

## ARTICLE 2. BASIC DEFINITIONS AND INTERPRETATIONS

### Section 2.1 Definitions of Basic Terms.

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

- (1) *Accessory Building.* A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot therewith. *(Amended 7/99)*
- (2) *Accessory Structure.* A detached subordinate structure(s), the use of which is incidental to that of the principal structure and located on the same lot therewith. *(Amended 7/99)*
- (3) *Accessory Use.* A structure or use that: 1) is clearly incidental to and customarily found in connection with a principal building or principal use; 2) is subordinate to and serves a principal building or principal use; 3) is subordinate in area, extent, or purpose to the principal building or principal use served; 4) contributes to the comfort, convenience, or necessity of occupants, business, or industry, in the principal building or principal use served; and 5) is located on the same lot as the principal building or principal use served. *(Amended 7/99)*
- (4) *Administrative Decision.* Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS Chapter 160D or town development regulations. Also referred to as ministerial decisions or administrative determinations. *(Amended 9/14/2021)*
- (5) *Administrative Hearing.* A proceeding to gather facts needed to make an administrative decision. *(Amended 9/14/2021)*
- (6) *Administrator.* (See Article 3, Part I. Administrative Staff).
- (7) *Agriculture.* For the purposes of this Ordinance, the terms “agriculture,” “agricultural,” and “farming” refer to all of the following:
  - (a) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
  - (b) The planting and production of trees and timber.
  - (c) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
  - (d) Aquaculture as defined in NCGS 106-758.
  - (e) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.

- (f) When performed on the farm, “agriculture,” “agricultural,” and “farming” also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm.
- (g) A public or private grain warehouse or warehouse operation where grain is held ten (10) days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.
- (8) *Agricultural Production Crops.* The production of (and activities relating or incidental to the production of) crops, fruits, vegetables, ornamental and flowering plants, and nursery products such as bulbs, trees, vines, shrubbery, flower and vegetable seeds and plants, and sod. *(Amended 7/99)*
- (9) *Agricultural Production, Livestock.* The production of (and activities relating or incidental to the production of) dairy, livestock and poultry products. Livestock as used here includes cattle, sheep, goats, hogs, and poultry as well as animal specialties such as horses, rabbits, bees, fur-bearing animals in captivity, and fish in captivity. This definition does not include animal feeder/breeder operations nor the keeping of domesticated animals for pets. *(Amended 7/99)*
- (10) *Agritourism.* Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.
- (11) *Animation.* The movement, or optical illusion of movement of any part of the sign. Also included in this definition are signs having chasing action which is the action of a row of lights commonly used to create the appearance of motion. Automatic changeable copy boards are permitted provided that there is no running action to copy and provided that the copy does not change more than once every one minute. No flashing, revolving, or intermittent illuminating shall be employed.
- (12) *Antenna.* Equipment designed to transmit or receive electronic signals.
- (13) *Appeal.* A request for a review of the UDO Administrator's interpretation of any provision of this Ordinance. *(Amended 9/14/2021)*
- (14) *Bars, Night Clubs, Taverns.* Establishments primarily engaged in the retail sale of alcoholic drinks, such as beer, ale, wine, and liquor, for consumption on the premises. *(Amended 7/99)*

