

## ARTICLE XII DEFINITIONS

**21.1 Word Interpretations.** For the purpose of this ordinance, unless otherwise expressly stated, the following words shall have the meanings herein indicated. Words not defined in this Article shall be given their ordinary and common meaning. Terms not specifically defined herein shall have such definition as set forth in N.C.G.S. 160D.:

**21.2 Rules of Construction.** For purposes of this Article, the following rules of construction shall apply:

1. **Tense:** Words used in the present tense include the future tense;
2. **Singular and Plural:** Words used in the singular number include the plural number, and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise;
3. **Mandatory Meaning:** The words ‘shall’, ‘will’, and ‘must’ are mandatory in nature implying an obligation or duty to comply with the particular provision;
4. **Gender:** Words used in the male gender include the female gender.

**21.3 References.** Any references to a Section or Article shall mean a Section or Article of this Ordinance, unless otherwise specified. Whenever any provision or definition refers to or cites a section of the North Carolina General Statutes (*NCGS*) or any other state or local law and that section is later amended or superseded, this Article or other provisions within this Ordinance shall be deemed amended to refer to the amended statutes or law or the section that most nearly corresponds to the superseded section.

### 21.4 Definition of Terms

**Accessory.** An incidental to another use or structure on the same lot.

**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.

**Accessory Structure. Address.** The official house, building, or structure number assigned by the County for a specific lot, building or portion thereof.

**Address.** The official house, building, or structure number assigned by the County for a specific lot, building or portion thereof.

**Administrative Decision.** Decisions made in the implementation, administration or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this ordinance. These are sometimes referred to as ministerial decisions or administrative decisions.

**Administrative Hearing.** A proceeding to gather facts needed to make an administrative decision.

**Aircraft.** Any machine supported for flight in the air by buoyancy or by the dynamic action of air on its surfaces, including, but not limited to, powered airplanes, gliders, helicopters, and dirigibles.

**Alley.** A roadway which affords only a secondary means of access to abutting property.

**Apartment.** A room or unit of one or more rooms, each of which have kitchen facilities, and are designed or intended to be used, as an independent unit, on a rental basis.

**Apartment Accessory.** *See Dwelling, Apartments*

**Assembly.** A joining together of completely fabricated parts to create a finished product.

**Athletic Field** Outdoor sites, often requiring equipment, designed for formal athletic competition in field sports (*e.g. softball, soccer, football*).

**Auto Wrecking.** A person or establishment that provides open storage, disassembling, or salvaging for junked motor vehicles.

**Automobile Wash or Automatic Car Wash.** A lot or structure on which motor vehicles are washed or waxed, either by the patron or by others, using machinery specifically designed for the purpose.

**Automobile Repair Services.** An establishment primarily engaged in one or more of the following activities: **1)** general automotive repair or service, **2)** automotive engine repair, **3)** installation or repair of automotive transmissions, **4)** installation or repair of automotive glass, **5)** installation or repair of automotive exhaust systems, **6)** repair of automotive tops, bodies and interiors, and **7)** automotive painting and refinishing.

**Basement.** A story of a building or structure having one-half or more of its clear height below grade.

**Board of Planning and Adjustment.** A body composed of representatives from the planning jurisdiction of Pinetops which are given certain powers under and relative to this ordinance.

**Boarding House.** A rooming house or structure which contains four (4) or more rooms, each of which have no kitchen facilities and are designed or intended to be used for residential occupancy on a rental basis.

**Buffer.** An area of natural or planted vegetation through which storm water 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. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams and rivers. The widths of buffer areas are established pursuant to the requirements of Article V.

**Buffer Yard.** 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, walks, or fences in accordance with the provisions of Article V.

**Building.** Any structure used or intended for supporting or sheltering any use or occupancy.

**Building, Commercial.** Any building used for business purposes.

**Building, Detached.** A building having no party or common wall with another building except an accessory building.

**Building Height.** The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. Height of a building in stories does not include basements, except as specifically provided for in this Ordinance.

**Building Line.** The line, established by this Ordinance, beyond which the building shall not extend, except as specifically provided by this Ordinance.

