

Chapter

11

Definitions

ACCESSORY STRUCTURE. A subordinate structure, the use of which is incidental to that of the principal use or building, located on the same parcel or lot with such principal use or building. For the purpose of this definition, carports, pools, pool houses, storage sheds, and similar structures shall be considered accessory structures.

ACCESSORY USE. A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

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 this Ordinance. These are sometimes referred to as “ministerial” decisions or “administrative determinations.”

ADMINISTRATIVE HEARING. A proceeding to gather facts needed to make an administrative decision.

ADULT ESTABLISHMENT. Any establishment open only to the adult public, including, but not limited to: adult arcade, adult bookstores, adult cabaret, adult motel, adult motion picture theater, adult video stores, escort agency, nude model studios, sexual encounter center, adult mini-motion picture theater, or adult live entertainment businesses, as defined in Article 26A of the North Carolina General Statutes Chapter 14, Section 202.10 entitled "Adult Establishments" as amended.

ALLEY. A public or private thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

AUCTION GALLERY/HOUSE. A use which allows for the sale of goods and merchandise

either through the internet or on-site public sale to the highest bidder. No sale of agricultural products or living animals is permitted. Outdoor storage of merchandise is not permitted.

BEDROOM. A fully enclosed interior room as shown on the building plan for the structure having, as a minimum, a doorway, window, and closet.

BED AND BREAKFAST. A private dwelling that offers sleeping accommodations to lodgers in fourteen (14) or fewer rooms for rent, in the innkeeper's (owner or operator) principal residence and serves breakfast at no extra cost to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed-and-breakfast establishment for fewer than thirty (30) consecutive days.

BIG BOX RETAILER. Any commercial building that has more than fifty thousand (50,000) square feet of gross floor area.

BLOCK. A unit of land bounded on all sides by streets or other transportation or utility rights-of-way, or by physical barriers, such as bodies of water or public open spaces which create a break in the continuity of development.

BONA FIDE FARM PURPOSES. Agricultural activities as set forth in N.C.G.S. 160D-903(a).

BUFFER STRIP. A solid fence or wall, or a planted strip at least ten (10) feet in width, composed of deciduous or evergreen trees or mixture of each, and not less than one (1) row of dense shrubs, which shall be established and maintained in perpetuity by the owner of property whenever required under the terms and provisions of this Ordinance.

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

BUILDING, ACCESSORY. A building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot therewith.

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

BUILDING SETBACK LINE. A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost three (3) feet of any uncovered porches, steps, eaves, gutters and similar fixtures, and the street right-of-way or property line when measured perpendicularly thereto.

BUSINESS SUPPORT SERVICES. Services rendered to a business establishment or individual on a fee or contract basis including actuarial, advertising, credit reporting, janitorial, office or business equipment rental or leasing, photofinishing, telecommunications, window cleaning, blueprinting and photo-copying, and other such services.

CAR WASH AND AUTO DETAIL SHOPS. Facilities used for the cleaning, polishing, and accessorizing of motor vehicles.

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, collectively, that have been officially adopted by the governing board.

CONDITIONAL ZONING. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

CONTRACTOR OFFICE. Facilities used for scheduling of work and storing of equipment generally used for on-site work.

CONVALESCENT HOME (REST HOME). A facility that provides nursing services and custodial care on a 24-hour basis for three (3) or more unrelated individuals who for reasons of illness, physical infirmity, or advanced age, require such services.

CONVERTED STORAGE UNIT (CSU). Any container/vehicle originally designed or built for the containment and shipment of goods and converted to another use, specially storage. Shall include trailers originally maintained with wheels and axels, buses, cars, vans, trucks, portable boxes, shipping containers, and any other similar unit.

CLUB OR LODGE, PRIVATE. An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities operated on a non-profit basis for the benefit of members.

DEDICATION. A gift, by the owner, or a right to use land for a specified purpose(s). As a dedication involves a transfer of property rights, it must be made by written instruments and is completed with an acceptance.

DEVELOPMENT APPROVAL. An administrative or quasi-judicial approval made pursuant to this Chapter 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 this Ordinance, including plat approvals, permits, and development agreements.

DEVELOPMENT REGULATION. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, 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 N.C.G.S. Chapter 160D, or a local act or charter that regulates land use or development.

DRY CLEANING AND LAUNDRY SERVICES. An establishment that provides washing, drying, dry cleaning, and/or ironing services for customers, who drop-off and pick-up their clothes or other materials for dry cleaning or laundering. May also include alteration services.