- (15) *Base Flood.* The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the 100-year flood.
- (16) *Beacon.* Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same property as the light source. Also, any light with one or more beams that rotate or move.
- (17) *Bed and Breakfast.* A residential dwelling in which sleeping and/or eating accommodations are provided or offered to eight or fewer persons per night. See Section 11.6 for specific provisions regarding bed and breakfast establishments.
- (18) *Bees.* Eggs, larvae, developing bees and adult bees.
- (19) *Beekeeper.* The person who keeps and raises bees.
- (20) *Bona Fide Farm.* Agricultural activities as set forth in NCGS 160D-903. Sufficient evidence that the property is being used for bona fide farm purposes includes the following: (1) a farm sales tax exemption certificate issued by the Department of Revenue; (2) a copy of the property tax listing showing that the property is eligible for participation in the present-use-value program pursuant to NCGS 105-277.3; (3) a copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; or (4) a forestry management plan. (Amended 9/14/2021)
- (21) *Brewery, Generally.* An establishment primarily engaged in the production and distribution of beer and other fermented malt beverages, and may include accessory uses such as a tasting room, restaurant, retail, demonstration areas, education and training facilities, or other uses incidental to the brewing business and open and accessible to the public. Breweries exceeding the size limitations of a microbrewery shall be regulated as a manufacturing use.
- (22) *Brewery, Microbrewery.* A brewery, as defined above, not exceeding twelve thousand (12,000) square feet including the principal building footprint and any exterior areas used for demonstration, on-premises consumption, education, retail sales, or other permitted accessory uses.
- (23) *Buffer.* A strip of land which is established to separate one type of land use from another type of land use and which contains natural or planted vegetation, berms, walls, or fences in accordance with the provisions of this Ordinance. (Amended 7/99)
- (24) *Building.* A structure designed to be used as a place of occupancy, storage or shelter.
- (25) *Building Permit.* A permit issued by the town's designated building official that authorizes the recipient to construct or demolish a structure or to make alterations to a structure.
- (26) *Building, Principal.* The primary building on a lot or a building that houses a principal use.
- (27) *Caretaker Dwelling.* A dwelling unit that exists either as part of a principal structure or as an accessory building, is secondary and incidental to the use of the principal structure, is occupied by a person (persons) that is (are) employed by the owner of the principal structure to provide domestic, maintenance, or security services. (Amended 7/99)

- (28) *Certify.* Whenever this chapter requires that some agency certify the existence of some fact or circumstance to the town, the town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the town may accept certification by telephone from some agency when the circumstances warrant it, or the town may require that the certification be in the form of a letter or other document.
- (29) *Circulation Area.* That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.
- (30) *Clubs.* An incorporated or unincorporated association for civic, social, cultural, fraternal, literary, political, recreational or like activities, operated on a non-profit basis for the benefit of its members. *(Amended 7/99)*
- (31) *Combination Use.* A use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permitted Uses, Section 10.1. (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. See Section 10.5. In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.) *(Amended 9/14/2021)*
- (32) *Comprehensive Plan.* The comprehensive plan, land use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the Town Council. *(Amended 9/14/2021)*
- (33) *Conditional Zoning.* A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. *(Amended 9/14/2021)*
- (34) *Convenience Store.* A one story, retail store containing less than 2000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract and depends upon a large volume of "stop and go" traffic. Illustrative examples of convenience stores are those operated by the "Fast Fare," "7-11" and "Pantry" chains.
- (35) *Council.* The Town Council of the Town of Edenton.
- (36) *Day Care Center.* A child day care facility as defined in NCGS 110-86 as well as a center providing day care on a regular basis for more than two hours per day for more than five adults. See Section 11.11 for specific provisions related to day care centers.
- (37) *Decision-Making Board.* A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this UDO. *(Amended 9/14/2021)*
- (38) *Determination.* A written, final, and binding order, requirement, or determination regarding an administrative decision. *(Amended 9/14/2021)*

- (39) *Developer.* A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property. (Amended 9/14/2021)
- (40) *Development.* Unless the context clearly indicates otherwise, the term means any of the following:
- (a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
  - (b) The excavation, grading, filling, clearing, or alteration of land.
  - (c) The subdivision of land as defined in NCGS 160D-802.
  - (d) The initiation or substantial change in the use of land or the intensity of use of land. (Amended 9/14/2021)
- (41) *Development Approval.* An administrative or quasi-judicial approval made pursuant to NCGS 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to NCGS Chapter 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued. (Amended 9/14/2021)
- (42) *Development Plan.* A detailed drawing(s) containing specific information regarding proposed development within the town. (Amended 9/14/2021)
- (43) *Development Regulation.* A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulations, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to NCGS Chapter 160D, or a local act or charter that regulates land use or development. (Amended 9/14/2021)
- (44) *Dimensional Nonconformity.* A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.
- (45) *Drainageway.* Any perennial stream, watercourse, channel, ditch or similar physiographic feature draining water from the land.
- (46) *Driveway.* That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.
- (47) *Duplex.* See Dwelling, Two-Family. (Amended 7/99)
- (48) *Dwelling.* Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. The term

does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose. (Amended 9/14/2021)