**Building, Main.** A building in which the principle use of the lot on which the building is situated is conducted.

**Building, Site.** Any lot or portion thereto, of a parcel of land upon which a building or buildings may be erected in conformance with the provisions contained herein.

**Caliper Inches.** Quantity in inches of the diameter of trees measured at six inches above the ground for trees four inches or less in trunk diameter and twelve inches above the ground for trees over four inches in trunk diameter.

**Canopy Tree.** A species of tree which normally grows to a mature height of forty feet or more with a minimum mature crown width of thirty feet.

**Certificate of Occupancy.** A statement signed by the Zoning Administrator setting forth that the building, structure or use complies with the Zoning Ordinance and any applicable construction codes and that the same may be used for the purposes stated herein.

**Collector Road.** A road whose principal function is to carry traffic between cul-de-sac, local, and subcollector roads, and roads of higher classification, but which may also provide direct access to abutting properties.

**Comprehensive Plan.** A comprehensive plan that has been officially adopted by the Board of Commissioners pursuant to G.S. 160D-501.

**Conditional Zoning.** A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

**Condominium.** Portions of real estate which are designated for separate ownership, and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

**Construction, Trades.** One who accomplished work or provides facilities under contract with another and specifically engages in a specialized trade such as plumbing, heating, wiring, sheet metal and roofing work, etc.

**Congregate Care Facility.** A facility providing shelter and services for ambulatory individuals who by reason of the age, functional impairment, or infirmity may require meals, housekeeping, and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.

**Convenience Store.** A retail store 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.

**Corner Lot.** A lot abutting two or more roads at their intersection.

**County.** Refers to Edgecombe County, North Carolina.

**Day.** Any reference to days shall mean calendar days unless otherwise specified. A duration of days shall include the first and last days on which an activity is conducted, and all days in between, unless otherwise specified by state law.

**Day Care Center.** A child day care facility as defined in NCGS 110-86(3) 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 the Development Standards in Article III for specific provisions related to day care centers.

**Determination.** A written, final and binding order, requirement or determination regarding an administrative decision.

**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.

**Development.** The term Development shall mean any of the following unless the context clearly indicates otherwise:

- (a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure;
- (b) Excavation, grading, filling, clearing or alteration of land;

- (c) The subdivision of land as defined in N.C.G.S. 160D-802; or;
- (d) The initiation or substantial change in the use of land or the intensity of use of land.

**Development Agreement.** An agreement between the Town and a developer pursuant to NCGS §160D-101 for a large-scale development with a lengthy buildout period and having a public-private partnership component involving mutual financial interests.

**Development Approval.** An administrative or quasi-judicial approval made pursuant to N.C.G.S. 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. This term also includes all other regulatory approvals required by regulations adopted pursuant to this N.C.G.S. 160D including plat approvals, building and other permits issued, subdivisions of land, and development agreements entered into.

**Development, Density Of.** The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new roads, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks, shall be used for density calculations.

**Development regulation.** A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain 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 N.C.G.S. 160D, or a local act or charter that regulates land use or development.

**Drive-in (eating or drinking facility).** Means an establishment that provides employee curb service or accommodations through special equipment or facilities for the ordering of food or beverage from a vehicle.

**Duplex.** *(See Two-Family Dwelling).*

**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. For the purposes of Article 12 of N.C.G.S. 160D, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

**Dwelling, Apartments Accessory to a Commercial Use.** One (1) to three (3) multifamily dwelling units located within a commercial establishment.

**Dwelling, Single-Family.** A detached building designed for or occupied exclusively by one (1) family.

**Dwelling, Two-Family.** A detached building either designed for or occupied by two (2) families living independently of each other.

**Dwelling, Multiple.** A building designed as a residence and used for more than two (2) families living independently of each other.

**Dwelling, Unit.** A single unit providing complete independent living facilities for one or more persons.

**Easement.** A grant of one or more of the property rights, by the property owner, to, or for use by, the public, a corporation, or other entities.

**Emergency Shelter.** A facility providing, without charge, temporary sleeping accommodations, with or without meals, for individuals and/or families displaced from their residences as a result of sudden natural or man-made catastrophe including, but not limited to, earthquake, fire, flood, tornado, hurricane, or the release of hazardous or toxic substance(s) into the environment. Such a natural or man-made catastrophe must be designated by the responsible local, state, or federal official, or an emergency agency such as the American Red Cross or the Emergency Management Assistance Agency.

