ARTICLE 11. SUPPLEMENTARY USE REGULATIONS

Section 11.1 Planned Residential Developments.

(a) Planned residential developments (PRD's) are permitted only as a major special use on tracts of at least five acres located within a R-20, R-14, R-10, or R-5 zoning district. *(Amended 9/14/2021)*

(b) The overall density of a tract developed by a PRD shall be determined as provided in Section 12.2 for the underlying district in which the PRD is located.

(c) Permitted types of residential uses within a PRD include single-family detached dwellings, two-family residences, townhouse dwellings, and multi-family residences. At least fifty percent of the total number of dwelling units must be single-family detached residences on lots of at least 5,000 square feet. *(Amended 9/14/2021)*

(d) A PRD shall be an architecturally integrated subdivision.

(e) To the extent practicable, the two-family and multi-family portions of a PRD shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties.

(f) In a planned residential development, the screening requirements that would normally apply where two-family or multi-family development adjoins a single-family development shall not apply within the tract developed as a planned residential development, but all screening requirements shall apply between the tract so developed and adjacent lots.

Section 11.2 Manufactured Home Parks.

(a) The minimum lot area for a manufactured home park is 3 acres; the minimum number of manufactured home spaces for a manufactured home park is 10 spaces.

(b) Manufactured home parks shall contain only Class C manufactured homes.

(c) Each manufactured home space shall contain a minimum of 5,000 square feet. *(Amended 2/12/91)*

(d) No manufactured home shall be located closer than 20 feet from another manufactured home or any other principal building within the manufactured home park. No manufactured home shall be located closer than 60 feet from a public street right-of-way or 15 feet from a private, interior manufactured home park street.

(e) Recreational space in each manufactured home park shall be provided in accordance with Article 13.

(f) Except for management office and/or management services associated with the manufactured home park, no manufactured home shall be used for nonresidential purposes.

(g) The area beneath a manufactured home must be fully enclosed with durable skirting within 60 days of placement in the manufactured home park.

Section 11.3 Service Stations/Gas Sales Operations.

(a) Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment, auto washing equipment and similar equipment shall be entirely enclosed within a building.

(b) Certification by a registered engineer shall be required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage system.

(c) All garbage and refuse shall be stored in mechanical loading containers located near the rear of the lot or building, but not less than twenty feet from any adjacent property lines.

Section 11.4 Special Events.

(a) In deciding whether a permit for a special event should be denied for any reason specified in Subsection 4.9(d), or in deciding what additional conditions to impose under Section 4.15, the permit-issuing authority shall ensure that, (if the special event is conducted at all):

(1) The hours of operation allowed shall be compatible with the uses adjacent to the activity.

(2) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

(3) The applicants shall guarantee that all litter generated by the special event be removed at no expense to the Town.

(4) The permit issuing authority shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(5) The development permit shall be issued for a specific number of calendar days, not to exceed fourteen (14) calendar days. *(Amended 9/14/2021)*

(b) In cases where it is deemed necessary, the permit-issuing authority may require the applicant to post a bond to ensure compliance with the conditions of the major special use permit. *(Amended 9/14/2021)*

(c) If the permit applicant requests the Town to provide extraordinary services or equipment or if the Town Manager otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the cost incurred.

Section 11.5 Temporary Use/Sales.

(a) All temporary use/sales require the issuance of a development permit. The Land Use Administrator may impose requirements in the development permit intended to ensure compliance with this Ordinance. *(Amended 9/14/2021)*

(b) A development permit for a temporary use may also authorize one temporary sign, not to exceed 40 square feet in sign surface area, associated with the temporary use. Such temporary sign shall conform to the requirements of Article 17. *(Amended 9/14/2021)*

(c) Temporary sales are permitted on CD, CH, and CN zoned property provided that no more than four (4) events occur within a 365-day period on an individual parcel. Each individual sales event shall be limited to two (2) calendar days duration. The operator of each temporary sales event shall have the written permission of the property owner or manager of the principal business located on the property on which the temporary sale is to be conducted. If more than four (4) events occur within a 365 calendar day period, they must be located on a property owned or leased by a registered 501(c)(3) for tax purposes and the permit shall be issued only to the 501(c)(3) organization. Christmas tree and accessory natural ornamental sales may be conducted from three (3) calendar days prior to Thanksgiving until 5:00 pm on Christmas Eve.

(d) Temporary uses for which the primary purpose is not the sale of commodities shall have a maximum specified time (specified by development permit) limit of seven (7) calendar days. Such temporary uses shall include assembly of people for entertainment, holiday festivals, social, political, religious or similar activities. Temporary uses, described in this section, which include the sale/use of alcoholic beverages shall submit all ABC permits with the application for a development permit. No permanent building shall be located on any lot for the exclusive purpose of operating any temporary use(s). Temporary uses may be unlike the customary or usual activities generally associated with the property where the temporary use is to be located. Any use intended for temporary and limited duration, operated as an accessory or principal use, shall be subject to applicable location, setback, parking, land use and other standards for the district in which it is located. *(Amended 9/14/2021)*

(e) Temporary sales conducted on the grounds of a church, synagogue, temple, or other religious building or schools for the purpose of raising funds for the support of the principal use are considered accessory services. The religious institution or school must request the development permit. *(Amended 9/14/2021)*

(f) Temporary uses are not allowed on any OI zoned parcel which is adjacent to any residentially zoned or used parcel, excluding parcels separated by a public right-of-way.

Section 11.6 Bed and Breakfast Establishments.

(a) A bed and breakfast shall be permitted only in a principal residential structure.

(b) One parking space for each guest room plus two parking spaces for the resident owners or manager shall be provided.

(c) A bed and breakfast shall be located in a dwelling in which there is a resident owner or resident manager.

(d) Food service shall be available only to guests and not to the general public.

(e) Signage shall be limited to one identification sign not to exceed four square feet in area nor four feet in height.

(f) A bed and breakfast shall have vehicular access to a subcollector or higher classified street.

(g) The right to operate any bed and breakfast use, whether conforming or nonconforming, shall be fully transferable with the property and shall furthermore run with the land.

(h) The bed and breakfast must be located in a principal structure containing two thousand five hundred (2,500) or more square feet of gross enclosed floor area

(i) The use of the dwelling unit for the bed and breakfast shall be clearly incidental and subordinate to its use as a principal residence. The maximum number of guest rooms allowed is four (4).

Section 11.7 Granny Pods/Temporary Health Care Structures.

Granny pods, also called temporary health care structures, are permitted under the authority of NC General Statutes Section 160D-915. Granny pods are considered a temporary health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence and shall be permitted as an accessory use in accordance with Section 10.1 Table of Permitted Uses, subject to the following standards: *(Amended 9/14/2021)*

(a) The granny pod must comply with all district standards that apply to the principal dwelling unit.

(b) Structures must be transportable residential units assembled off-site and built to the standards of the North Carolina State Building Code.

(c) The structure must be no more than three hundred (300) gross square feet and must not be placed on a permanent foundation.

(d) The structure shall be connected to any public water, sewer, and electric utilities serving the property or water and/or wastewater systems approved by Chowan County.

(e) Only one accessory temporary family care structure is allowed per lot.

(f) No signage regarding the presence of the structure is allowed.

(g) The structure must be removed within sixty (60) days after care-giving on the site ceases.

(h) The caregiver must be at least 18 years old and must be a first or second degree relative of the impaired person (a spouse, parent, grandparent, child, grandchild, aunt, uncle, nephew, or niece). A legal guardian of the impaired person also qualifies.

(i) In the commercial districts, granny pods shall only be permitted for properties in single-family residential use.

(j) Documentation of compliance with this section is required on an annual basis as long as the granny pod/temporary health care structure remains on the property. This documentation includes an annual renewal of the doctor's certification. The Town may make periodic inspections at times convenient to the caregiver to assure on-going compliance.

Section 11.8 Inn.

(a) An inn shall be located in a dwelling in which there is a resident owner or resident manager.

(b) One parking space for each guest room plus two parking spaces for the resident owners or manager shall be provided.

(c) Signage shall be limited to one identification sign not to exceed four square feet in area nor four feet in height.

(d) An inn shall have vehicular access to a subcollector or higher classified street.

(e) The right to operate any inn use, whether conforming or nonconforming, shall be fully transferable with the property and shall furthermore run with the land.

Section 11.9 Tiny Houses.

Tiny houses (200 square feet to 699 square feet in size), including container homes, shall be allowed in accordance with Section 10.1 Table of Permitted Uses, subject to the following:

(a) A tiny house must comply with the North Carolina State Building Code.

(b) A tiny house must be situated on a permanent foundation with secure wind-resistant tie-downs and connected to public water, sewer, and electric utilities.

(c) If the tiny house is constructed on a travel chassis with wheels, the wheels must be removed for permanent location on a foundation.

(d) A tiny house must comply with all UDO requirements for the zoning district in which it is located.

Section 11.10 Special Services Homes.

(a) Special services homes include group care facilities and homeless shelters. *(Amended 3/19/99)*

(b) The minimum room sizes in a special services home shall be 150 square feet for a living or principal room, 100 square feet for a kitchen and dining room combination, 100 square feet for the first bedroom, and 70 square feet for each additional bedroom.

(c) The issuance of a permit for a special services home shall be conditioned upon the applicant obtaining any required state license within ninety days after approval of the permit.

(d) No special services home shall house mentally ill persons who are determined to be dangerous to others as defined in NCGS 122C-3(11)b.

(e) Signage shall be limited to a nameplate not to exceed two square feet in area.

(f) The applicant shall submit to the permit issuing authority a statement addressing (1) the number of staff personnel to reside in the facility and their backgrounds and qualifications; (2) the number of individuals to be housed in the facility, the purpose of the facility, and the nature of the handicap of the individuals who will reside there; and (3) the intake criteria which have been or will be used in screening the persons who will live in and benefit from the facility.

Section 11.11 Day Care Centers, Adult and Child.

(a) There shall be a minimum of 25 square feet of indoor space, exclusive of closets, passageways, kitchens, and bathrooms per client.

(b) There shall be a minimum of 75 square feet of outdoor recreational space for each child. The outdoor recreational area shall be located in a side or rear yard and shall be enclosed by a fence of at least four feet in height.

(c) The hours of operation of a day care center may be limited by the permit issuing authority for facilities located in residential neighborhoods.