- (49) *Dwelling, Multifamily.* A building or portion thereof used or designed as a residence for three or more families living independently of each other with separate housekeeping and cooking facilities for each, and includes apartments, townhouses and condominiums. (Amended 7/99)
- (50) *Dwelling, Single-Family Detached.* A separate, detached building designed for and occupied exclusively by one family. (Amended 7/99)
- (51) *Dwelling, Townhouse.* A building consisting of single-family residences attached to one another in which each unit is located on an individually-owned parcel, generally within a development containing drives, walks and open space in common area. (Amended 7/99)
- (52) *Dwelling, Two-Family.* A building on one lot arranged and designed to be occupied by two families living independently of each other. (Amended 7/99)
- (53) *Dwelling Unit.* A room or combination of rooms designed for year-round habitation, containing self-sufficient bathroom and kitchen facilities, connected to all required utilities, and designed for or used as a residence by one family. Units located within motels or hotels or travel trailers shall not be included as dwelling units. (Amended 9/14/2021)
- (54) *Electronic Gaming Operations.* Any enterprise, established as a principal use, utilizing electronic machines, including computers, as game promotions. In a game promotion, a person may conduct a game of chance in conjunction with the sale of consumer products or services and/or for which the elements of chance and prize are present. This term includes, but is not limited to, sweepstakes or internet cafes. This does not include any lottery approved by the State of North Carolina.
- (55) *Evidentiary Hearing.* A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under NCGS Chapter 160D. (Amended 9/14/2021)
- (56) *Expenditure.* A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.
- (57) *Extraterritorial Planning Area.* That portion of the town's planning jurisdiction that lies outside the corporate limits of the town.
- (58) *Fairgrounds.* An area of land use including, but not limited to: Agricultural related office buildings, animal shows and judging, carnivals, circuses, community meeting or recreational buildings and uses, concerts, food booths and stands, games, rides, rodeos, sales and auctions (including outdoor flea markets), and theatres. Such county fairs, exhibitions, and shows do not include racetracks or motorized contests of speed. See Section 11.36 for further input. (Amended 5/04)
- (59) *Family.* One or more persons living together as a single housekeeping unit.

- (60) *Family Care Home.* A home with support and supervisory personnel that provide room and board, personal care and habilitation services in a family environment for not more than six (6) resident handicapped persons where such persons have a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing or sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in NCGS 122-58.2 (1) b. (Amended 2/12/91)
- (61) *Floodplain.* Any land area susceptible to be inundated by water from the base flood. As used in this chapter, the term refers to that area designated as subject to flooding from the base flood (one-hundred-year flood) on the "Flood Boundary and Floodway Map" prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the planning department.
- (62) *Floodway.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. As used in this chapter, the term refers to that area designated as a floodway on the "Flood Boundary and Floodway Map" prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the planning department.
- (63) *Floor.* The top surface of an enclosed area in a building (including basement), i.e. top of slab in concrete slab construction or top of wood flooring in a frame construction. The term does not include the floor of a garage used solely for parking vehicles.
- (64) *Food Truck or Concession Trailer.* A self-contained, readily movable trailer or motorized wheeled vehicle, currently registered with the North Carolina Division of Motor Vehicles, designed and equipped with facilities for cooking and selling food which satisfies local and state regulations for health and sanitation standards, that is removed each day from the location where the food is sold.
- (65) *Governing Body.* The Town Council or County Board of Commissioners. The term is interchangeable with the terms "board of aldermen" and "town/city council" and shall mean any governing board without regard to the terminology employed in charters, local acts, other portions of the NC General Statutes, or local customary usage. (Amended 9/14/2021)
- (66) *Granny Pods/Temporary Health Care Structures.* A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the State Building Code and NCGS 143-139.1(b). Placing the temporary health care structure on a permanent foundation shall not be required or permitted. (Amended 9/14/2021)
- (67) *Gross Floor Area.* The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
- (68) *Group Care Facility.* A facility licensed by the State of North Carolina (by whatever name it is called, other than 'Family Care Home' as defined by this Ordinance), with support and

supervisory personnel that provides room and board, personal care or habilitation services in a family environment for not more than thirty people. (Amended 7/99)