**Erect.** To build, construct, rebuild, reconstruct, as the same are commonly defined.-

**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.

**Existing Lot (Lot of Record).** *See Lot of Record.*

**Existing Development.** Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this Ordinance based on at least one of the following criteria:

(A) substantial expenditures of resources (*time, labor, money*) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or (B) having an outstanding valid building permit as authorized by NCGS – 160D-108, or (C) Having an approved site specific vesting or phased development plan as authorized by NCGS 160D-108.1.

**Fabrication.** The processing and/or assemblage of various components into a complete or partially completed commodity. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects. The refining aspects of manufacturing and other initial processing of basic raw materials such as metal ore, lumber and rubber, etc. are included.

**Family.** One or more persons occupying a dwelling unit and living as a single household.

**Family Care Home.** A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for six or less resident handicapped persons, pursuant to NCGS 168-21.

**Fence.** A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material, used as a boundary or means of protection or confinement, but not including a hedge or other vegetation.

**Frontage.** All property abutting on one (1) side of a street measured along the street line.

**Garage, Private.** A building or space used as an accessory to a part of the main building permitted in any residential district that provides storage space for motor vehicles and in which no business, occupation of service for profit is in any way conducted.

**Grade, Finished.** The final elevation of the ground surface after development.

**Grade, Natural.** The elevation of the ground surface in its natural state before man-made alterations.

**Gross Floor Area.** The sum of the gross horizontal areas of one or several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

**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.

**Habitable Floor.** Any floor useable for living purposes which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a habitable floor.

**Home Occupation.** Any use conducted entirely within a dwelling or an accessory building and carried on by the occupants thereof, which use is incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Specific regulations concerning home occupations are delineated in Article III.

**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.

**Horse Show.** A temporary equestrian activity which is not conducted in conjunction with a riding academy.

**Industrial Discharge.** The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

(A) Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;

(B) Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;

(C) Stormwater will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or

(D) Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

**Interior Setback.** A setback from any property line not alongside a road.

**Junk.** Perused or unusable metallic parts and other nonmetallic manufactured products that are worn, deteriorated or obsolete making them unusable in their existing condition, but are subject to be dismantled and salvaged.

**Junk/Salvage Yard.** A commercial or industrial use of land or area that involves the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

**Junked Motor Vehicle.** A motor vehicle that does not display a current license plate and is one or more of the following: **1)** is partially dismantled or wrecked; or **2)** cannot be self-propelled or moved in the manner in which it originally was intended to move; or **3)** more than five years old and appears to be worth less than one hundred dollars; provided that any motor vehicle used on a regular basis for business or personal use shall not be caused to be removed or disposed.

**Kennel.** A facility operated exclusively for profit and for the expressed purposes of providing shelter for animals.

**Landfill.** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the NC General Statutes. For the purpose of this Ordinance, this term does not include composting facilities.

**Landfill, Demolition and Construction Debris.** A disposal site for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth. Disposal of any other types of waste must be approved by the NC Division of Health Services. *(Areas under two acres to be used for parking lots or nonhabitable buildings for which a building permit has*

*been issued, using solid blocks, bricks, and uncontaminated soil for filling, is exempt from this definition.)*

**Landfill, Discharging.** A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

**Landfill, Sanitary/Solid Waste.** A site for solid waste disposal from residential, industrial or commercial activities.

**Legislative decision.** The adoption, amendment or repeal of a regulation under the zoning ordinance, N.C.G.S. 160D, and/or an applicable local act. It also includes the decision to approve, amend or rescind a development agreement.

**Legislative hearing.** A hearing to solicit public comments on a proposed legislative decision.

**Local Road.** A road whose primary function is to provide access to abutting properties.

**Lot.** A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, or for development or both. The word 'lot' includes 'plot', 'parcel', or 'tract'.

**Lot Area.** The total area circumscribed by boundaries of a lot except that when the legal instrument creating a lot shows the boundary of the lot extending into a public road or private right-of-way, then the lot boundary for purposes of computing the lot area shall be the road right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the road.