Section 11.12 Cemeteries.

(a) A cemetery shall contain not less than thirty acres of land in contiguous ownership.

(b) Chapels, mortuaries, mausoleums, and sales and administrative offices may be developed within the cemetery. Not more than two such buildings shall be permitted in any cemetery. Access to the buildings shall be from within the cemetery. No building permitted by these requirements shall be located closer than one hundred fifty feet to any residential dwelling on land adjoining the cemetery.
I. Access to the cemetery shall be provided by-way-of private drives extending from a public street and of sufficient width to accommodate two-way traffic. Parking shall be provided entirely on private internal roads.

(c) A perimeter buffer strip of fifty feet in depth shall be maintained around the entire cemetery. There shall be no burial sites, buildings or other structures located within the buffer strip, and the strip shall be planted in accordance with Article 19 so as to effectively screen the cemetery and burial activities therein from view from outside of the cemetery.

Section 11.13 Microbreweries.

Microbreweries shall be permitted in the CD and CH districts as a major special use, subject to the following location, size, and design requirements: *(Amended 9/14/2021)*

(a) Microbreweries shall not be located within two hundred (200) feet of a public park; and

(b) Outside gathering areas shall not be located within one hundred (100) feet of a residential district; and

(c) Shall be limited to those meeting the criteria for a microbrewery or a restaurant; and

(d) Required parking shall be calculated based on square footage proposed for each use; and

(e) Storage of materials, including silos, products for distribution and other items requiring long-term storage shall be allowed in areas behind the building, in enclosed buildings, or otherwise screened from the public right-of-way or pedestrian way; and

(f) Shall include one or more accessory uses such as a tasting room, tap room, restaurant, retail, demonstration area, education and training facility or other use incidental to the brewery and open and accessible to the public; and

(g) Shall be designed such that all newly constructed loading and unloading facilities are internal to the site or in service alleys or back of building.

Section 11.14 Airport Hazard Overlay District Requirements.

(a) The Airport Hazard Overlay (AHO) District shall encompass the approach zones at the Edenton Municipal Airport. The approach zone shall have a length of 10,000 feet beginning at a point 200 feet outward from the ends of the runways and extending outward to a point 10,200 feet from the end of the runways on the extended centerline of the runways. The width of the approach zone shall be 1,000 feet at a distance of 200 feet from the end of the runways, uniformly widening thereafter to a width of 4,000 feet at a distance of 10,200 feet beyond the end of the runways. The upper surface of the approach zone shall be an inclined plane sloping one foot in height for each 34 feet in horizontal distance beginning at a point 200 feet from and at the elevation of the runways, extending to a distance of 10,200 feet from the end of the runways.

(b) No structure or tree shall be erected, altered, allowed to grow, or maintained in the approach zone to a height which projects above the upper surface of the approach zone.

(c) Within the approach zone defined in subsection (a) is a clear zone. The clear zone shall have a length of 1,700 feet beginning at a point 200 feet outward from the end of the runways and extending outward to a point 1,900 feet from the end of the runways on the extended centerline of the runways. The width of the clear zone shall be 1,000 feet at a distance of 200 feet from the end of the runways, uniformly widening thereafter to a width of 1,510 feet at a distance of 1,900 feet beyond the end of the runways.

(d) Land uses permitted within the clear zone shall be as allowed in the underlying zoning district except that the following uses and activities are prohibited:

(1) residential uses

(2) educational, cultural, religious, philanthropic uses

(3) recreation, amusement, and entertainment uses

(4) institutional residences or care or confinement facilities

(5) restaurants, bars, and nightclubs

(6) nursery schools and day care centers

(7) special temporary events

(8) the permanent above-ground storage of flammable liquids and gases.

(e) Notwithstanding any other provisions of these regulations, no use may be made of land or water within any zone established by this section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

Section 11.15 Historic Overlay District Requirements.

(a) The use and development of any land or structure within the Historic Overlay District shall comply with the use regulations and intensity regulations applicable to the underlying zoning district except that (i) no manufactured home shall be located within an Historic Overlay District, (ii) no building or part of a building shall extend nearer to or be required to be set back further from the front street right-of-way than the average distance of the setbacks of the nearest principal structures in the vicinity of such building and fronting on the same side of the street, and (iii) no principal or accessory building shall be required to be set back further from a side or rear property line than the average distance of the setbacks of the nearest principal or accessory structures in the vicinity of such building.

(b) No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), or any above-ground utility structure, or any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished within the Historic District until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to and approved by the Historic District Commission.

For purposes of this article, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size, and location of all such signs. Such ‘exterior features’ may, in the discretion of the Town Council, include historic signs, color, and significant landscape, archaeological, and natural features of the area.

Such a Certificate of Appropriateness shall be issued by the Commission prior to the issuance of a building permit or any other permit granted for purposes of constructing, altering, or demolishing buildings or structures. A Certificate of Appropriateness shall be required whether or not a building permit is required. Any building permit or other permit not issued in conformity with this section shall be invalid.

The Town and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, easements, or streets owned or franchised by the Town of Edenton or public utility companies.

(c) Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Historic District that does not involve a change in design, material, or outer appearance thereof, or to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any such feature that the Building Inspector or similar official shall certify is required by the public safety because of unsafe or dangerous condition. Nothing in this article shall be construed to prevent property owners from making any use of their property that is not prohibited by other law. Nothing is this article shall be construed to prevent the maintenance, or in the event of an emergency the immediate restoration, of any existing above-ground utility structure without approval by the Historic District Commission. *(Adopted 5/97)*

On the basis of preliminary sketches or drawings and other supporting data, the administrator may exempt from requirements for a Certificate of Appropriateness projects involving the ordinary maintenance or repair of any exterior architectural feature that does not involve a change in design, material, or outer appearance thereof. The administrator shall notify the Commission of all such exemptions.

(d) Procedures for Approval of Certificates of Appropriateness:

(1) *Application Submittal Requirements:*

Applications for Certificates of Appropriateness shall be filed with the administrator.

The administrator shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to determine the nature of the application. When an authorized agent files an application on behalf of a property owner, the agent shall provide the Town with written documentation that the owner of the property has authorized the filing of the application.

The Commission may specify criteria for situations in which the administrator may waive any of the application material requirements.

No application shall be accepted by the administrator unless it complies with such requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

(2) *Notification of Affected Property Owners:*

Prior to approval or denial of an application for a Certificate of Appropriateness, the Commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard.

(3) *Public Hearing:*

In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

(4) *Commission Action:*

Within one hundred eighty (180) days of the acceptance of an application, or within such further time consented to by written notice from the applicant, the Commission shall take action on the application. Such action shall be based upon the review criteria established in Section (c) of this article, and shall be one of the following: *(Amended 1/99)*

(a) Approval.
(b) Approval subject to conditions.
(c) Denial.

Failure of the Commission to take final action on an application within the prescribed time limit, or extensions thereof, shall result in approval of the application as submitted.

The Commission may impose such reasonable conditions on its approval of an application as will ensure that the spirit and intent of this article are achieved.

An application for a Certificate of Appropriateness authorizing the demolition of a building or structure within the Historic District may not be denied. However, the effective date of such a certificate may be delayed for a period of up to three hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building. If the Commission finds that the building has no particular significance or value toward maintaining the character of the Historic District, it shall waive all or part of such period and authorize earlier demolition or removal. *(Amended 1/99)*

An application for a Certificate of Appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historical Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the commission finds that the owner would suffer *extreme* hardship or be *permanently* deprived of all beneficial use or return by virtue of the denial. *(Amended 3/06)*

In every case, the record of the Commission's action shall include the reasons for its action.

(5) *Actions Subsequent to Decision:*

The administrator shall notify the applicant of the Commission's decision in writing, and shall file a copy of it with the Town's Planning Department. If the applicant is denied, the notice shall include the reasons for such action.

(6) *Appeal of Decision:*

A decision by the Commission on an application for a Certificate of Appropriateness may be appealed to the Board of Adjustment in accordance with the provisions of Article 5.

(7) *Submission of New Application:*

If the Commission denies an application for a Certificate of Appropriateness, a new application affecting the same property may be submitted only if substantive change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

(8) *Modifications to applications:*

An approved or pending application for a Certificate of Appropriateness may be modified by a written request from the applicant to the Commission. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans or sketches, where necessary. If the Commission finds that the modification constitutes a substantial change which might affect surrounding property owners, it shall request the applicant to notify affected property owners following the procedures set out in subsection (d)(2) before taking action on the modification. The Commission shall thereupon treat the request in the same manner as any other application as outlined in subsection (d).

(e) Review Criteria. In considering an application for a Certificate of Appropriateness, the Commission shall take into account the historical and/or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure that are visible from a public right-of-way. The Commission shall not consider interior arrangement or use.

The Commission, using the criteria below, shall make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the Historic District.

The following criteria shall be considered, when relevant, by the Commission in review applications for a Certificate of Appropriateness:

(1) The height of the building in relation to the average height of the nearest adjacent and opposite buildings.

(2) The setback and placement on lot of the building in relation to the average setback and placement of the nearest adjacent and opposite buildings.

(3) Exterior construction materials, including texture and pattern.

(4) Architectural detailing, such as lintels, cornices, brick bond, and foundation materials.

(5) Roof shapes, forms, and materials.

(6) Proportion, shape, positioning and location, pattern, and size of any elements of fenestration.

(7) General form and proportions of buildings and structures.

(8) Appurtenant fixtures and other features such as lighting.

(9) Structural conditions and soundness.

(1) Architectural scale.

Section 11.16 South Broad Street Residential Overlay District Requirements

The South Broad Street residential overlay district applies to all parcels of property fronting on the South Broad Street right-of-way from the West Church Street/Broad Street intersection to 501 South Broad Street (Edenton Office Supply property) and 504 South Broad Street (Edenton Municipal Building/Council Chambers). Within the South Broad Street Residential Overlay District, residential use of the first floor of a building is prohibited.

However, residential use as an accessory to commercial/retail use is permitted by minor special use permit. No more than 33% of the first-floor gross area shall be devoted to residential living area. Residential living area shall not be visible from South Broad Street-window and door views from the street shall be of the commercial and retail space. The combination of residential and commercial/retail space shall comply with all NC Building Codes and Fire Codes. A floor plan must be submitted as part of the application for a minor special use permit. *(Amended 9/14/2021)*

Section 11.17 Multi-Family Dwellings.