- (69) *Highest Adjacent Grade.* The highest natural elevation of the ground surface, prior to construction, next to proposed walls of the structure.
- (70) *Hives.* The structures used to house bees.
- (71) *Homeless Shelter.* A facility operating year-round which provides lodging and supportive services including, but not limited to, a community kitchen; assistance in obtaining permanent housing; medical counseling, treatment, and/or supervision; psychological counseling, treatment, and/or supervision; assistance in recuperating from the effects of or refraining from the use of drugs and/or alcohol; nutritional counseling; employment counseling; job training and placement; and child care for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements: 1) the facility shall be contained within the building and operated by a government agency or nonprofit organization; 2) a minimum floor space of fifty square feet shall be provided for each individual sheltered; and 3) the facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation. (Amended 7/99)
- (72) *Home Occupation.* A commercial activity that: (i) is conducted by a person on the same lot (in a residential district) where such person resides, and (ii) is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use (see Section 10.5), but that can be conducted without any significantly adverse impact on the surrounding neighborhood.

Without limiting the generality of the foregoing, a use may not be regarded as having an insignificantly adverse impact on the surrounding neighborhood if: (i) goods, stock in trade, or other commodities are displayed; (ii) any on-premises retail sales occur; (iii) more than one person not a resident on the premises is employed in connection with the purported home occupation; (iv) it creates objectionable noise, fumes, odor, dust or electrical interference; or (v) more than twenty-five percent of the total gross floor area of residential buildings plus other buildings housing the purported home occupation, or more than 500 square feet of gross floor area (whichever is less), is used for home occupation purposes.

The following is a non-exhaustive list of examples of enterprises that may be home occupations if they meet the foregoing definitional criteria: (i) the office or studio of a physician, dentist, artist, musician, lawyer, architect, engineer, teacher, or similar professional, (ii) workshops, greenhouses, or kilns, (iii) dressmaking or hairdressing studios.

- (73) *Inn.* A building, which contains a dwelling unit occupied by an owner or resident manager, in which more than four and less than 10 lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room.



- (74) *Kenel.* A commercial operation that: (i) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (ii) engages in the breeding of animals for sale.
- (75) *Landowner.* The holder of the title in fee simple. Absent evidence to the contrary, the town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase, to act as his or her agent or representative for the purpose of making applications for development approvals.
- (76) *Large Scale Zoning Amendment.* The rezoning of more than fifty (50) parcels.
- (77) *Legislative Decision.* The adoption, amendment, or repeal of a regulation under NCGS Chapter 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of NCGS Chapter 160D, Article 10.
- (78) *Legislative Hearing.* A hearing to solicit public comment on a proposed legislative decision.
- (79) *Loading and Unloading Area.* That portion of the vehicle accommodation area used to satisfy the requirements of Section 18.11.
- (80) *Lot.* A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

If a public body or any authority with the power of eminent domain condemns, purchases, or otherwise obtains fee simple title to or a lesser interest in a strip of land cutting across a parcel of land otherwise characterized as a lot by this definition, or a private road is created across a parcel of land otherwise characterized as a lot by this definition, and the interest thus obtained or the road so created is such as effectively to prevent the use of this parcel as one lot, then the land on either side of this strip shall constitute a separate lot.

Subject to Section 8.3, the permit-issuing authority and the owner of two or more contiguous lots may agree to regard the lots as one lot if necessary or convenient to comply with any of the requirements of this ordinance.

- (81) *Lot Area.* The total area circumscribed by the boundaries of a lot, except that: (i) when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and thirty feet from the center of the traveled portion of the street, and (ii) in a residential district, when a private road that serves more than three dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.
- (82) *Modular Home.* A dwelling unit constructed with one or more components which are prefabricated and hauled to the site that are capable of producing a dwelling which is indistinguishable from conventionally built homes and which meets the construction

requirements of the North Carolina Uniform Residential Building Code as amended. (Amended 9/14/2021)

(83) *Manufactured Home.* A dwelling unit that:

(i) is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended, and (ii) is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site, and (iii) meets or exceeds the construction standards of the U.S. Department of Housing and Urban Development, and (iv) conforms to the following appearance criteria.

