animals, goods, or property of any kind, with a fixed permanent location on or in the ground, exclusive of fences.

XXIII. "Subdivision" means subdivision as defined in RSA 672:14.

XXIV. "Tree" means any woody plant which normally grows to a mature height greater than 20 feet and which has a diameter of 6 inches or more at a point 4 1/2 feet above the ground.

XXIV-b. "Unaltered state" means native vegetation allowed to grow without cutting, limbing, trimming, pruning, or other similar activities except as needed for renewal or to maintain or improve plant health.

XXV. "Urbanization" means the concentrated development found in the sections of towns or cities where there has been an historic pattern of intensive building for residential, commercial, industrial, or mixed uses such that it contributes to or constitutes the municipality's downtown, community center, or central business district and wherein all vegetative buffers have been depleted, impervious surfaces are in excess of 50 percent, and residential uses are of at least 10 dwelling units per acre.

XXVI. "Water dependent structure" means a structure that is a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp or other similar structure, or any part thereof, built over, on, or in the waters of the state.

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