**Lot Corner.** Any parcel of land having frontage on more than one street (*road*) which abuts and intersection of those streets (*roads*).

**Lot Coverage.** The portion of a lot covered by building(s) and/or structure(s).

**Lot Depth.** The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

**Lot Line.** Any boundary of a parcel of land.

**Lot Line, Front.** The boundary line of a lot running along a road right-of-way. If a lot has two property lines which are also road right-of-way lines abutting different roads, then the shorter of those two lines shall constitute the front lot line; if both lines are equal, the front lot line shall be determined by the property owner if the front property line has not been designated on a final plat (*minimum building lines are construed to designate the front lot line*).

**Lot Line, Side.** A boundary line which is not defined as a front or rear lot line.

**Lot, Through.** A continuous lot of the same depth as the width of a block, accessible from both rights-of-way upon which it fronts.

**Lot of Record.** A lot, plot, parcel, or tract recorded in the Office of the Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation.

**Lot Width.** The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

**Major Thoroughfare Road.** Major thoroughfares consist of interstate, other freeway, expressway, or parkway links, and major roads that provide for the expeditious movement of high volumes of traffic within and through urban areas.

**Manufactured Home.** A dwelling unit, designed for use as a permanent residence, that is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed for installation or assembly and installation on the building site.

**Manufactured/Mobile Home, Class A.** A manufactured home, constructed after July 1, 1976, used as a dwelling unit that: (1) is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended, and (2) 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 (3) meets or exceeds the construction standards of the US Department of Housing and Urban Development, and (4) 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 nominal vertical rise of three inches for each 12 inches of horizontal run and the roof is finished with asphalt or fiberglass shingles;
- (c) A continuous, permanent brick curtain wall, unpierced except for required ventilation and access is installed under the manufactured home;
- (d) The tongue, axels, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy;
- (e) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the NC Department of Insurance and attached firmly to the primary structure and anchored securely to the ground;
- (f) The exterior materials shall be of vinyl, wood, hardboard or aluminum comparable in composition, appearance, and durability to site built houses in the vicinity and which does not exceed the reflectivity of gloss white paint; and,
- (g) The longest axis or length must face primary access street or road.

**Manufactured/Mobile Home, Built before July 1, 1976.** Any manufactured home that

was manufactured prior to the required US Department of Housing and Urban Development standards, inspection, and approval beginning on July 1, 1976, shall not be permitted as a permanent residence within the town's planning jurisdiction. In addition, this class of manufactured home shall not be used as storage vehicles, containers, or facility where it is parked permanently within a residential used or zoned area.

**Manufactured Home Space.** A designated area of land within a manufactured home park designed for the accommodation of a single manufactured dwelling home in accordance with the requirements of this Ordinance.

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

**Minor Thoroughfare Road.** Minor thoroughfares collect traffic from collector, subcollector, and local roads and carry it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating movement of moderate volumes of traffic within and through urban areas and may also serve abutting property.

**Modular Home.** A dwelling unit constructed in accordance with the standards set forth in the NC State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home (*except that the modular home meets the NC State Building Code*), or a series of panels or room sections transported on a truck and erected or joined together on the site.

**Nonconforming.** A lot, structure, sign, or use of land, which is now prohibited under the terms of this Ordinance, but was lawful at the date of this Ordinance's enactment, or any amendment or revision thereto.

**Nonconforming Lot(s).** A lot of record that does not conform to the dimensional requirements of the zoning district in which it is located. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

**Nonconforming Project.** Any structure, development, or undertaking that is incomplete at the effective date of this Ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

**Nonconforming Situation.** A situation that occurs when, on the effective date of this Ordinance, 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 Ordinance, because signs do not meet the requirements of this Ordinance, Article VIII, or because land or buildings are used for purposes made unlawful by this Ordinance.

**Nonconforming Structure(s).** A structure that does not conform to the requirements of this Ordinance. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

**Nonconforming Use.** A use which once was a permitted use on a parcel of land or within a structure, but which is not now a permitted use. The nonconformity may result from the adoption of this Ordinance or any subsequent amendment.