- (a) The manufactured home has a minimum width, as assembled on the site, of twenty feet;
- (b) The pitch of the manufactured home's roof has a minimum vertical rise of three inches for each 12 inches of horizontal run and the roof is finished with asphalt, fiberglass shingles, or standing seam or rubber seam roof. (Amended 7/99)
- (c) The exterior siding of the manufactured home is of a color, material, and scale comparable with those in the immediate vicinity, and in no case does the degree of reflectivity of the exterior finish exceed that of a gloss white paint;
- (d) A continuous, permanent masonry curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home;
- (e) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy;
- (f) The manufactured home is set up in accordance with the standards established by the NC Department of Insurance.
- (g) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home are installed, are firmly attached to the manufactured home, and are securely anchored to the ground;
- (h) All roof structures provide an eave projection of no less than 6 inches, which may include a gutter;
- (i) The manufactured home shall be located on the lot so that the length of the manufactured home is parallel to the street and the main entrance is facing the street. On multi-frontage lots, the manufactured home shall be sited so that its length and main entrance are facing the higher classified street affording vehicular access; and
- (j) It is the intent of these criteria to ensure that manufactured homes, when installed, shall have substantially the appearance of an on-site conventionally-built, single-family dwelling. (Amended 12/12/94)

- (84) *Manufactured Home Park.* A residential use in which more than one Class C manufactured home is located on a single lot. See Section 11.2 for specific provisions related to manufactured home parks.
- (85) *Marina.* A publicly or privately owned dock, basin, or boat storage facility built to accommodate more than 10 boats and to provide permanent or temporary docking space, dry stack storage, haul-out facilities, and repair services. A marina may also include related accessory services such as food preparation, food sales, fuel sales, etc.
- (86) *Multi-Phase Development.* A development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.
- (87) *Nonconforming Lot.* A lot existing at the effective date of this chapter (and not created for the purposes of evading the restrictions of this chapter) that does not meet the minimum area requirement of the district in which the lot is located.
- (88) *Nonconforming Project.* Any structure, development, or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
- (89) *Nonconforming Situation.* A situation that occurs when, on the effective date of this chapter, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and set-back requirements) is not in conformity with this chapter, because signs do not meet the requirements of this chapter (Article 17), or because land or buildings are used for purposes made unlawful by this chapter.
- (90) *Nonconforming Use.* A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with operating a bakery in a residentially zoned area constitutes a nonconforming use.)
- (91) *Nursing Institution.* An institutional facility maintained for the purpose of providing skilled care and medical supervision at a lower level than that available in a hospital to more than nine persons. (Amended 7/99)
- (92) *Outdoor Flea Market.* An outdoor market held on a regular basis at a fixed location, and at which an individual, or groups of individuals, offers goods, new or used, for sale to the public. Open Air Markets include flea markets, permanent yard sales, outdoor craft shows, itinerant merchant displays, curious items, antiques markets, and other goods and wares (excluding yard sales not held on a regular basis, produce stands, auctions, motor vehicle and boat sales, and other retail establishments). Refer to Section 11.36 for further input. (Amended 5/04)

- (93) *Parking Area Aisles.* A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.
- (94) *Parking Space.* A portion of the vehicle accommodation area set aside for the parking of one vehicle.
- (95) *Parapet.* The extension of a false front or a false wall above the roofline.
- (96) *Person.* Any individual, partnership, firm, association, joint venture, public or private corporation, trust estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity. (Amended 9/14/2021)
- (97) *Planned Residential Development.* A development constructed on a tract of at least five acres under single ownership, planned and developed as an integral unit, and consisting of single-family detached residences combined with either two-family residences or multifamily residences, or both, all developed in accordance with Section 11.1.
- (98) *Planning Jurisdiction.* The area within the town limits as well as the area beyond the town limits within which the town is authorized to plan for and regulate development, as set forth in Section 1.4.
- (99) *Property.* All real property subject to land use regulation by the town. The term includes any improvements or structures customarily regarded as part of real property. (Amended 9/14/2021)
- (100) *Public Water Supply System.* Any water supply system furnishing potable water to ten or more dwelling units or businesses or any combination thereof.
- (101) *Quasi-Judicial Decisions.* A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board. (Amended 9/14/2021)
- (102) *Resort/Conference Facility.* A use primarily intended for transient guests where the primary attractions are generally conference and meeting facilities and recreational activities and features. A resort may include a mixture of such uses as (a) conference centers; (b) assembly halls; (c) indoor and outdoor recreational facilities, including but not limited to golf courses, swim and tennis clubs, and physical fitness centers; (d) hotel and motels; (e) multi-family dwellings and townhouses; (f) restaurants; (g) marinas; and (h) incidental support retail businesses. (Amended 7/99)
- (103) *Road.* All private ways used to provide motor vehicle access to (i) two or more lots or (ii) two or more distinct areas or buildings in unsubdivided developments.