(a) Multi-family dwellings located in any permitted nonresidential zoning district shall comply with the minimum lot area, width, and setback requirements of the R-5 district.

(b) The minimum spacing between multi-family residential structures shall be 20 feet.

Section 11.18 Institutional Care Facilities.

(a) Institutional care facilities include (1) hospitals, clinics, and other medical treatment facilities in excess of 10,000 square feet; (2) nursing, convalescent and group care institutions, (3) orphanages, and (4) psychiatric hospitals. *(Amended 12/3/98)*

(b) The minimum lot area requirements for institutional care facilities shall be 8,000 square feet for the first nine patient beds plus 1,000 square feet for each additional patient bed. This standard shall apply to institutions providing individual patient rooms or suites of patient rooms that also include congregate kitchen and dining facilities.

(c) In addition to facilities providing patient beds, institutional care facilities may include single-family and multi-family dwellings. Such dwellings may be allowed in accordance with the minimum lot area standards of the MA zoning district. Residential building setbacks may be waived between individual buildings but the setbacks on the perimeter of the development shall be the same as that for the zoning district in which located. The minimum spacing between nonresidential buildings should be at least twenty feet.

Section 11.19 Golf Courses.

(a) All golf course greens and fairways shall be set back at least 100 feet from any property line.

(b) All tees and structures shall meet the minimum building setback requirements for the district in which located.

Section 11.20 Solid Waste Disposal.

(a) No refuse shall be deposited and no building or structure shall be located within 50 feet of the nearest property line.

(b) The operation of a landfill or incinerator shall be in accordance with applicable State regulations.

Section 11.21 Tattoo Parlors.

Tattoo parlors shall be permitted in the IW zoning district as a major special use, subject to the following requirements: *(Amended 9/14/2021)*

(a) The tattoo parlor may not be located or operated within five hundred (500) feet of:

(1) A church, synagogue, or regular place of worship.

(2) A public or private elementary or secondary school;

(3) A public library;

(4) A boundary of any residential district;

(5) A publicly owned park, beach, beach access, or other recreation area or facility;

(6) A licensed day care center;

(7) An entertainment business that is oriented primarily towards children.

(b) For the purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a tattoo parlor is to be conducted, to the nearest property line of the premises of any use listed in (A) above.

(c) Tattoo parlors must comply with the following:

(1) Hours of operation must be limited to 8:00 AM to 2:00 AM (Monday through 2 AM Sunday). Such establishment shall not be open from 2:01 am Sunday until 8:00 AM on Monday.

(2) Must be fully licensed by the state of North Carolina.

(3) All necessary parking must be provided on-site.

(4) Parking lot must be lighted to meet the requirements of Article 15, Utilities.

Section 11.22 Fuel Oil/Propane Sales.

(a) The use must meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NFPA 30" of the National Fire Protection Association.

(b) All storage tanks and loading facilities will be located at least 200 feet from any property line. The required buffer area shall contain a sufficient amount of natural or planted vegetation so that such facilities are screened visually from an adjoining property not located in an industrial district.

(c) Vehicle access to the use will be provided only by way of a U.S. or N.C. numbered highway.

(d) All principal and accessory structures and off-street parking and service areas will be separated by a 25-foot buffer from any abutting property.

Section 11.23 Marina.

(a) The marina must meet the specific standards of Title 15, Subchapter 7H, Section .0208(b) (5) of the N.C. Administrative Code and the General Use Standards for coastal wetlands, estuarine waters, and public trust areas.

(b) The marina shall include public restroom facilities and a public telephone.

Section 11.24 Waterfront Subdivisions.

(a) Where a residential subdivision which adjoins a waterfront contains interior lots, which do not adjoin the water's edge but any part of which is within 400 feet of the water's edge, one or more lots which adjoin the water's edge shall be reserved to provide water access for the owners of interior properties. Such lots shall hereafter be called water access lots.

(b) If property which is in the same ownership adjoins said subdivision, this property shall be construed as being a part of the subdivision for purposes of determining requirements of water access lots.

(c) The water access lots shall equal in area not less than ten percent (10%) of the area (exclusive of streets) of all the interior property which lies within four hundred fifty (450) feet of the water's edge. However, where the 10% would equal less than 15,000 square feet, the developer shall not be required to provide any water access lots. All water access lots shall have a minimum frontage at the water's edge of one hundred (100) feet.

(d) Before approval of the final plat can be given, the developer shall submit to the administration a covenant stating that he will (1) dedicate the required amount of water access lots to the purchasers of each interior lot, said purchasers to have common ownership of the water access lots with undivided fee simple interest and shall be equally responsible for the maintenance of water access lots or (2) transfer the required amount of water access lots to a homeowner's association for ownership and maintenance.

(e) The final subdivision plat shall designate the following: (1) the lot or lots that are to serve as water access lots, and (2) the lots the owners of which are to have common title to the water access lots. (Example: Owners of Lots 1, 2, 3, 4, 5, etc. to have Undivided Fee Simple Title to this water access lot.)

(f) Public water access shall be provided in accordance with Section 11.25, if applicable.

Section 11.25 Public Water Access.

(a) All residential developments which adjoin a waterfront for 1,000 feet or more shall be required to include in the proposed development a plan for public water access.

(b) The permit-issuing authority shall review and approve the plan for public water access.

Section 11.26 Compliance with State Guidelines for Areas of Environmental Concern.

(a) Prior to the issuance of any initial development, minor special use, or major special use permit, the administrator and local AEC Permit Officer shall determine whether the proposed use or structure is located within an area of environmental concern. This determination shall result from both an on-site investigation and a review of the official AEC overlay map. If the proposed use or structure is located in an area of environmental concern, the administrator and local AEC Permit Officer shall certify that the proposed use or structure complies with development standards of the *State Guidelines for Areas of Environmental Concern* and the CAMA permit shall be issued to the developer prior to the issuance of any development, minor special use, or major special use permits. *(Amended 9/14/2021)*

(b) The Coastal Resources Commission has adopted use standards for development along estuarine shorelines and development within coastal wetlands, estuarine waters, and public trust areas. Use standards have been adopted for the following development activities: hydraulic dredging; navigation channels, canals, and boat basins; docks and piers; bulkheads and shoreline stabilization; groins; marinas; drainage ditches; and beach nourishment.

Section 11.27 Walls and Fences.

The setback requirements for these regulations shall not prohibit any necessary retaining wall or prohibit any planted buffer strip, fence or wall. However, in a residential district (excluding the Gateway Corridor properties and the Historic District) no fence or wall shall exceed the following heights: (a) Three (3) feet in any front or side yard measured from the front building line to lot line that abuts a street, unless specified elsewhere in this ordinance, PROVIDED, however that the fences in such areas may extend to a height not to exceed four (4) feet as long as that portion thereof shall be deemed not to significantly impair vision through the fence. A fence or portion thereof shall be deemed not to significantly impair vision if its material does not exceed that of a standard chain link fence. (b) Six (6) feet in any rear or side yard measured from the front building line to lot line which does not abut a street. These restrictions shall not apply to a bona fide farm. Within the Historic Overlay District, the Historic District Commission will regulate the height of all fences. (*Amended 10/03*)

Section 11.28 Satellite Dish Antenna.

(a) The provisions of this section shall apply only to satellite dish antenna that are greater than 18 inches in diameter. *(Amended 12/3/98)*

(b) In all zoning districts, a satellite dish antenna shall be installed only in a side or rear yard and shall not be located within any required building setback. In all zoning districts, a satellite dish antenna may not be installed abutting a street. *(Amended 12/3/98)*

(c) In all nonresidential districts, a satellite dish antenna may be installed on the roof of the principal structure provided it is sufficiently anchored to a rafter, girder, or other superstructure member of the building so as to be structurally secure.

(d) A satellite dish antenna shall be permanently ground or roof mounted (where permitted), and no antenna shall be installed on a portable or moveable structure except to transport an antenna to a permanent site or to provide a temporary on-site antenna for testing purposes not to exceed seven days in duration.

(e) A satellite dish antenna shall be painted with a dull, non-glossy finish. No lettering, numerals or pattern shall be permitted on the dish surface other than the name of the manufacturer in letters not to exceed two inches in height.

(f) No satellite dish antenna shall exceed an overall height of 5 feet above existing grade when located on the ground, and when located on the roof of a building in a nonresidential district, shall exceed the building height limitation for the district in which it is located. *(Amended 3/19/99)*

Section 11.29 Manufactured Homes Sales.

(a) The manufactured homes located on a sales lot shall not occupy an area greater than 50 percent of the total lot area.

(b) Individual manufactured homes located on a sales lot shall be set back 50 feet from the public street right-of-way.

Section 11.30 Sexually-Oriented Businesses.

(a) No sexually-oriented business shall locate within 1,320 feet of any other sexually-oriented business.

(b) No sexually-oriented business shall locate within 1,000 feet of a church, public or private school, day care center or nursery school, public park, or residentially-zoned or used property. *(Amended 3/99)*

(c) No sexually-oriented business shall locate within an historic district.

(d) Except for adult motels, no sexually-oriented business shall have sleeping quarters.

(e) There shall not be more than one sexually-oriented business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any sexually-oriented business.

(f) Except for business identification signs permitted in accordance with Section 17.10 or Section 17.11 of Article 17, no other exterior advertising, promotional materials, or signage that is visible to the public from a street, sidewalk, or walkway shall be permitted.

(g) The hours of operation shall be compatible with the land uses adjacent to the proposed site.

(h) The use shall be sited and operated so as to not produce noise or sound which would adversely impact adjoining and surrounding properties.

(i) Outdoor lighting structures shall be located, angled, shielded, or limited in intensity so as to cast no direct light upon adjacent property and to avoid the creation of a visual safety hazard to passing motorists.

Section 11.31 Bars, Night Clubs, and Taverns.

(a) No bar, night club or tavern shall be located within 500 feet (measured property line to property line) of any other bar, night club or tavern.

(b) No such establishment shall be located within 500 feet (measured property line to property line) of a church, elementary or secondary school, public park or residentially-zoned property.

(c) The main entrance of the building housing the use shall be faced towards a street zoned predominantly for non-residential use.

(d) Screening of abutting residences shall be installed per the Tree Committee after consultation with neighboring property owners. *(Amended 7/99)*

(e) Parking areas related to the establishment shall be located no closer than 30 feet to the property line of abutting residences.