DWELLING. Any building, structure, manufactured 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, except that for purposes of Article 12 of N.C.G.S. 160D (Minimum Housing) it does not include any manufactured home or recreational vehicle, if used solely for a seasonal vacation purpose.

DWELLING, ACCESSORY. A residential dwelling unit, but not a manufactured home, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building.

DWELLING, MULTI-FAMILY. A building or portion thereof used or designed as a residence for families living independently of each other, including apartments, apartment houses, apartment hotels, and group housing projects. Dwelling-units are arranged on one lot of record under one ownership.

Figure 11.1
Multi-Family Dwelling Example #1

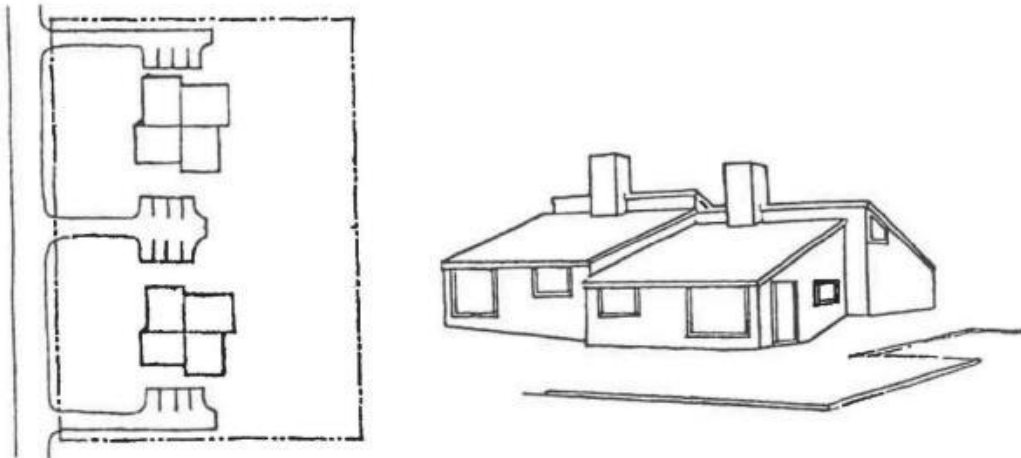
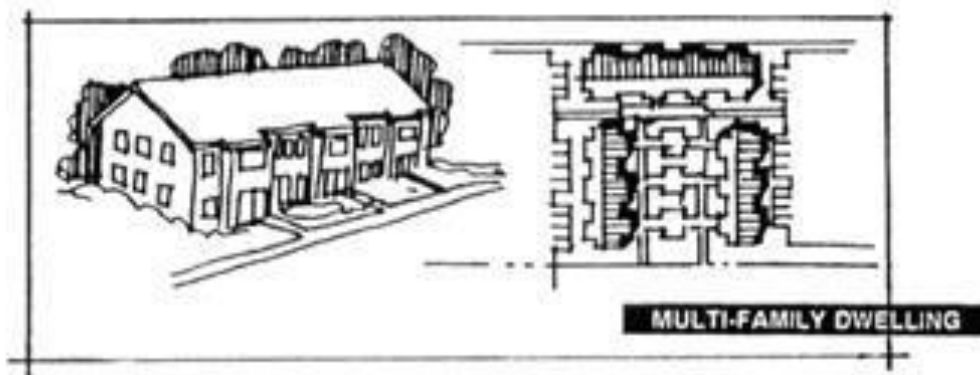
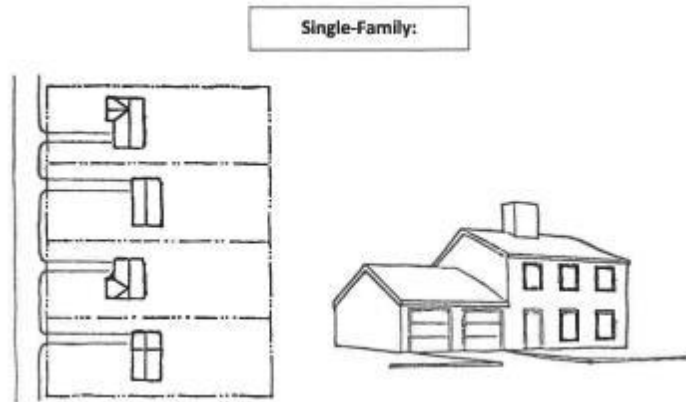