- (104) *Roof Line*. The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.
- (105) *Rooming House*. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.
- (106) *Sexually Oriented Business*. An adult arcade, adult bookstore or adult video store, adult cabaret, adult massage parlor, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter studio, or any combination of the foregoing. As used in this Ordinance, the following definitions shall apply:
- (a) *Adult Arcade* (also know as ‘peep show’). Any place to which the public is permitted or invited, wherein coin-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe specified sexual activities and/or specified anatomical areas.
  - (b) *Adult Bookstore or Adult Video Store*. A commercial establishment which as one of its principal business purposes offers for sale or rental, for any form of consideration, any one or more of the following:
    - 1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe specified sexual activities and/or specified anatomical areas; or
    - 2. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
  - (c) *Adult Cabaret*. A nightclub, bar restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes:
    - 1. Persons who appear nude or semi-nude; or
    - 2. Live performances which are characterized by the exposure of specified anatomical areas and/or by specified sexual activities; or
    - 3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe specified sexual activities and/or specified anatomical areas.
  - (d) *Adult Massage Parlor*. A commercial establishment where, for any form of consideration, massage, alcohol rub, fomentation, electrical or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person

licensed by the State of North Carolina. This definition does not include an athletic club, physical fitness center, school, gymnasium, reducing salon, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

- (e) *Adult Motel.* A hotel, motel, or similar commercial establishment that:
  - 1. Offers accommodations to the public, for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe specified sexual activities and/or specified anatomical areas as one of its principal business purposes; or
  - 2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
  - 3. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.
- (f) *Adult Motion Picture Theater.* A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe specified sexual activities and/or specified anatomical areas.
- (g) *Adult Theater.* A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits, or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict specified anatomical areas and/or specified sexual activities.
- (h) *Escort.* A person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- (i) *Escort Agency.* A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or any other form of consideration.
- (j) *Nude Model Studio.* Any place where a person who appears nude or semi-nude, or who displays specified anatomical areas, is provided to be observed to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration. 'Nude model studio' shall not include a proprietary school licensed by the State of North Carolina or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
  2. Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
  3. Where no more than one nude or semi-nude model is on the premises at any one time.
- (k) *Nude or a State of Nudity.* The appearance of a human anus, male genitals, or female genitals; or a state of dress which fails to opaquely cover a human anus, male genitals, or female genitals.
- (l) *Semi-nude.* A state of dress in which clothing covers no more than the genitals, pubic region, or areola of the female breast, as well as portions of the body covered by supporting straps or devices.
- (m) *Sexual Encounter Center.* A business or commercial enterprise that, as of one of its principal business purposes, offers for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
- (n) *Specified Anatomical Areas.* Less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (o) *Specified Sexual Activities.* Includes any of the following:
1. Human genitals in a state of sexual stimulation, arousal, or tumescence; or
  2. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
  3. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
  4. Masturbation, actual or simulated; or
  5. Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or
  6. Erotic or lewd touching, fondling, or other contact with an animal by a human being; or
  7. Human excretion, urination, menstruation, vaginal or anal irrigation. (*Amended 11/10/98*)