(f) The hours of operation allowed shall be compatible with the adjacent land uses.

(g) The amount of noise generated by the use shall not disrupt the activities of the adjacent land uses. *(Amendment 1/99)*

Section 11.32 Shopping Centers.

(a) Shopping Centers are classified into three categories according to the definitions section of this ordinance (Section 2.1): Neighborhood, Community, & Regional. Each of the following requirements are identified with one or more of the shopping center categories in parenthesis making that particular regulation applicable to that particular shopping center category.

(b) Development & Major Special Use Permit Required (Section 10.1). *(Amended 9/14/2021)*

(c) The minimum development area for a shopping center shall be 5 acres (Regional).

(d) The maximum building height is 35 feet. However, building heights up to a maximum of 50 feet may be permitted provided that one additional foot of building setback is provided for each one foot in building height over 35 feet (Community & Regional).

(e) Twenty (20) percent of the gross site area shall be landscaped open space (Neighborhood, Community & Regional).

(f) Shopping center developments that are adjacent to or across a public street right-of-way from a residential zoning district shall provide a minimum building setback of 60 feet (Community & Regional).

(g) The maximum floor area ratio shall be 0.30. Floor area ratio is the gross floor area of all buildings or structures on a lot divided by the total lot area (Community & Regional).

(h) In addition to the screening and landscaping requirements of Article 19, there shall be a minimum landscaped buffer strip of 30 feet in width along all public street right-of-way lines and 15 feet in width along all side and rear property lines. No parking is permitted within the buffer strip (Community & Regional). *(Amended 7/99)*

(i) All refuse shall be contained in completely enclosed facilities. Refuse containers and refuse storage shall be located in a paved area and screened from public view by means of natural vegetation, fences, walls, or berms. Such screening shall be installed, located, or constructed so as to create an effective screen (Neighborhood, Community & Regional).

(j) On a corner lot, no curb cut shall be located closer than 75 feet to the closest right-of-way line extended from the intersecting public or private street. No curb cut shall be located closer than 25 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 125 feet (Community & Regional).

(k) A freestanding use within the shopping center development shall have no more than 2 curb cuts on any single public right-of-way, and such curb cuts shall have a minimum distance of 125 feet between them (Community & Regional).

(l) The outdoor area devoted to storage, loading, and display of retail goods shall be limited to a maximum 15 percent of the net developable lot area and shall provide screening in accordance with the provisions of Article 19 (Neighborhood, Community, & Regional).

(m) A traffic impact assessment shall be provided in accordance with the guidelines delineated in Appendix J (Community & Regional).

(n) An environmental review shall be provided in accordance with the guidelines delineated in Appendix K (Regional).

(o) A fiscal impact assessment shall be provided in accordance with the guidelines delineated in Appendix L (Regional).

(p) New buildings shall be constructed of materials that are consistent with the materials used in the construction of existing buildings within the community. Those portions of buildings visible from a public street right-of-way shall be sheathed in materials such as wood siding, stone, brick, tilt-up concrete panels, and sandstone and tinted/textured CMU's in a low reflective, subtle or neutral color. Building facades that extend greater than 100 linear feet shall incorporate into the design recesses and projections to cover at least 20 percent of the total building frontage. No more than 40 percent of the façade of any principal building facing a public street right-of-way shall be glass or reflective material (Neighborhood, Community, & Regional).

(q) An architectural rendering of the proposed project shall be submitted for review at the time of site plan submission (Neighborhood, Community, & Regional). *(Amendment 3/99)*

(r) A detailed lighting plan shall be submitted for review at the time of site plan submission. Lighting plan shall illustrate the following requirements: 90% cutoff on pole lighting; a maximum height of 30' on all pole lighting; colors and elevation details of poles and fixtures are to be standard aluminum gray or black; the intensity of the lighting at the property lines and public streets shall be minimized to a maximum of 3-foot candles at the property lines; no lighting elements shall be directly visible from any public roadway, sidewalk, or adjacent property; any floodlighting attached to the building walls shall be angled so as to not cast light directly onto adjacent properties and/or right of ways (Neighborhood, Community, & Regional).

(s) All signage, regardless of zoning district shall meet the signage requirements for shopping centers as noted in Section 17.12 of this ordinance.

Section 11.33 Department, Variety or General Merchandise Stores 25,000 Square Feet or Larger.

(a) The provisions of this section are applicable only to department, variety or general merchandise retail stores that encompass 25,000 square feet or more of gross floor area and to the redesign or expansion of such stores that involves increasing gross floor space by 10 percent.

(b) The maximum building height is 35 feet. However, building heights up to a maximum of 50 feet may be permitted provided that one additional foot of building setback is provided for each one foot in building height over 35 feet.

(c) Fifteen percent of the gross site area shall be landscaped open space.

(d) Developments that are adjacent to or across a public street right-of-way from a residential zoning district shall provide a minimum building setback of 60 feet.

(e) The maximum floor area ratio shall be 0.30. Floor area ratio is the gross floor area of all buildings or structures on a lot divided by the total lot area.

(f) In addition to the screening and landscaping requirements of Article 19, there shall be a minimum landscaped buffer strip of 30 feet in width along all public street right-of-way lines and 15 feet in width along all side and rear property lines. No parking is permitted within the buffer strip.

(g) No more than 50 percent of the parking provided shall be located between the front of the principal building and the primary abutting public street.

(h) All refuse shall be contained in completely enclosed facilities. Refuse containers and refuse storage shall be located in a paved area and screened from public view by means of natural vegetation, fences, walls, or berms. Such screening shall be installed, located, or constructed so as to create an effective screen.

(i) Trailers used for the storage of retail goods may be located in the rear of the principal building provided that such trailers are screened from abutting public streets or adjacent residential properties.

(j) On a corner lot, no curb cut shall be located closer than 75 feet to the closest right-of-way line extended from the intersecting public or private street. No curb cut shall be located closer than 25 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 125 feet.

(k) The outdoor area devoted to storage, loading, and display of retail goods shall be limited to a maximum 15 percent of the net developable lot area and shall provide screening in accordance with the provisions of Article 19.

(l) A traffic impact assessment shall be provided in accordance with the guidelines delineated in Appendix J.

(m) An environmental review shall be provided in accordance with the guidelines delineated in Appendix K.

(n) New buildings shall be constructed of materials that are consistent with the materials used in the construction of existing buildings within the community. Those portions of buildings visible from a public street right-of-way shall be sheathed in materials such as wood siding, stone, brick, tilt-up concrete panels, and sandstone and tinted/textured CMU's in a low reflective, subtle or neutral color. Building facades that extend greater than 100 linear feet shall incorporate into the design recesses and projections to cover at least 20 percent of the total building frontage. No more than 40 percent of the façade of any principal building facing a public street right-of-way shall be glass or reflective material.

(o) A rendering of the proposed project shall be submitted for review at the time of site plan submission. *(Amended 3/99)*

Section 11.34 Resort/Conference Facility

(a) The intent of the resort/conference facility use category is to accommodate a variety of land uses that compliment a conference center or other similar meeting or assembly hall. Consequently, this use type must, at a minimum, include a conference center or assembly hall as a principal use. A resort/conference facility may contain a combination of land uses that includes two or more principal uses. However, the individual principal uses that comprise a resort/conference facility shall comply with all of the requirements that are specifically delineated in this Ordinance for such individual uses. For example, a marina that is proposed to be part of a resort/conference facility shall also conform to the requirements of Section 11.23. Whenever a resort/conference facility includes more than one principal use, it shall be considered a combination use.

(b) The minimum development area for a resort/conference facility shall be five acres in R-10 and R-5 zoning districts and 30,000 square feet in CH zoning districts

(c) A resort/conference facility may include the following types of dwelling units: multi-family dwellings (including condominiums) and townhouse dwellings. The residential density of any multi-family and townhouse component of the proposed use shall be in accordance with the requirements of Section 12.2, Residential Density. Such residential component of a resort/conference facility shall be considered a Planned Residential Development and shall adhere to the requirements of Section 11.1, Planned Residential Developments.

(d) Nonresidential components of a resort/conference facility located within an R-10 or R-5 district shall be sited and sized so as to be appropriate to the scale of the facility and to be compatible with adjoining and surrounding residential properties. As a general guideline, permitted retail uses should normally account for no more than 15 to 25 percent of the total gross acreage of a resort/conference facility proposed in R-10 and R-5 zoning districts. This general ratio may be exceeded if, in the opinion of the Town Council, site conditions and circumstances warrant a higher proportion of retail acreage. *(Amended 9/14/2021)*

(e) Minimum lot sizes, lot widths, building setbacks, building height, etc. of the proposed use shall conform to the requirements of Article 12, Density and Dimensional Regulations.

(f) The proposed use shall have primary vehicular access to a collector or higher capacity street.

(g) Any golf course included with the proposed use shall conform to the requirements of Section 11.19, Golf Courses.

(h) Any marina included with the proposed use shall conform to the requirements of Section 11.23, Marina.

(i) For Resort/Conference Facilities located in the R-5 or R-10 zoning districts, signs shall be in accordance with Section 17.9. For Resort/Conference Facilities located in the CH zoning district, signs shall be in accordance with Section 17.10 and 17.11, whichever district applicable.

(j) Screening and landscaping shall be provided in accordance with the requirements of Article 19, Screening, Landscaping and Trees.

(k) Off-street parking for the individual uses comprising the resort/conference facility shall be provided in accordance with the requirements of Section 18.2(e), Table of Parking Requirements.

(l) The hours of operation allowed shall be compatible with the adjacent land uses.

(m) The proposed use shall be sited and operated so as to not produce noise or sound which would adversely impact adjoining and surrounding properties.

(n) Any single or combination of individual uses that comprise a resort/conference facility shall comply with the requirements of Appendix J, Guidelines for the Preparation of a Traffic Impact Assessment; Appendix K, Guidelines for the Preparation of an Environmental Impact Assessment; and Appendix L, Guidelines for the Preparation of a Fiscal Impact Assessment.

(o) The site plan submitted with the major special use permit application shall include the following information in addition to that required in Appendix A: the floor area devoted to each type of use (i.e., conference center, retail businesses, etc.), the number of hotel/motel units, and the number of residential dwellings by type (single-family detached, townhouse, multi-family, etc). The site plan shall also indicate the amount of acreage devoted to each use type that comprises the resort/conference facility. *(Adopted 7/99; 9/14/2021)*

Section 11.35 Wireless Communications *(Adopted 2/02)*

(a) DEFINITIONS.