Figure 11.2
Multi-Family Dwelling Example #2



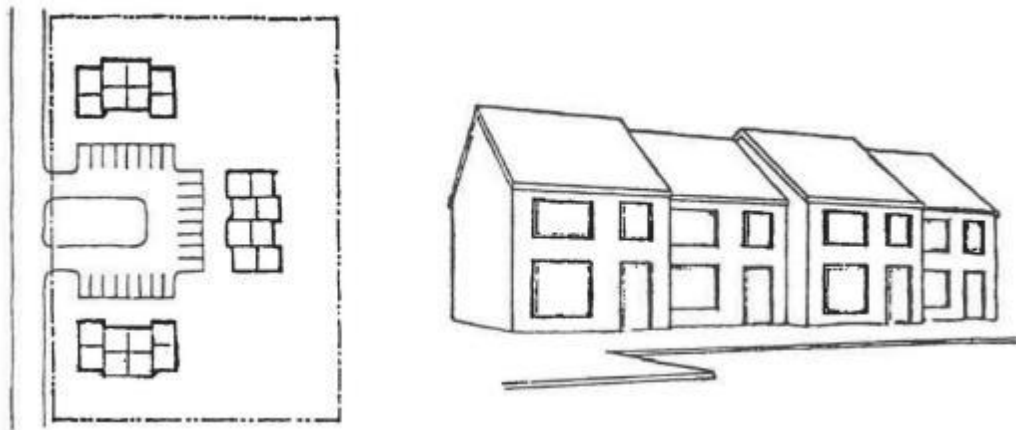
DWELLING, SINGLE-FAMILY DETACHED. A detached building designed for or occupied exclusively by one (1) family. A single-family dwelling is one (1) dwelling unit on one (1) lot of record.

Figure 11.3
Single-Family Detached Dwelling Example



DWELLING, TOWNHOUSE. An attached dwelling where common walls are shared, with each dwelling on its own lot of record. A townhouse can be a minimum of two (2) attached units and a maximum of eight (8) attached dwelling units. Each dwelling is on its own lot with the property line between dwelling units.

Figure 11.4
Townhouse Dwelling Example



DWELLING, TWO FAMILY (DUPLEX). A building arranged or designed to be occupied by two (2) families living independently of each other on one lot of record, often referred to as a duplex.

Figure 11.5
Two Family Dwelling (Duplex) Example



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

EASEMENT. A grant by the property owner of a piece or strip of land for a specified purpose and use by the public, corporation, or persons.

EVENT CENTER. A public or privately owned structure or area used for the purposes of public performances, sporting events, private receptions or parties, or similar attractions.

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 in accordance with this Ordinance.

FAMILY. One (1) or more individuals occupying a premise and living as a single, non-profit housekeeping unit, including domestic servants, provided that a group of four (4) or more persons who are not related by blood or marriage shall not be deemed to constitute a family.

FAMILIAL REALTIONSHIP. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

FLOUR AND FEED MILL. A facility used to process agricultural products (grains) intended for direct human or animal consumption.

FREEZER LOCKERS AND ICE PLANT. An industrial facility used to produce and store ice or for the storage of products under reduced temperatures for the purpose of preserving product integrity.

GARAGE. A building or structure, or part thereof, that is enclosed on all sides and used for the parking and storage of vehicles.

GRANDFATHERED. See “Legal Nonconformity.”

GROSS FLOOR AREA. The total floor area of all buildings in a project including basements, mezzanines and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the main building such as boiler rooms and maintenance shops.

GROUP DEVELOPMENT. A group of two (2) or more principal structures built on a single lot, tract, or parcel of land not subdivided into the customary streets and lots but designed for occupancy by separate families, businesses, or other enterprises. Examples include: apartments, condominiums, apartment courts, housing projects, school and hospital campuses, shopping centers and industrial parks.

HOME OCCUPATION. Any use conducted for gain entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof, and in connection with which there is no display; provided further, no person, not a resident on the premises, shall be employed specifically in connection with the activity; no mechanical equipment shall be installed or used except such as is normally used for domestic or professional purposes; and not over twenty-five percent (25%) of the total floor space of any structure shall be used for home occupations.

INDEPENDENT LIVING FACILITIES FOR THE ELDERLY. A residential facility which provides housing and supportive services for the elderly including housekeeping, meals, a 24-hour emergency call system, transportation, and organized activities.

JUNK YARD. The use of more than six hundred (600) square feet of the area of any lot for the storage, keeping or abandonment of junk, including scrap metals, or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

KENNEL. The boarding, grooming, or training of two (2) or more dogs, cats, or other household pets of any age, not owned by the owner or occupant of the premises, and/or for commercial gain.

LAUNDRY PLANT. A business operation that engages in the cleaning of clothing or fabrics of other such material that may be cleaned with chemical solvents having little or no water.