- (107) *Shopping Center.* A group of commercial establishments planned, constructed, developed, and managed as a total entity with a unified design of buildings and with a unified design of buildings, landscaping, and signage with coordinated parking for customers and employees provided on site. Shopping Center Developments shall be classified into one of the following categories:
- (a) *Neighborhood Shopping Center.* A group of three or more commercial establishments with a total business space of 10,000 square feet or less, designed to provide convenient shopping for the day-to-day needs of consumers in the immediate neighborhood.
  - (b) *Community Shopping Center.* A group of two or more commercial establishments containing 10,000 to 80,000 square feet of gross floor area designed as a large-scale commercial center offering a wider range of apparel and other goods providing a shopping environment for the community and general public.
  - (c) *Regional Shopping Center.* A retail shopping area with a minimum lot size of 5 acres, containing at least two major commercial establishments and over 80,000 square feet of gross floor area designed to offer a wide range of retail and services with customers drawing from the regional population. *(Amended 4/9/02)*
- (108) *Sign.* Any device that (i) is sufficiently visible to persons not located on the lot where such device is located to accomplish either of the objectives set forth in subdivision two of this definition; and (ii) is designed to attract the attention of such persons or to communicate information to them.
- (109) *Sign, Construction.* A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier or others involved in the development of the project.
- (110) *Sign, Electronic Message Board.* A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means. A time and/or temperature sign shall not be considered an electronic graphics sign.
- (111) *Sign, Freestanding.* A sign erected which is wholly independent of any building, advertising a product, service, activity, or event on the premises. *(Amended 2/12/91)*
- (112) *Sign, Nonconforming.* A sign that, on the effective date of this chapter, does not conform to one or more of the regulations set forth in this chapter, particularly Article 17, Signs.
- (113) *Sign Permit.* A permit issued by the land use administrator that authorizes the recipient to erect, move, enlarge, or substantially alter a sign.
- (114) *Sign, Roof.* Any sign erected, constructed, or maintained upon or over the roof of a building, or extending above the highest wall of the building, and having its principal support on the roof or walls of the building.
- (115) *Sign, Snipe.* A sign that is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences, or to other objects.



- (116) *Sign, Temporary.* A sign that (i) is used in connection with a circumstance, situation, or event that is designed, intended or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or (ii) is intended to remain on the location where it is erected or placed for a period of not more than fifteen days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.
- (117) *Site Plan.* A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision. (Amended 9/14/2021)
- (118) *Solar Farm:* Solar Farms are defined as a collection of ground mounted photovoltaic solar panels that are intended for utility-scale solar applications.
- (119) *Special Events.* Circuses, fairs, carnivals, festivals, or other types of special events that (i) run for longer than two days but not longer than fourteen (14) calendar days, (ii) are intended to or likely to attract substantial crowds, and (iii) are unlike the customary or usual activities generally associated with the property where the special event is to be located. (Amended 5/06)
- (120) *Special Use.* A use permitted in a particular zoning district by the Town Council or Board of Adjustment after having held a public hearing and determined that the use in a specified location complies with certain findings of fact as specified in this Ordinance. (Amended 9/14/2021)
- (121) *Special Use Permit.* A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions. (Amended 9/14/2021)
- (122) *Special Use Permit, Major.* A permit issued by the Town Council that authorizes the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements imposed by the Council. (Amended 9/14/2021)
- (123) *Special Use Permit, Minor.* A permit issued by the Board of Adjustment that authorizes the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements imposed by the Board of Adjustment. (Amended 9/14/2021)
- (124) *Standing.* The following persons shall have standing to file an appeal:

- (a) Any person possessing any of the following criteria:
  - 1. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restrictions, or covenant in the property that is the subject of the decision being appealed.
  - 2. An option or contract to purchase the property that is the subject of the decision being appealed.
  - 3. An applicant before the decision-making board whose decision is being appealed.
- (b) Any other person who will suffer special damages as the result of the decision being appealed.
- (c) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.
- (d) A local government whose decision-making board has made a decision that the Town Council believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by that Board. *(Amended 9/14/2021)*
- (125) *Street*. A public street or a street with respect to which an offer of dedication has been made.
- (126) *Street, Arterial*. A major street in the town's street system that serves as an avenue for the circulation of traffic onto, out, or around the town and carries high volumes of traffic.
- (127) *Street, Collector*. A street whose principal function is to carry traffic between minor, local, and sub-collector streets and arterial streets but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than one hundred dwelling units and is designed to be used or is used to carry more than eight hundred trips per day.
- (128) *Street, Cul-de-sac*. A street that terminates in a vehicular turn-around.
- (129) *Street, Local*. A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten but not more than twenty-five dwelling units and is expected to or does handle between seventy-five and two hundred trips per day.