Alternative Antenna Support Structures (AASS). Structures which are functionally and legally capable of supporting wireless communication antennae, including, but not limited to buildings, water towers, and utility poles as an ancillary use of the primary structure.

American Mobile Telecommunications Association (AMTA). A Washington, D.C. based industry trade group which serves to support its specialized mobile radio (SMR) operator members through lobbying and networking efforts.

American National Standards Institute (ANSI). A private sector federation for voluntary standardization of measurements.

Applicable Codes. The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Application, Telecommunication Facilities. A request that is submitted by an applicant to the Town for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, Town utility pole, or wireless support structure.

Camouflaged Tower. A tower which is designed to blend into the surrounding environment, such as a tower designed to resemble a tree or, if erected on an existing structure, an integral part of the building.

Co-location. The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, Town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term “collocation” does not include the installation of new utility poles, Town utility poles, or wireless support structures.

Cellular Telecommunications Industry Association (CTIA). A family of representative companies that support the cellular, PCS, and enhanced SMR carriers industry through lobbying, research and policy efforts.

Communications Facility. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provided communications service.

Communications Service. Cable service as defined in 47 USC § 522(6), information service as defined in 47 USC § 153(24), telecommunications service as defined in 47 USC § 153(53), or wireless services.

Communications Service Provider. A cable operator as defined in 47 USC § 522(5); a provider of information service, as defined in 47 USC § 153(24); a telecommunications carrier, as defined in 47 USC § 153(51); or a wireless provider.

Environmental Assessment (EA). An assessment of a project's environmental impact as defined in the National Environmental Policy Act of 1969.

Federal Aviation Administration (FAA). The Federal Agency responsible for regulating aviation in the United States.

Fall radius. A physical radius prescribed by the total effective height of any tower which includes an area which theoretically could be penetrated by the collapse of that tower.

Federal Communications Commission (FCC). The Federal Agency responsible for regulating telecommunications in the United States.

High-Definition Television (HDTV). Digital television signals transmitted in the very high frequency band by national and local television stations.

Lattice-type structure. A self-supporting, three- or four-sided open steel frame structure used to support telecommunications equipment.

Local and State Government Advisory Committee (LSGAC). An FCC-established group which works with both carriers and communities on antenna siting solutions.

Micro Wireless Facility. A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Monopole Towers. A slender, open telescoping, self-supporting tower used to support telecommunications equipment.
NEPA. The National Environmental Policy Act of 1969.

Personal Communications Industry Association (PCIA). A trade group which represents PCS, SMR, private radio and other wireless users and carriers.

Small Wireless Facility. A wireless facility that meets both of the following qualifications:

(a) Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six (6) cubic feet.

(b) All other wireless equipment associated with the facility has a cumulative volume of no more than twenty-eight (28) cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Telecommunications Act of 1996. A broad-scoped federal act which regulates the placement of wireless communications antennae and their facilities, and which provides certain mandates on local authorities while preserving considerable local zoning authority.

TOW AIR. Landing facility slope calculations designed to avoid obstruction by towers to aircraft.

Town Right-of-Way. A right-of-way owned, leased, or operated by the Town, including any public street or alley that is not a part of the State highway system.

Town Utility Pole. A pole owned by the Town in the Town right-of-way that provides lighting, traffic control, or a similar function.

Utility Pole. A structure that is designed for and used to carry lines, cables, or wires, lighting facilities, or small wireless facilities for telephone, cable television, or electricity, or to provide lighting, or wireless services.

Wireless Facility. The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunication services to a discrete geographic area. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

(a) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.

(b) Wireline backhaul facilities.

(c) Coaxial or fiber-optic cable that is between wireless structures or utility poles or Town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless Infrastructure Provider. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless Provider. A wireless infrastructure provider or a wireless services provider.

Wireless Services. Any services, using licensed or unlicensed wireless spectrum, including the use of WI-FI, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless Services Provider. A person who provides wireless services.

Wireless Support Structure. A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a Town utility pole is not a wireless support structure.

Wireless Telecommunications Support Structure (WTSS). All freestanding monopole, self-supported, guyed, or similar structures whose primary design is to provide for support and placement of wireless telecommunications antennae.

Wireless Telecommunications Attachments (WTA). Devices mounted onto a support structure, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and accessory equipment related to broadcast services, including but not limited to private radio services, cellular or digital telephone services, pagers, beepers, wireless data repeaters and common carriers (as regulated by the FCC), including AM, FM, two-way radio, fixed point microwave dishes, commercial satellite, HDTV, cellular and PCS communication systems. The term WTA does not include electrical or telephone transmission lines or supporting distribution structures, antennae of amateur radio (ham) operators, and amateur club services licensed by the FCC.

(b) INTENT.

In compliance with the Federal Communications Act of 1996 and all other relevant state and federal law, rules and regulations, it is the intent of the Town of Edenton to allow telecommunication providers the opportunity to locate wireless telecommunications antenna and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety, and welfare of its citizens, and the aesthetics of the community.

This section shall not be construed to authorize the Town of Edenton to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein.

(c) APPLICANT'S RESPONSIBLITIES AND COMFORMANCE.

It shall be the responsibility of all applicants and operators of the telecommunications equipment described herein to make all possible efforts to maintain consistency with the characteristics of the Town of Edenton.

No WTA or WTSS shall be constructed or modified from and after the effective date of this chapter except in conformance to the provisions stated herein.

(d) ENFORCEMENT.

This section may be enforced by any and every remedy provided by Article 8 of the Town of Edenton Unified Development Ordinance (UDO).

(e) CERTIFICATION OF NEED.

Any applicant(s) requesting a new WTA or WTSS or any modification to an existing WTA or WTSS shall be required to provide substantial evidence of need for such structures both in terms of coverage and capacity.

(f) CO-LOCATION.

WTA placement on an existing structure (either AASS or WTSS) is required unless the applicant(s) can clearly demonstrate with substantial, clear and convincing evidence that all co-location opportunities have been exhausted. The town will attempt to maintain by its own efforts or through its agents an up-to-date inventory of buildings and structures suitable for WTA installations. Maps are available showing these locations, as well as relative flood zones and flight approach vectors to neighboring airfields.

(g) NEW CONSTRUCTION PROVISION FOR CO-LOCATION(S).

All new WTSS shall be constructed to permit a minimum of three (3) new WTA. The owner(s) of the new WTSS shall submit a notarized letter to the town declaring that these additional sites shall be available to new tenants and shall be negotiated in good faith at reasonable terms to other providers, and that if good faith negotiations fail, both parties may be subject to commercial arbitration. They shall further state that as a condition of sale or transfer of the proposed structure to any new owner(s), operator(s), or agent(s) that a statement of intent to provide for shared use of tower shall be required of any new owner(s), operator(s), or agent(s) and shall be delivered to the town prior to closing.

(h) FEDERAL CERTIFICATION.

Any new WTA or WTSS, or any modification to an existing structure, which would effect an increase in height shall require certification in writing by the FAA that such addition or modification constitutes "No Hazard" to air navigation both by its physical structure and by its potential for radio frequency interference with aviation communication signals. The proposed structure shall also satisfy all TOWAIR requirements. If operator(s) of the proposed structure can reasonably show that the FAA cannot produce such certification, then certification of "No Hazard" to air navigation from a certified private agency shall suffice.

(i) CERTIFICATION OF COMPIANCE WITH FCC's IMPLEMENTATION OF NEPA of 1969.

The applicant(s) for any new WTA or WTSS or modification to any existing WTA or WTSS are required to file with the FCC if the structure location is within any definition provided in section 1.1307 of the NEPA. If the structure is located in any area defined by this Act, full compliance with the Act's requirements for environmental assessments (EA) shall be required.

(j) RADIO FREQUENCY.

Radio frequency exposure levels shall not exceed the lesser of FCC and ANSI exposure standards at any potential point of exposure to the general public. The owner(s) and operator(s) of all WTA shall make all reasonable attempts by design, fencing, signage, and the like to limit the public's exposure. An engineer prepared and sealed document attesting to the fact that the calculated and proposed radio frequency levels shall remain at the lesser of the FCC and ANSI standards is required. This letter shall be required following completion of the structure's construction, and before a certificate of occupancy is issued.

(k) STRUCTURAL INTEGRITY.

An engineer's prepared and sealed complete site plan document which denotes compliance with all technical specifications provided in federal, state, and Town Code, and a certification that the proposed structure and all proposed and potential occupant structures are stable and capable of withstanding a fifty-year hurricane is required.

(l) INSURANCE REQUIRMENTS.

New WTSS shall require a minimum of two million dollars ($2,000,000.00) general liability insurance with a letter from the insurer attesting to this fact shall be required prior to receipt of a certificate of occupancy. This same letter shall acknowledge that the insurer shall notify the town thirty (30) days prior to cancellation of this insurance.

(m) STATEMENT OF FINANCIAL RESPONSIBLITY.

The owner(s), and their representative(s) shall be required to provide proof of financial responsibility for all wireless telecommunication structures constructed or maintained within the town. This statement shall be completed upon initial application, and renewed each year. If full financial responsibility cannot clearly be demonstrated to the full satisfaction of the town, a surety bond for one hundred ten (110) percent of the total cost of all structure(s) removal and associated cleanup may be required by the town. The owner(s) and their representative(s) shall be fully responsible for all maintenance, and continued assurance that the structure(s) continually remain in compliance with Town Code.

(n) NEW CONSTRUCTION OR MODIFICATION OF WIRELESS TELECOMMUNICATION SUPPORT STRUCTURES (WTSS)

Development & Major Special Use Permits:
See Article 10. Section 10.1. Table of Permitted Uses. of the Town of Edenton Unified Development Ordinance (UDO). *(Amended 9/14/2021)*

Demonstration of Need.
Applicants shall provide substantial evidence as to the current need for the proposed WTSS both in terms of coverage area and capacity, and must demonstrate why all currently available WTSS and AASS co-location opportunities can not provide adequate coverage and capacity.

New WTSS shall be permitted only after clear demonstration that all potential opportunities for co-location have been exhausted, and that no suitable existing support structures exist within the coverage area which may be used, including all WTSS and AASS. The applicant(s) shall identify and assess all potential opportunities for co-location within a 3-mile radius around the proposed point of construction for the new WTSS.