LEGAL NONCONFORMITY. A nonconformity which was legally established prior to the adoption of this Ordinance or other development regulation or amendment and does not comply with this Ordinance or other development regulation or amendment. See also “Nonconformity.”

LEGISLATIVE DECISION. The adoption, amendment, or repeal of a regulation.

LOT. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to same.

LOT, CORNER. A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forth-five degrees (45°) and less than one hundred thirty-five (135) degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning compliance permit.

LOT DEPTH. The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE. A through lot which is accessible from both streets on which it fronts.

LOT, INTERIOR. A lot other than a corner lot, with only one frontage on a street.

LOT OF RECORD. A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of Surry or Wilkes County, or a lot described by meets and bounds, the description of which has been so recorded.

LOT, REVERSE FRONTAGE. A through lot on which the frontage is at right angles or approximately right angles to the general pattern in the area.

LOT, THROUGH. A lot, other than a corner lot, with frontage on more than one street.

LOT WIDTH. The distance between side lot lines measured at the building setback line.

MANUFACTURED HOME. In accordance with G.S. 143-145(7), a structure, transportable in one (1) or more sections, which in the traveling mode is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of listed above, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act.

MIXED USES. A tract of land or building or structure developed for two (2) or more different uses such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment. Mixed Uses are typically utilized as a residential or office use over a commercial use within the same building, however, mixed uses may be used to provide a variety in design.

MANUFACTURED HOME PARK. Any place or tract of land maintained, offered, or used for the parking of two (2) or more manufactured homes, used or intended to be used for living or sleeping purposes.

MODULAR UNIT. A factory-fabricated transportable building designed or intended to be used, by itself or to be incorporated with similar units as a building site into a modular structure. The term is intended to apply to major assemblies and does not include prefabricated sub-elements which are to be incorporated into a structure at the site. In

addition to the other requirements of this definition, modular units must meet all structural, electrical, mechanical, plumbing, heating, and other provisions of the North Carolina State Building Code or amendments.

MOTOR VEHICLE SERVICES. Any building or portion thereof used for the repair or straightening of a motor vehicle body or frame or painting of motor vehicles. Maintenance, service, and engine repair may be performed as an ancillary function of the body work.

MORATORIUM. A legislative tool to temporarily delay land development and zoning approvals. See N.C.G.S. 160D-107 for details.

MURALS. A mural is any piece of artwork painted or applied directly on a wall, ceiling or other large permanent surface. A particularly distinguishing characteristic of mural painting is that the architectural elements of the given space/building are harmoniously incorporated into the picture. In addition, this artwork shall not contain any advertisement of a current business or product, but may be a restoration of historical signage created prior to 1970.

NONCONFORMITY. Any use, lot, plan, or condition of building or land which does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated into this Ordinance.

OFFICIAL MAP OR PLANS. Any maps or plans officially adopted by the Elkin Board of Commissioners.

OPEN SPACE. An area (land and/or water), generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

OPEN STORAGE. Unroofed, outdoor storage area, whether fenced or not.

PARK. Those areas developed for both passive and active recreational activities. The development may include, but shall not be limited to, walkways, benches, open fields, multiuse courts, swimming pools, wading pools, amphitheaters, etc. The term, park shall not include zoos, recreational vehicle parks, manufactured home parks, amusement parks, equestrian racing facilities or dog racing facilities.

PARKING SPACE. A designated and marked storage space of a specific size for the temporary containment of an automobile or other vehicle. A parking space may be classified as on-site in which it is located on the same lot as the principal use for which it serves or off-site in which it is located in a designated right-of-way or on a lot other than the one containing the principal use for which the space serves. Automobile parking spaces shall not be less than ten (10) feet by twenty (20) feet for one (1) automobile in the Commercial and Residential Districts and the storage space of nine (9) feet by eighteen (18) feet for one (1) automobile in the Industrial Districts.

PLACE OF ASSEMBLY. An establishment used for meetings, entertainment, education or similar uses but does not included places of worship.

PLANNED UNIT DEVELOPMENT (PUD). The planned unit development (PUD) is a use designed to provide for development incorporating a single type or a variety of residential

and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an element of the plan related to affecting the long-term value of the entire development.

PLAT. A map or plan of a parcel which is to be or has been subdivided.

PRIVATE PARKS, CLUBS, AND LODGES. Recreational center for the exclusive use of members and their guests with facilities usually including swimming pools and/or tennis courts, and golf courses.

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 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 of fact to be made by the decision-making board.

RESTAURANT. A commercial establishment where food is prepared and served exclusively for customers inside the facilities. Food may, however, be sold to customers for consumption at places other than on restaurant property.