- (130) *Street, Marginal Access.* A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.
- (131) *Street, Minor.* A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine dwelling units and is expected to or does handle up to seventy-five trips per day.
- (132) *Street, Sub-collector.* A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least twenty-six but not more than one hundred dwelling units and is expected to or does handle between two hundred and eight hundred trips per day.
- (133) *Structure.* Anything constructed, placed, or erected, the use of which requires location on the land, or attachment to something having a permanent location on the land. *(Amended 9/14/2021)*
- (134) *Subdivider.* Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined. *(Amended 9/14/2021)*
- (135) *Subdivision.* The division of a tract of land into two or more lots, building sites, or other divisions when one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this chapter applicable strictly to subdivisions: (i) the combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this chapter, (ii) the division of land into parcels greater than ten acres where no street right-of-way dedication is involved; (iii) the public acquisition by purchase of strips of land for widening or opening of streets or for public transportation system corridors; (iv) the division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in this chapter; or (v) the division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- (136) *Subdivision, Architecturally Integrated.* A subdivision in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots. The plans for an architecturally integrated subdivision shall show the dimensions, height and location of all such buildings to the extent necessary to comply with the purpose and intent of architecturally integrated subdivisions as set forth in Section 12.8.
- (137) *Subdivision, Major.* Any subdivision other than a minor subdivision.

- (138) *Subdivision, Minor.* A subdivision that does not involve any of the following: (i) the creation of more than a total of three lots; (ii) the creation of any new public streets, (iii) the extension of a public water or sewer system, or (iv) the installation of drainage improvements through one or more lots to serve one or more other lots.
- (139) *Temporary Uses/Sales.* A use or sale established for a fixed period to time, with the intent to discontinue such use upon the expiration of such time, that does not involve the construction or alteration of any permanent structure.
- (140) *Tiny House.* A single-family detached home that is 200 square feet to 699 square feet in size (not including loft space) and complies with the North Carolina State Building Code, includes container homes. A tiny house on wheels for permanent occupancy (longer than 30 days) is considered a recreational vehicle.
- (141) *Tower.* Any structure whose principal function is to support an antenna.
- (142) *Town.* The Town of Edenton.
- (143) *Tract.* A lot (see definition 47). The term tract is used interchangeably with the term lot, particularly in the context of subdivisions, where one "tract" is subdivided into several "lots."
- (144) *Travel Trailer.* A structure that (i) is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle) and (ii) is designed for temporary use as sleeping quarters but that does not satisfy one or more of the definitional criteria of a manufactured home.
- (145) *Use.* The activity or function that actually takes place or is intended to take place on a lot.
- (146) *Use, Mixed.* Occupancy of a building or land by more than one use. (Amended 7/99)
- (147) *Use, Principal.* The primary purpose or function that a lot or structure serves or is proposed to serve. (Amended 7/99)
- (148) *Variance.* A grant of permission by the Board of Adjustment that authorizes the recipient to do that which, according to the strict letter of this chapter, he could not otherwise legally do.
- (149) *Vegetative Zone.* An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. (Amended 7/99)
- (150) *Vehicle Accommodation Area.* That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas.
- (151) *Vested Right.* The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS Chapter 160D-108 or under common law. (Amended 9/14/2021)

- (152) *Wholesale Trade*. On-premises sales of goods primarily to customers engaged in the business of reselling the goods. (Amended 7/99)
- (153) *Wooded Area*. An area of contiguous wooded vegetation where trees are at a density of at least one six-inch or greater caliper tree per 325 square feet of land and where the branches and leaves form a contiguous canopy.
- (154) *Zoning Map Amendment or Rezoning*. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of the town that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by the town, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district. (Amended 9/14/2021)
- (155) *Zoning Permit*. A permit issued by the land use administrator that authorizes the recipient to make use of property in accordance with the requirements of this chapter.

## **Section 2.2 Lots Divided by District Lines.**

(a) Whenever a single lot two acres or less in size is located within two or more different zoning districts, the district regulations applicable to the district within which the larger portion of the lot lies shall apply to the entire lot.

(b) Whenever a single lot greater than two acres in size is located within two or more different zoning districts, then:

- (1) If each portion of the lot located within a separate district is equal to or greater than the minimum lot size for that district, then each portion of the lot shall be subject to all regulations applicable to the district in which it is located.
- (2) If any portion of the lot located within a separate district is smaller than the minimum lot size for that district, then such smaller portion shall be regarded as if it were in the same zoning district as the nearest larger portion to which it is attached.

(c) This section applies only to lots created on or before the effective date of this chapter unless the Board of Adjustment, in a proceeding under Section 5.4 to determine district boundaries, concludes that a lot established after the effective date of this section was not created to bring additional lot area within a more intensive zoning district, or otherwise to take unfair or unwarranted advantage of the provisions of this section.