**Nonconformity, Dimensional.** 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.

**Nursing Home.** An establishment which provides full-time convalescent or chronic care, or both, to persons who are not related by blood or marriage to the operator, or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

**Outdoor Religious Event.** An activity of a religious organization that is conducted outdoors as a free-standing use and is not an accessory use to a principal use such a church or other place of worship. An example of an outdoor religious event would be a tent revival.

**Owner or Landowner.** The holder of the title in fee simple. Absent evidence to the contrary, a local government 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.

**Pedestrian Way.** A right-of-way or easement dedicated to public use to facilitate pedestrian access to adjacent roads and properties.

**Permit-issuing Authority.** The person or board authorized by this Ordinance to issue a permit in accordance with the requirements of this Ordinance. The term applies to the Zoning Administrator when issuing a zoning permit and the Board of Adjustment when issuing a special use permit.

**Planning Board.** Means, for the purposes of this Ordinance, a body appointed by the Pinetops Board of Commissioners to perform the following duties: develop and recommend long range development plans and policies and to advise the Board of Commissioners in matters pertaining to current physical development and zoning for the Town's planning jurisdiction.

**Principal Building.** A building in which is conducted the principal use of the zone lot on which it is located or, in a group development, of the building site on which it is located. Any dwelling is considered a principal building unless it is a farm tenant dwelling; or a residence for a pastor; or a caretaker dwelling accessory to a nonresidential use (limited to one such residence per lot; See Article III).

**Principal Dwelling.** Any principal building or structure which is used and designed for human habitation including living, sleeping, cooking and eating activities excluding dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents.

**Principal Structure.** A structure(s) in which is conducted the principal use(s) of the lot on which it is located.

**Private Dormitory.** A multiple unit residential accommodation which is established directly or indirectly, in association with a college, business college, trade school or university, for the purpose of housing students registered and attending such an institution. A private dormitory may contain food preparation and eating facilities primarily for the use of its occupants.

**Private Drive.** A vehicular travel way not dedicated or offered for dedication as a public road, providing access to parking lot(s) for two or more principal buildings in a group housing or group nonresidential development.

**Private Sewer.** A system which provides for collection and/or treatment of wastewater from a development, or property, and which is not maintained with public funds.

**Private Road.** A vehicular travel way not dedicated or offered for dedication as a public road, but resembling a cul-de-sac or a local road by carrying traffic from a series of driveways to the public road system. Private roads must comply with the requirements of the Town's Subdivision Regulations.

**Private Water.** A system which provides for the supply and/or distribution of potable water for use by a development, project, or owner, and which is not operated or maintained by a government organization or utility district.

**Processing.** Any operation changing the nature of material or material's chemical composition or physical properties. Does not include operation described as fabrication.

**Public Sewer.** A system which provides for the collection and treatment of sanitary sewage from more than one property, and is owned and operated by a government organization or sanitary district.

**Public Road.** A dedicated public right-of-way for vehicular traffic which **1)** has been accepted by NCDOT for maintenance; or **2)** is not yet accepted but in which the roadway design and construction have been approved under public standards for vehicular traffic.

Alleys are specifically excluded.

**Public Water.** A system which provides distribution of potable water for more than one property and is owned and operated by a government organization or utility district.

**Quasi-judicial decision.** A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are 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 ordinance 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.

**Rear Setback.** A setback from an interior property line lying on the opposite side of the lot from the front road setback.

**Recreational Vehicle.** A vehicle which is built on a single chassis, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Includes, but is not limited to truck campers, camping trailers, and self propelled motor homes.

**Recreational Vehicle Park.** Any site or tract of land, of contiguous ownership, upon which fifteen or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in this Ordinance.

**Recreational Vehicle Space.** A plot of land within a recreational vehicle park designed for the accommodation of one recreational vehicle in accordance with the requirements set forth in this Ordinance.

**Retail.** The sale of a commodity to the ultimate consumer and not customarily subject to sale again.

**Retaining Wall.** A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill or other similar material.

**Reverse Frontage Lot.** A through lot which is not accessible from one of the parallel or non-intersecting roads upon which it fronts.