An engineer's prepared and sealed letter shall be required, attesting to the fact that it is technically impossible to co-locate on any existing WTSS and all other AASS within the search area, with a map showing all potential sites, and stating why each is technically unfeasible.

A notarized letter from the applicant(s) listing all technically feasible sites, noting for each site that the applicant(s) attempted, in good faith, to negotiate terms of co-location with the owner(s) of the potential site, and negotiation has failed.

Requirement of Notification:

Applicants shall be required to notify, by certified mail with return receipt requested, all property owners within one hundred (100) feet and all adjacent property owners of their application for construction of a new, or modification of an existing WTSS. Exceptions to this requirement shall include, but shall not be limited to, co-location of new WTA on an existing WTSS, reductions in height or size of the WTSS, or any issues of routine maintenance to either the WTA or WTSS.

Minimum Lot Area:

Parcels used for placement of new or modified WTSS shall be the greater of a minimum of ten thousand (10,000) square feet, or shall be capable of meeting the minimum lot size necessary to accommodate the minimum setback requirements defined below.

Minimum Setbacks:

When the proposed structure is located adjacent to any church, school, public facility, or residential zone, the center of the support structure shall be located a distance from the nearest property line a minimum of one and one-quarter (1.25) times the greatest height of the structure including any WTA or devices which would add to the total height of the structure. The engineer's site plan for the tower shall indicate that the fall radius for the tower lies within the tower site, and that the fall radius zone does not include any of the aforementioned structures or zones. Otherwise, the center of structure shall be located as close as possible to then the geometric center of the property, with minimum setbacks from all sides of fifty (50) feet.

Support Structure Type:

Only "stealth" WTSS or monopole support structures shall be used. Structures involving the use of guy wires for either internal or external bracing and support, or lattice type structures, or any other type of support structure shall be prohibited.

Height:

The WTSS may not exceed the maximum height of one hundred and ninety-nine (199) feet.

Illumination:

No WTSS or WTA shall be illuminated unless specifically directed by the FAA or other federal agency. If required, lighting must be to the minimum specified by a federal agency. Strobe lights shall be prohibited unless specifically required. When strobe lights are required by the specifying agency, they shall be dual strobes, with white strobes for daytime use, and red strobes for nighttime use. All lighting shall be directed toward the structure, and upward and outward from any public areas. A copy of the FAA lighting requirements letter shall be submitted with the application.

Color:

Unless otherwise specified by a federal agency, all WTSS shall be painted a flat gray color.

(o) APPLICANT REQUIREMENTS: NEW CONSTRUCTION OR MODIFICATION OF WIRELESS TELECOMMUNICATION SUPPORT STRUCTURES (WTSS).

Limitation:
Every major special use permit for freestanding WTSS shall be limited to the applicant(s). Any assignment or transfer of the major special use permit or any of the rights there under may be made only upon the approval of the Town of Edenton. *(Amended 9/14/2021)*

Complete application:
The requirements for a complete application for a WTSS are provided below:

- Application Fee
- Complete application for WTSS.
- Copy of FCC license.
- Copy of all applications filed with federal and state agencies.
- FAA letter ascertaining "No Hazard" to air navigation.
- Statement of financial responsibility or surety bond.
- Engineer's letter describing lack of technically feasible co-location opportunities within a three thousand-foot radius of the proposed site location.
- Owner(s) letter describing inability to negotiate in good faith co-location on all possible site which are technically feasible.
- Owner(s) letter describing and the availability and opportunity for co-location-sites on the proposed structure.
- Engineer's site plan for the proposed WTSS depicting the location parcel, its size, zoning, adjacent zoning, and fall radius.
- FAA or other federal agency letter describing minimal lighting and color requirements for the proposed WTSS.
- Engineer's letter denoting structural integrity of the proposed WTSS and all potential tenants, and certification of its integrity in a fifty-year storm.
- Engineer's letter attesting to the fact that exposures to the public of any radio frequency levels will at or below the lesser of the FCC and ANSI standards.
- Letter from insurer that the owner(s) will have a minimum two million dollar ($2,000,000.00) general liability policy, and that the insurer will notify the town thirty (30) days prior to cancellation of this insurance.
- Engineer's scaled site plan including elevations, visual analysis, rendering, or photo simulation of the proposed WTSS from varying distances as viewed by the public.
- Engineer's site plan including elevations, and showing total heights of the proposed WTA and its support structure, and the WTA proposed color(s) and illumination scheme.

(p) CO-LOCATION ON EXISTING STRUCTURES

Zoning & Permitted Uses:
See Article 10. Section 10.1. Table of Permitted Uses. of the Town of Edenton Unified Development Ordinance (UDO).

Height Limitations:
WTA located on an existing WTSS or AASS shall not exceed fifteen (15) feet above the structure’s apex.

Color:
The color of all WTA's shall match the color of the supporting WTSS or AASS.

Illumination:
Illumination requirements for new WTA co-located on existing structures shall be subject to the same requirements for freestanding WTSS.

Lease Agreement:
A copy of the lease agreement between the owner(s) of the WTA and the owner(s) of the support structure shall be submitted with the application. The financial terms of the agreement need not be disclosed, however, review by the town board and/or town attorney shall be required for initial lease agreement and all future lease transfers.

Complete application. The checklist of requirements for New Telecommunication Antenna (WTA) is listed below:

- Application fee.
- Complete application for WTA.
- Copy of FCC license.
- Copy of all applications filed with federal and state agencies.
- FAA letter ascertaining "No Hazard" to air navigation.
- FAA or other federal agency letter describing minimal lighting and color requirements for the proposed WTA.
- Engineer's letter denoting structural integrity of the proposed WTA and all potential tenants, and certification of its integrity in a fifty-year storm.
- Engineer's letter attesting to the fact that exposures to the public of any radio frequency levels will at or below the lesser of the FCC and ANSI standards.
- A copy of the lease agreement between the owner(s) of the WTA and the owner(s) of the structure on placement is proposed.
- Engineer's depiction of the minimal size and other requirement for equipment housing structures.
- Engineer's site plan including elevations, and showing total heights of the proposed WTA and its support structure, and the WTA proposed color(s) and illumination scheme.

(q) EQUIPMENT HOUSING STRUCTURES

Visibility:
The base of the support structure to a minimum height of six (6) feet shall not be Visible from any public right-of-way or area of public congregation, and must be hidden from view either by natural vegetation or by vegetative screening. All equipment necessary for the functional operation of the technology employed shall be located in either a lawfully pre-existing structure, or in an equipment housing structure. The colors and external characteristics of the equipment housing structures shall be harmonious with, and blend with, the natural features, buildings, and structures surrounding it.

Access Drives:
Roads and drives used to gain access from public right-of-way to the equipment housing structures shall be designed to minimize, as much as possible, viewing of the equipment housing structures by the public.

Size:
Equipment housing structures shall be the minimum size necessary to accommodate the closed storage of all ground-based equipment, and necessary materials for the primary occupant's technical needs, and for the technical needs of all potential tenants. Depiction of the minimum size necessary to accomplish these technical objectives shall be included in the engineer's site plan details.

Fencing and Screening:
The accessory building and its fencing shall be fully surrounded (excepting a single point of access) by a planted vegetative screening, as described below, or by a minimum of ten (10) feet existing natural vegetation. Whether natural or planted, the vegetative buffer shall have the effect of fully obscuring the structure and its fencing from public view. All planted buffers shall be at least eight (8) feet tall at planting, and shall be a combination of evergreen trees and shrubs. Continued maintenance and replacement of the vegetative buffer, as needed, shall be required for the permitted life of the structure. A security fence shall be installed along the full perimeter of the support structure and shall be no less than six (6) feet and no more than eight (8) feet high. The fencing shall incorporate designs for structure security and for making all possible efforts to minimize public exposure to radio frequency radiation. Any and all accessories and all materials relating to the use of the WTA or WTSS shall be installed within the building, unless technically impractical. All road or drive, gate, fence, and vegetative screening details shall be noted within the engineer's site plan.

Signage:
No advertising signs are permitted on the support structure, the fence, building, or at any location on the site, with the exception of one sign which is attached to the gate, and one sign which is attached to the gate-face of the building for the purposes of safety and information. These two signs shall clearly identify the dangers, and shall provide the names of emergency contact persons and their phone numbers. The sign regulations in this section do not apply to signs required by local, state, or federal agencies.

Two-Way and Microwave Antennae:
Two-way and microwave antennae shall be located within accessory buildings whenever technically feasible.

Outdoor Storage:
Storage of any equipment or materials on the accessory building site or support structure site is prohibited.

Noise Producing Equipment:
Noise producing equipment shall be sited and/or insulated to minimize to the maximum practicable extent any increase in noise above ambient levels as measured at the property line.

Electrical and Phone Connections:
Electrical connections and land phone lines to and from the accessory building shall be installed underground.

(r) SMALL WIRELESS FACILITIES

Applicability:

(a) The Town of Edenton shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic facility owned or otherwise controlled by the Town. This subsection does not prohibit the enforcement of applicable codes.

(b) Nothing contained in this Article shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.

(c) Except as provided in this Article or otherwise specifically authorized by the General Statutes, the Town of Edenton may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or Town rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or Town rights-of-way and may not regulate any communications services.

(d) Except as provided in this Article or specifically authorized by the General Statutes, the Town may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.

(e) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Article does not authorize the provision of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way.

Permitting Process:

(a) Small wireless facilities that meet the height requirements of subsection (b) of the *Use of Town of Edenton Public Right-of-Way* section shall only be subject to administrative review and approval under subsection (b)(2) of this *Permitting Process* section if they are collocated (i) in a Town right-of-way within any zoning district or (ii) outside of Town rights-of-way on property other than single-family residential property.

(b) The Town of Edenton shall require an applicant to obtain a permit to collocate a small wireless facility. The Town shall receive applications for, process, and issue such permits subject to the following requirements:

(1) The Town may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, "services unrelated to the collocation," includes in-kind contributions to the Town such as the reservation of fiber, conduit, or pole space for the Town.

(2) The wireless provider completes an application as specified in form and content by the Town. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.

(3) A permit application shall be deemed complete unless the Town provides notice otherwise in writing to the applicant within thirty (30) days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

(4) The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the Town fails to approve or deny the application within forty-five (45) days from the time the application is deemed complete or a mutually agreed upon time frame between the Town and the applicant.