RESTAURANT, DRIVE-IN. A commercial establishment where food is prepared and served to customers inside the main structure and/or customers sitting in parked cars, if the parked cars are located on the same lot as the principal use.

RETAIL FLOOR SPACE OR RETAIL FLOOR AREA. Total area of all buildings in the project including basements, mezzanines, and all floors, dedicated to the display and sale of merchandise, exclusive of stairways, elevator shafts, offices, restrooms, kitchens or food preparation rooms, merchandise assembly rooms, storage rooms and separate service facilities outside the main building such as boiler rooms and maintenance shops.

SHOPPING CENTER. Two (2) or more commercial establishments planned or constructed as a single unit with off-street parking and loading facilities provided on the property and related in location, size, type, and shape to the trade area which the unit services.

SHORT TERM HOUSING. A structure that contains one (1) or more individual sleeping rooms and where tenancy of all rooms may be arranged for periods of time not to exceed three (3) months. This short-term housing facility will provide boarding, lodging and ancillary services on its premises, and shower or bath facilities may or may not be shared. The facility is managed by a public or non-profit agency to provide habitation with or without a fee. Examples include transitional housing and emergency shelter where individual rooms are provided. This does not include rehabilitation, half-way houses or treatment centers.

SIGNS. Any form of publicity, visible from any public street directing attention to an individual activity, business service, commodity, or product and conveyed by means of

words, figures, numerals, lettering, emblems, devices, designs, trade marks, or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints, or other devices erected on open framework, or attached or otherwise applied to posts, stakes, poles, trees, buildings, or other structures or supports.

SIGN AREA. Sign area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire copy area excluding architectural trim and structural member. In computing area only one (1) side of a double-faced sign shall be considered.

SIGNS, FREESTANDING. A sign not attached to any structure or building located on a lot, other than the structure needed to support or mount said sign, such as pillars or posts that are permanently anchored to the ground.

SIGNS, ATTACHED. Any sign physically attached to the principal or accessory structure on a lot.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

SOLID FENCE. An upright, fully opaque, structure used as a barrier to delineate a boundary or as a means of protection. A solid fence provides a visual barrier which blocks from public view, any items that may be constructed, used, or stored behind or within the fenced area.

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. This definition includes permits previously referred to as “conditional use permits” or “special exceptions.”

SPORTS BAR. An establishment containing a minimum of five thousand (5,000) square feet of gross floor area, a full-service restaurant, and may include any of the following amenities: a microbrewery, multiple television sets, billiard tables/pool tables, darts, video games and other recreational activities. This use specifically excludes video gambling machines.

STORY. That portion of a principal building included between the surface of any floor and the surface of the next floor above or if there is no floor above, the space between the floor and the ceiling next above. A basement is not counted as a story.

STREET. A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground, or which is attached to something having a permanent location on the ground.

STRUCTURE, TEMPORARY. A structure without any foundation or footing and removed when the designated time period, activity, or use has ceased.

SUBDIVISION. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one (1) or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include 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 Chapter 4 herein:

- (1) 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 standards of the local government as shown in its 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 opening of streets or for public transportation system corridors.
- (4) The division of a tract in single ownership whose entire area is no greater than 2 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 standards of the local government, as shown in its subdivision regulations.
- (5) 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.

TATTOO ESTABLISHMENT. Any location where tattooing is engaged in or where the business of tattooing is conducted or any part thereof. Tattooing is defined in North Carolina G.S. 130A-283(a) as, “the inserting of permanent markings or coloration, or the producing of scars, upon or under human skin through puncturing by use of a needle or any other method.”

USE, TEMPORARY. Those land uses and structures that are needed or are in place for only short periods of time.

VACATION RENTAL. Residential property rented for vacation, leisure, or recreation purposes for fewer than ninety (90) days by a person who has a place of permanent residence to which he or she intends to return.

VARIANCE. A modification of the existing zoning, subdivision, or unified development ordinance, granted by the Board of Adjustment or other board in a quasi-judicial process, where strict enforcement would cause undue hardship because of circumstances unique to the individual property on which the variance is requested.

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 G.S. 160D-108 or under common law.

WINERY. A manufacturing facility or establishment engaged in the processing of grapes to produce wine or wine-like beverages.

YARD. A space on the same lot with a principal building, open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

YARD, FRONT. An open, unoccupied space on the same lot with a principal building. It shall be situated from the edge of the right-of-way to the nearest point of beginning of any building located on the lot.

YARD, REAR. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

YARD, SIDE. An open, unoccupied space on the same lot with the principal building, situated between the building and the side line of the lot and extending the rear line of the front yard to the front line of the rear yard.