**Riding Academy.** A commercial facility or school which is open to the general public and offers such activities as riding lessons, horse training, and boarding of horses. For purposes of this ordinance, riding academy does not include the keeping of horses for personal use.

**Road Right-of-Way.** A strip of land occupied or intended to be occupied by a travel way for vehicles and also available, with the consent of the appropriate governmental agency, for installation and maintenance of sidewalks, traffic control devices, traffic signs, road name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.

**Road Setback.** Any setback from a street, road, or lane.

**Roof Line.** The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

**Rooming Unit.** A room designed, occupied, or intended for occupancy as separate living quarters with sleeping, but not necessarily cooking and sanitary facilities provided therein.

**Rural Family Occupation.** A nonresidential use allowed by special use permit as an accessory use to a residential use in certain designated residential zoning districts. Rural family occupations must comply with the requirements of Section\_\_\_\_\_.

**Salvage Yard, Auto Parts.** Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5015. Also, any land or area used, in whole or part, for the storage, keeping, accumulation, dismantling, demolition, or abandonment of inoperable vehicles or parts there from.

**Salvage Operation.** The reclamation, dismantling or storage of perused commodities, junk and similar material for the purposes of resale, processing, distribution or disposition.

**Seating Capacity.** The actual seating capacity of an area based upon the number of seats, or one seat per eighteen inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the NC Building Code.

**Service Station.** A building or lot where gasoline, oil, grease and automotive accessories are supplied and dispensed to a motor vehicle trade.

**Setback.** The distance between the minimum building line and the street right-of-way line and where no street right-of-way is involved, the property line shall be used in establishing the setback.

**Sexually-Oriented Business.** All 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:

- (1) **Adult Arcade** (also known 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.

- (2) **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:
- a. 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
  - b. Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities
- (3) **Adult Cabaret.** A nightclub, bar restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes:
- a. Persons who appear nude or semi-nude; or
  - b. Live performances which are characterized by the exposure of specified anatomical areas and/or by specified sexual activities; or
  - c. Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe specified sexual activities and/or specified anatomical areas.
- (4) **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. The 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.
- (5) **Adult Motel. A hotel, motel, or similar commercial establishment that:**
- a. 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
  - b. Offers a sleeping room for rent for a period of time that is less than ten (10)

hours; or

- c. 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.
- (6) **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.
  - (7) **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.
  - (8) **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.
  - (9) **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.
  - (10) **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, 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:
    - a. 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
    - b. Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
    - c. Where no more than one nude or semi-nude model is on the premises at any one time.
  - (11) **Nude or a State of Nudity.** The appearance of a human anus, male genitals, or

female genitals; or a state of dress that fails to opaquely cover a human anus, male genitals, or female genitals.

- (12) **Semi-nude.** A state of dress in which clothing covers no more than the genitals, public region, or areola of the female breast, as well as portions of the body covered by supporting straps of devices.
- (13) **Sexual Encounter Center.** A business or commercial enterprise that, as of one of its principal 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.
- (14) **Specified Anatomical Areas.** Less than completely and opaquely covered human genitals, public 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.
- (15) **Specified Sexual Activities.** Includes the following:
- a. Human genitals in a state of sexual stimulation, arousal, or tumescence; or
  - b. The fondling or other erotic touching of human genitals, public region, buttocks, anus, or female breasts; or
  - c. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
  - d. Masturbation, actual or simulated; or
  - e. Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or
  - f. Erotic or Lewd touching, fondling, or other contact with an animal by a human being; or
  - g. Human excretion, urination, menstruation, vaginal or anal irritation.

**Shopping Center.** A group of commercial establishments planned, developed, and managed as a unit with a unified design of buildings and with coordinated parking and service areas.

**Side Setback.** Any interior property line setback other than a rear setback.

**Sign Area.** Means that sign shall be computed by the smallest square, triangle, rectangle,

circle, or combination thereof which will encompass the entire sign including lattice work, wall work, frame or supports incidental to its decoration. In computing the area only one (1) side of a double face sign structure shall be considered.

**Sign, Business Identification.** Any sign which advertises an establishment, service, commodity, or activity conducted upon the premises where such sign is located.