(5) The Town may deny an application only on the basis that it does not meet any of the following: (i) the city's applicable codes, (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles,

Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment; or (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way. The Town must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the Town denies an application. The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days of the denial without paying an additional application fee. The Town shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

(6) An application must include an attestation that the small wireless facilities shall be collocated on the utility pole, Town utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by wireless services provider to provide service no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(7) An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of the Town shall be allowed at the applicant discretion to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. The Town may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The Town may issue a separate permit for each collocation that is approved.

(8) The permit shall specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(c) The Town may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities; (ii) the amount charged by the Town for permitting of any similar activity, or (iii) one hundred dollars ($100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars ($50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.

(d) The Town may impose a technical consulting fee for each application, not to exceed five hundred dollars ($500.00), to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. The Town may engage an outside consultant for technical consultation and the review of an application. The fee imposed by the Town for the review of the application shall not be used for either of the following:

(1) Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.

(2) Direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.

(e) The Town shall require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the Town shall cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the Town reasonable evidence that it is diligently working to place such wireless facility back in service.

(f) The Town shall not require an application or permit or charge fees for (i) routine maintenance; (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller; or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or Town utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the Town rights-of-way and who is remitting taxes under NCGS 105-164.4(a)(4c) or NCGS 105-164.4(a)(6).

(g) Nothing in this section shall prevent a Town from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the Town right-of-way.

Use of Town of Edenton Public Right-of-Way:

(a) The Town shall not enter into an exclusive arrangement with any person for use of Town rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.

(b) Subject to the requirements of the *Permitting Process* Section, a wireless provider may collocate small wireless facilities along, across, upon, or under any Town right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, Town utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any Town right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and Town utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any Town right-of-way shall be subject only to review or approval under the *Permitting* Process Section if the wireless provider meets all the following requirements:

(1) Each new utility pole and each modified or replacement utility pole or Town utility pole installed in the right-of-way shall not exceed 50 feet above ground level.

(2) Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, Town utility pole, or wireless support structure on which it is collocated.

(c) In no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, Town utility pole, or wireless support structure exceed forty (40) feet above ground level, unless the Town grants a waiver or variance approving a taller utility pole, Town utility pole, or wireless support structure.

(d) The Town may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider. The right-of-way charge shall not exceed $50.00 per year.

(e) Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately-owned utility pole or wireless support structure or to collocate small wireless facilities on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.

(f) The Town shall require a wireless provider to repair all damage to a Town right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, Town utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the Town within a reasonable time after written notice, the Town may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The Town shall maintain an action to recover the costs of the repairs.

(g) A wireless provider may apply to the Town to place utility poles in the Town rights-of-way, or to replace or modify utility poles or Town utility poles in the public rights-of-way, to support the collocation of small wireless facilities. The Town shall accept and process the application in accordance with the provisions of the *Permitting Process* Section, applicable codes, and other local codes governing the placement of utility poles or Town utility poles in the Town rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application.

Access to Town Utility Poles to Install Small Wireless Facilities:

(a) The Town may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on Town utility poles. The Town shall allow any wireless provider to collocate small wireless facilities on its Town utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars ($50.00) per city utility pole per year.

(b) A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the Town to be reimbursed by the wireless provider. In granting a request under this section, the Town shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.

(c) Following receipt of the first request from a wireless provider to collocate on a Town utility pole, the Town shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the Town utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.

(d) In any controversy concerning the appropriateness of a rate for a collocation attachment to a Town utility pole, the Town has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.

(e) The Town shall provide a good-faith estimate for any make-ready work necessary to enable the Town utility pole to support the requested collocation, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a Town utility pole necessary for the Town utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

(f) The Town shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.

(g) Nothing in this Part shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under Section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended, or under NCGS 62-350.

(h) This section shall not apply to an excluded entity. Nothing in this section shall be construed to affect the authority of an excluded entity to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles, Town utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of NCGS 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in NCGS 62-350, are governed solely by NCGS 62-350. For purposes of this section, "excluded entity" means (i) a Town that owns or operates a public enterprise pursuant to Article 16 of this Chapter 160A consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits, but which is exempt from regulation under Section 224 of the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended. *(Amended 9/14/2021)*

(s) APPLICATION AND REVIEW PROCESS

Fees:
Fees for the review process for each new or modified WTSS shall be two hundred and fifty dollars ($250.00) for the initial application plus one hundred dollars ($100.00) for the Major Special Use Permit, and one hundred dollars ($100.00) for each annual renewal. Fees for the review process for each co-located WTA shall be one hundred dollars ($100.00) for the initial application, and fifty dollars ($50.00) for each annual renewal. Irrevocable payment of all fees shall be due with each appropriate application or annual renewal. Except that, as needed, the town may require remuneration for fees charged by outside technical consultants to assist the town in their review of an application. *(Amended 9/14/2021)*

Review Process:
All applications will first be checked for compliance by the Planning & Inspections Department. Following public advertisement of meeting agenda, the application will then be reviewed by the planning board at its next regular meeting. Discussion and recommendation for approval or denial will then be made to the town council. At their next regular meeting, the town council will review all findings and, following their discussion, decide upon approval or denial of the application. As previously described, the application will be treated as either a permitted or major special use, dependent upon the type of structure, and the time frame will approximate that of any other permitted

use or major special use within the town. Public comment for any permitted use or major special use is always allowed at public meetings. In determining whether a WTSS application should be approved or denied, the town council shall take into account the structure's harmony with the surrounding area, its compatibility with adjacent properties, and the availability, or lack thereof of more suitable sites. The aesthetic effects of the WTSS, as well as any mitigating factors concerning aesthetics, may be used to evaluate the application. In reaching a decision, the town council may request modification of the height, design, screening, placement, or other characteristics of the WTSS to produce a more harmonious situation. *(Amended 9/14/2021)*

Edenton Preservation Committee (EPC) Review:
Any new or modified WTSS application proposed in the Historic Overlay District (HO) requires review and a recommendation from the EPC Chairman. Upon application submittal, the EPC Chairman shall review the request and shall make a recommendation to the Planning Board and Town Council. If the request is approved by the Town Council, a Certificate of Appropriateness application shall be completed by the applicant and reviewed by the EPC at such time. In no way shall the recommendation of the EPC Chairman delay the review process of the Planning Board or Town Council.

All applications to co-locate a WTA in the Historic Overlay District (HO) requires a major Certificate of Appropriateness (COA) for review by the EPC.

Notice:
Notice of approval or disapproval will be provided in writing by the board of commissioners following their decision. All discussion and review notes from both the planning board and board of commissioners shall be maintained in writing as part of the public record, and shall be available for review by all interested parties.

Building Permits:
Following approval by the Town Council and COA issuance (if applicable), the Planning & Inspections Department shall issue a building permit. Construction of the WTA or WTSS shall commence within one (1) year from the date of issue of the building permit. Entire construction of the tower and all it's supporting structures shall be completed within one (1) year and six (6) months of the issuance of the building permit, if the construction is not fully completed, the building permit shall be considered null and void. An application for a one-time extension of six (6) months may be made by petition to the board of adjustment. If the construction has not commenced by the end of this extension period, then the permit shall be considered null and void and a new application shall be required to begin the review process again. The Planning & Inspections Department shall issue a certificate of occupancy following satisfactory completion of the structure and all other site improvements according to design and stated intent. Any unapproved changes to the structure shall prohibit issue of a certificate of occupancy, and shall require a new application and fees to reinitiate the entire review process.

Town Code:
Nothing in this section shall have the effect of releasing in whole, or in any part, any applicant's or their facilities' obligations to comply with Town Code.

Severability:
Should any clause(s) or component of this chapter be deemed unlawful or unconstitutional by a court of competent jurisdiction, such clause(s) shall not affect the validity of any other components of this chapter.

(t) APPLICANT'S REMEDY

Board of Adjustment:
Minor variances from the requirements of this section may be addressed to the board of adjustment.

Informal dispute resolution process:
All parties shall attempt to adhere to the agreement adopting an informal dispute resolution process as described in the 1998 meeting between the LSGAC, the CTIA, the PCIA, and the AMTA. This process is designed to arrive at a mutual agreement while avoiding lengthy and costly court proceedings. Both parties retain their full legal rights should this remediation process fail.

(u) ANNUAL RENEWAL

Annual Renewal Required:

All WTA and WTSS shall be reviewed by the town on an annual basis. An application for annual renewal must be submitted to the town no later than ninety (90) days prior to the date of last renewal or the date of the original certificate of occupancy. Structures will be re-permitted for the next three hundred sixty-five (365) days following review by the inspections office, the planning board, and the board of commissioners.

Application for Renewal:
The checklist of requirements for renewal of Wireless Telecommunications Antennae and Wireless Telecommunication Support Structures is listed below:

- Renewal application fee.
- Complete renewal application form.
- Letter of continued insurance coverage for minimal general liability.
- Letter from the inspections department that the WTSS or WTA has remained in compliance with Town Code since the later of the last renewal or the certificate of occupancy.
- Engineers letter stating that the WTSS or WTA had remained in compliance with all federal, state, and Town Code requirements for structural integrity, and for radio frequency exposure requirements.
- Letter from the owner(s) that the WTSS or WTA has remained in compliance with all FCC, FAA, and NEPA requirements since the later of either the last renewal or the certificate of occupancy. Letter from the owner(s) that they intend to maintain full financial responsibility for the WTSS or WTA for the entire renewal period.

(v) ABANDONMENT

Any WTA or WTSS that is not operated for a continuous period of one hundred eighty (180) consecutive days, or that is not maintained according to Town Code for one hundred eighty (180) cumulative during the calendar year, or any structure for whom the owner(s) or representative(s) fail to make annual renewal shall be considered abandoned. Removal of the abandoned structure to the satisfaction of the Planning & Inspections Department shall be required within ninety (90) days. The owner(s) shall be responsible for all costs of removal. If the abandoned tower is not removed within the allotted time frame, the Town of Edenton shall take actions to remove such tower and the applicant's expense. Petition for a one-time extension of ninety (90) days may be made to the board of adjustment.

Section 11.36 Fairgrounds *(Adopted 5/04)*

(a) A minimum of twenty-five (25) acres shall be required, and no more than ten percent (10%) of that twenty-five (25) acres may be dedicated to the sale of goods, regardless of the amount of land the enterprise may own.