**Sign, Outdoor Advertising.** Any sign which advertises an establishment, service, commodity, goods or entertainment sold or offered on premises other than that on which such sign is located.

**Sign Permit.** A zoning permit issued by the Zoning Administrator that authorizes the location of a sign.

**Sign, Portable.** Any sign not exceeding eighty (80) square feet in billboard area and constructed as a part of or attached to a trailer.

**Single-Family Detached Dwelling.** *See Dwelling, Single Family.*

**Special Promotion.** An advertising activity or circumstance of a business which is not part of its daily activities or normal routine, and in which the display or sale of merchandise, wares, or other tangible items is the sole purpose for the promotion.

Special promotions include grand openings or closeout sales, but do not include reoccurring sales advertisements or other similar publicity.

**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 judgement and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as “conditional use permits”.

**Stabilizing Vegetation.** Any vegetation that protects the soil against erosion.

**Storage.** The disposition of commodities or items for the purposes of future use or safekeeping.

**Street.** *See Public Road*

**Structure.** Anything constructed, erected, or placed.

**Subdivision.** All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development and all division of land involving the dedication of new streets or a change in existing streets, however that the following shall not be included within this definition:

1. The combination or recombination of a portion 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 standard as contained in the Subdivision Regulations.

2. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or open of streets.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards as prescribed in the Subdivision Regulations.
5. The division of land for use as gravesites.

**Subdivision, Major.** A subdivision involving more than 2 lots and requiring a new access easement(s), or requiring a new public or private road(s) for access to interior property, or requiring extension of a public sewer or water line.

**Subdivision, Minor.** A subdivision involving lots fronting on an existing approved public road(s), not requiring any new public or private road(s) nor easements for access to interior property, not requiring extension of a public sewer or water line, and not requiring a waiver or variance from any requirement of this Ordinance.

**Swimming Pool.** A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty inches designed, used, and maintained for swimming and bathing.

**Swimming Pool Barrier:** A fence, wall, building wall, or a combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool as described below:

(A) Walls, Fences, Structures as Barriers: The top of the wall/fence shall be at least forty-eight inches (48") above grade measured on the side of the wall/fence which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the wall/fence shall be four inches (4").

(B) Chain-link fence: Where a chain link fence is provided as the barrier, the perpendicular distance between parallel sides of the link shall not exceed two and one-quarter inches (2 1/4").

(C) Picket/Ornamental fence: Where a picket/ornamental fence is provided as the barrier, the horizontal open-air spacing between pickets shall be a maximum of four inches (4") between all vertical pickets and support posts.

(D) Access gates: Access gates shall be required and be self-closing, self-latching and accommodate a locking device at least forty-eight inches (48") above grade.

(E) Pool Wall: An aboveground/onground pool wall, itself, may be the barrier if the pool structure is on grade and the wall is at least forty-eight inches (48") in height. Where an aboveground/onground pool structure is used as a barrier or where the barrier is mounted on the pool structure, the ladder or steps shall be surrounded by a barrier which meets the above requirements.

**Temporary Building.** Any building of an impermanent nature, or one which is designed

for use for a limited time, including any tent or canopy.

**Temporary Construction Trailer.** A structure standing on wheels, towed or hauled by another vehicle, and used for short-term construction personnel office space on a construction site.

**Temporary Emergency, Construction, or Repair Residence.** A residence (*which may be a manufactured home*) that is: (i) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (ii) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed; or (iii) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site. (*See Article III for specific standards related to such residences.*)

**Temporary Event.** An activity sponsored by a governmental, charitable, civic, educational, religious, business, or trade organization which is infrequent in occurrence and limited in duration. Examples include arts and crafts shows, athletic events, community festivals, carnivals, fairs, circuses, concerts, conventions, exhibitions, trade shows, horseshows, outdoor religious events and other similar activities.

**Temporary Construction Trailer.** A structure standing on wheels, towed or hauled by another vehicle, and used for short-term construction personnel office space on a construction site.

**Temporary Hardship Manufactured Home.** A temporary hardship manufactured home on the same lot as a principal dwelling. Such temporary residence is intended for short-term occupancy by a person or persons receiving care and/or supervision by a related person or persons occupying the principal dwelling. (*See Section \_\_\_\_\_ for specific standards related to temporary hardship manufactured homes.*)

**Temporary Structure.** Any structure of an impermanent nature or one which is designed for use for a limited time, including any tent or canopy.

**Tenant.** Any person who alone, or jointly, or severally with others occupies a building under a lease or holds a legal tenancy.

**Thoroughfare Plan.** A plan adopted by either the County, NC DOT or a designated area transportation organization and accepted by the Town as the plan for the development of existing and proposed major roads that will adequately serve the future travel needs of an area in an efficient and cost effective manner.

**Tourist Home.** A private residence in which accommodations are provided for lodging and

may include meals for overnight guests for a fee.

**Tower Co-location.** An arrangement whereby more than one user occupies a single tower or structure.

**Tower, Communications.** A structure whose primary purpose is to support communications equipment. This definition includes tower/antenna/building combinations and the height measurement applies to those combinations. This definition shall not include wire-supporting electric power transmission and telephone poles.

**Tower, Lattice.** A guyed or self-supporting multi-sided, open, steel frame structure used to support communications equipment.

**Tower, Monopole.** A structure composed of a single spire used to support communications equipment.

**Townhouse Dwelling.** 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.

**Townhouse Lot.** A parcel of land intended as a unit for transfer of ownership, and lying underneath, or underneath and around, a townhouse, patio home, or unit in a nonresidential group development.

**Toxic Substance.** Any substance or combination of substances (*including disease causing agents*), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (*including malfunctions or suppression in reproduction or growth*) or physical deformities in such organisms or their offspring or other adverse health effects.

**Tract.** All continuous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership, being developed as a unit, although not necessarily all at one time.

**Travel Trailer.** See Recreational Vehicle.

**Understory Tree.** A species of tree which normally grows to a mature height of fifteen to thirty-five feet in height.

**Use.** The purpose or activity for which land or structures is designed, arranged or intended, or for which land or structures are occupied or maintained.

**Use(s), Accessory.** 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.

**Use, Mixed.** Occupancy of building or land by more than one use.

**Use(s), Principal.** The primary purpose or function that a lot or structure serves or is proposed to serve.

**Utility Easement.** An easement which grants to other utility providers the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.

**Variance.** Official permission to depart from the requirements of this Ordinance. All variance requests are heard and decided by the Board of Adjustment (*Article X*).

**Warehouse.** A building or compartment in a building used and appropriated by the occupant for the deposit and safekeeping or selling of his own goods at wholesale, and/or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade to be again removed or reshipped.

**Watershed.** The entire land area contributing surface drainage to a specific point (*e.g. the water supply intake*).

**Wet Detention Pond.** A pond that has a permanent pool and which also collects stormwater runoff, filters the water, and releases it slowly over a period of days.

**Wholesale.** Sale of a commodity for resale to the public for direct consumption.

**Yard.** Any open space on the same lot with a building and unoccupied from the ground upward except by trees, shrubbery or fences.

**Yard, Front.** A yard across the full width or the log, extending from the front line of the building to the front lot line.

**Yard, Rear.** A yard located behind the rear line of the main building, if extended, to the perimeter of the lot.

**Yard, Side.** A yard between the building and side lot line, extending from the front building line to the rear building line.

**Zero Side Setback.** An alternate form of dimensional requirements that allows a dwelling unit to have one side setback of zero distance from a side property line. This definition does

not apply to townhouses.

**Zoning Administrator.** The person(s) authorized by Article X who is responsible for administering and enforcing this Ordinance.

**Zoning Certificate.** A certificate issued by the Zoning Enforcement Officer, or his authorized agents, that permits the applicant to use or occupy a tract of land or a building; or to erect, install or alter a structure, building or sign situated in the jurisdiction of the town fully meets the requirements of this Ordinance.

**Zoning District.** An area defined by this Ordinance and delineated on the Official Zoning Map, in which the requirements for the use of land and in which building and development standards are prescribed.

**Zoning Permit.** A permit issued by the Zoning Administrator that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance.

**Zoning Vested Right.** A right established pursuant to NCGS 160D-108.1 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan. *(See Article IX.)*