(b) The amount of noise generated shall not disrupt the activities of the adjacent land uses.

(c) Parking generated by any outdoor flea market/yard sale must be accommodated on site without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(d) Principal access must be from a collector of higher capacity road.

(e) Conditions of permits shall include hours of operation allowed which are compatible with the land uses adjacent to any outdoor flea market.

(f) Signs must be compliant with Section 17.11, and with the Gateway Corridor Plan, if applicable.

(g) If applicant holds a current major special use permit for *Fairgrounds* as of the date of this amendment, a Major Special Use Permit is necessary to grant permission for additional uses allowed by the amended definition. *(Amended 9/14/2021)*

Section 11.37 Roadway Corridor Overlay District Requirements *(Adopted 8/03)*

(a) The use and development of any land or structure within the Roadway Corridor Overlay District shall comply with the use regulations and intensity regulations applicable to the underlying zoning district except as stipulated in (b) of this Section.

(b) The Roadway Corridor Master Plan, composed of corridor plans, illustrative drawings, and written recommendations, indicates the general objectives for planting, pedestrian and bicycle circulation, and appearance and signage. They should be used as guidelines to achieve the intent of the Edenton Gateway Corridors Master Plan's objectives. If the objectives indicated in the Edenton Gateway Corridors Master Plan exceed similar or related minimum standards found elsewhere in this code, the objectives of the Edenton Gateway Corridors Master Plan.

(c) The requirements of the RCO District shall be reviewed in accordance with standard staff and public review procedures.

(d) All components of streetscape shall be designed to minimize conflict between trees, utilities, roadways, driveways, sidewalks, parallel trails, sight distance, and streetlights.

(e) Sight distance and clear zones as related to traffic safety and the interaction of pedestrian and traffic at intersections and anytime where potential conflicts exist are the first priority in the design of streetscape. Town of Edenton and North Carolina Department of Transportation codes and specifications shall be followed.

Section 11.38 Solar Farms *(Adopted 3/16)*

Solar Farms shall be regulated as to location in the following manner in addition to other requirements of this ordinance:

(A) Height. Solar array structures shall not exceed the height of 10 feet. Solar array structures shall not be located so as to negatively affect aircraft operations as determined by the Federal Aviation Authority (FAA).

(B) Setback. Solar array structures, including security fencing, must meet the minimum setback requirements for the R-A District & Industrial Warehouse District. In addition, solar project must meet a minimum 500-foot setback from an occupied residence unless a written waiver of the increased setback requirements, signed by the affected property owner of the residential property, is submitted with the Major Special Use Permit Application. A minimum 500-foot setback from the center line of a public right-of-way is also required. *(Amended 9/14/2021)*

(C) Visibility. In addition to the requirements set forth in Article 19, Screening and Trees Requirements, solar array structures shall be screened with an opaque screen to screen structures from routine view from public right-of-ways. The screen shall consist of on-site mature vegetation existing at a minimum height of 15 feet and depth of 100 feet and a minimum of 50 feet inside buffer shall be planted with indigenous trees. The 50-foot-wide buffer plan shall be approved by the NC Division of Forestry to ensure that the buffer looks like a natural forest from ground to the height of six feet and consist of plantings expected to be opaque in all seasons of the year and reach height maturity within 5 years. Screening & Maintenance plan detailing species of plants, planting plant and plan for maintenance of the opaque screen for the life of the project is required. Applicant will seek advice and input from Chowan County Cooperative Extension Horticultural Agent on plant selection/species that in the Agent's opinion are appropriate and most likely to survive and thrive on the site. Plan will be reviewed and approved by the Town in accordance with Article 19 and related Town of Edenton UDO requirements. Opaque Screening and Maintenance Plan must be approved prior to issuance of Development Permit. *(Amended 9/14/2021)*

(D) Site Plan. A site plan shall be submitted as part of the Major Special Use Permitting process demonstrating compliance with: *(Amended 9/14/2021)*

Setback and height limitations established

Applicable zoning district requirements such as lot coverage

Locations of on-site facilities and accessory structures

Applicable solar requirements per Section 11.38.

Proposed driveway opening and service roads

Site plan shall delineate the location and dimensions of the solar array structures and the location accessory structures or buildings. Site Plan shall also show existing conditions to ensure site will be restored to pre-solar farm condition when solar farm is decommissioned.

(E) Components: Electric solar energy system components must have a UL listing.

(F) Compliance with Building and Electrical Codes – all solar farms shall meet all requirements of the International Building Code with North Carolina Amendments

(G) Decommissioning. A decommissioning plan signed by the CUP Applicant and the landowner (if different) addressing the following shall be submitted with permit application to be reviewed and approved by the Town Council as part of the CUP approval process:

Defined conditions upon which decommissioning will be initiated (i.e., end of land lease, no power production for six months, termination of purchase power agreement, default, etc.).

Defining if Applicant or Land Owner is Responsible Party responsible for removal of all solar array structures, non-utility owned equipment, conduit, other structures, fencing, roads and foundations. Responsibility party will have six months from date solar farm ceases operation to complete decommissioning work and restore property to pre-solar farm condition.

Define if Applicant or Land Owner is Party responsible for notifying Town if project is abandoned

Changes or modifications to the Decommissioning Plan must be approved by the Town. Changes will be considered in accordance with Section 4.20 of the UDO, Amendments & Modifications to Major Special Use Permits. *(Amended 9/14/2021)*

(i) Prior to the issuance of a Development Permit, the Applicant must provide the Town with a performance guarantee as provided in Subsection (ii) below. The amount of the guarantee shall be 1.10 times the estimated decommissioning cost minus the salvageable value, or $100,000, whichever is greater. Estimates for decommissioning the site and salvage value shall be determined by a North Carolina licensed engineer or a licensed contractor who is qualified and sufficiently licensed to address decommissioning. It is the responsibility of the Applicant to provide the Town with the certified cost estimate. *(Amended 9/14/2021)*

(ii) The following types of performance guarantees are permitted:

(a) A surety or performance bond that renews automatically, includes a minimum 60-day notice to the Town prior to cancellation, is approved by the Town Attorney, and is from a company on the U.S. Department of Treasury's Listing of Certified Companies. A bond certificate must be submitted to the Planning Department each year verifying the bond has been properly renewed.

(b) A certified check deposited with the Town Finance Officer, as escrow agent, who will deposit the check in an interest-bearing account of the Town, with all interest accruing to the Applicant. Funds deposited will be returned when the solar farm is decommissioned and any necessary site restoration is completed.

(c) The full amount of the bond, certified check, or letter of credit must remain in full force and effect until the solar farm is decommissioned and any necessary site restoration is completed.

(H) Water Infiltration & Soil Conservation.

The applicant must obtain all applicable NC Department of Environmental Quality permits, including storm water, soil erosion control & sedimentation control permits.

Section 11.39 Beekeeping *(Adopted 6/2018)*

(a) Up to five (5) hives will be permitted by development permit on any single lot within the Town's planning jurisdiction. More than five (5) hives may be allowable in the RA, Residential Agricultural zoning district, subject to the provisions of this section and minor special use permit review by the Town's Board of Adjustment. *(Amended 9/14/2021)*

(b) No hive shall be located in the front yard, and no hive shall be closer than fifteen (15) feet from any property lines.

(c) All bee hives shall be placed at ground level or securely attached to an anchor or stand and must be maintained in good order and condition.

(d) Beekeepers should seek training and certification through the North Carolina State Beekeepers Association, or similar organization

(e) Hives will be screened from public streets and rights-of-way by an opaque fence not less than four (4) feet in height and/or an equivalent screening of existing buildings or vegetation.

(f) Every effort shall be made to direct flight patterns to and from the hive away from sidewalks, public rights-of-way, and the like.

(g) Beekeepers shall maintain a suitable water source on site.

(h) Hives are required to be removed if the owner or beekeeper is no longer maintaining the hives in good order and condition for a period of thirty (30) days or more, or if removal is necessary to protect the health, safety, and welfare of the public.

Section 11.40 Food Trucks *(Adopted 5/2018)*

(a) Except as otherwise provided herein, food trucks may only conduct business on privately owned non-residential property subject to the written approval of the property owner;

(b) Vendors must operate in a safe, sanitary, and non-offensive manner. Complaints of unsafe conditions, excessive water or noise (from patrons or machinery), or other disruptive conditions to neighboring owners or occupants will be investigated and may be the cause for revoked permits or denied permit renewal.

(c) Permit requests shall be submitted to the Town Planning Department staff and shall be referred to the Health Department, Tax Department, Police Department, Public Works Department and/or Fire Marshall for review prior to action. All permits will be displayed during the food truck's hours of operation.

(d) A food truck may not be located in any portion of a parking lot when and where such location would prevent use of parking spaces during regular hours of operation of the primary businesses on the lot; unless the vendor provides documentation that the property owner permits use of the parking spaces.

(e) The food truck shall be positioned on designated parking spaces and shall not block drive aisles, other access to loading/service areas, or emergency access and fire lanes. The food truck must also be positioned at least three (3) feet away from fire hydrants and any fire department connection, utility box or vault. A food truck shall not impede ingress and egress from driveway entrances, handicapped parking spaces & ramps, building entrances and exits.

(f) Vendors must be located 1000' from any approved events permitted by the Town of Edenton except a qualified vendor at that event.

(g) Only one vendor may locate on any parcel at one time, unless vendors are participating in a permitted special event.

(h) No signage shall be allowed other than signs permanently attached to the motor vehicle and one (1) portable menu sign with a changeable face no more than six (6) square feet in display area on the ground in the customer waiting area.

(i) The permit issued for the food truck business may be revoked if the vendor violates any of the provisions contained in this article.

(j) The town manager may revoke a permit if he or she determines that the food truck vendor's operations are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or that such use is otherwise creating a danger to the public health or safety.

(k) The town manager reserves the right to temporarily suspend food truck permits during times of special events in the downtown area.

(l) This article and its requirements, rights, or privileges shall not apply in any respect to special events recognized by the Town where food truck vendors are permitted, to non-profit, fundraising events of three (3) days or less in duration, where persons or organizations participate in duly recognized fundraising events, including but not limited to, religious, charitable, patriotic, or philanthropic events, or to private events on a residential street of twelve (12) hours or less in duration.