



Agenda

Town of Duck Planning Board – Regular Meeting

Paul F. Keller Meeting Hall

Wednesday, January 14, 2026 – 4:00 p.m.

1. Call to Order
2. Public Comment
3. Approval of Minutes
 - a. *Minutes from December 10, 2025 Meeting*
4. Zoning Text Review
 - a. *Chapter 156: Land Use*
 - i. *General Provisions, Subsection 156.001 -156.012*
5. *Planning and Zoning E-Module Learning*
 - a. *Basics of Local Development Regulations*
6. Staff Comments
 - a. *Lighting summary review*
 - b. *Summary of January 7, 2026 Town Council Meeting*
 - c. *Project Updates*
7. Board Comments
8. Adjournment

PLANNING BOARD REGULAR MEETING December 10, 2025

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, December 10, 2025.

Present: Vice Chair Bob Wetzel, James Cofield, Bob Webb, Dan Snyder, Tom Burton, and Council Liaison Sandy Whitman.

Also present: Assistant Town Manager Connor Winstead, Planning and Permits Manager Sandy Cross, Community Planner Jim Gould, and Town Clerk Lori Ackerman.

Absent: Deputy Town Clerk Christy Hanks.

CALL TO ORDER

Vice Chair Wetzel called to order the Regular Meeting of the Planning Board for December 10, 2025 at 4:00 p.m. and welcomed Tom Burton as the newest Planning Board Member.

SWEARING IN OF NEW PLANNING BOARD MEMBER

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman went on to swear Tom Burton in as the newest Planning Board member.

ELECTION OF OFFICERS

Chair

Vice Chair Wetzel opened the nominations for Chair. Bob Webb nominated Bob Wetzel for Chair. James Cofield nominated himself. There being no other nominations, Wetzel closed the nomination.

Motion carried 3-2 to appoint Wetzel as Chair with Cofield and Burton dissenting. Motion failed 2-3 to appoint Cofield as Chair with Wetzel, Webb, and Snyder dissenting.

Vice Chair

Chair Wetzel opened the nominations for Vice Chair. Wetzel nominated Webb. There being no other nominations, Wetzel closed the nomination.

Motion carried 5-0 to appoint Webb as Vice Chair.

PUBLIC COMMENTS

None.

ZONING TEXT AMENDMENTS

Chapter 156.051 Building Features Exempt from Setbacks of Minimum Yard Requirements

Planning and Permits Manager Sandy Cross was recognized to speak. Cross explained that she provided to the Board a mark up to include an exception for outdoor showers, adding that there were some gaps that would need to be filled with the zoning text amendment as it currently read because there was an allowance for three feet into the rear yard setback, but there was no indication as to how long it could be. She noted that if it was the entire width of the house, it could end up not being a shower, but a storage area. She added that it would be prudent to consider some kind of limitation on the length of the exception into the setback if it was something that the Board felt was warranted.

The Planning Board members went on to discuss outdoor shower enclosures, what the length of them could be, how many walls they should have, how long the door to a shower should be, whether or not it should have a roof, as well as the dimensions of the shower.

Cross read the suggested language that the Board recommended as follows: “(C) Outdoor shower enclosures attached to a single-family dwelling with or without a roof covering, with any non-structured wall no closer than 18 inches to the ground, including functional plumbing with a shower head, may extend no more than 3 feet into any required rear yard or beyond any required rear building setback line (plus an additional 12 inches for features as noted in section (A)) and may not exceed a length of eight feet, may not be fully enclosed, provided that the rear setback or building restriction line is not less than 25 feet; and...”

Burton moved to recommend the revisions to Chapter 156.051 with the amendments and recommendations made by the Board. Wetzel seconded the motion.

Motion carried 5-0.

Section 156.002 - Definitions

Cross explained that this issue was brought to the Board several months ago; adding that there were some zoning text amendments regarding lot coverage and when there was alternative ground cover such as artificial turf or pavers, there was a need for the Town to give people credit that would not count towards lot coverage. She pointed out that the Town does require that, once certified and the installation of the alternative ground cover was completed in accordance with the manufacturer's specifications, the homeowner would agree and understand that there was maintenance involved and that they would conduct that maintenance. This document would be recorded with the Register of Deeds so that future owners are aware of the associated requirements.

Cross stated that this item was not specifically included in the definition of lot coverage as it related to artificial turf, which was one of the alternative ground covers where the Town does not count coverage at all. She noted that the Planning Board and Town Council had agreed that artificial turf would no longer be counted as coverage. She explained that staff has been interpreting it as a

homeowner has to do it but it was not specifically stated in the ordinance. After discussing this matter with the Board in August, it was their consensus that the intent had been that a recorded ground cover agreement should be required in any circumstance where coverage credits were being provided and maintenance was needed to maintain permeability. She stated that she was asking to add the responsibility of the property owner to record design specifications, maintenance plans, and certification of the owner's responsibility for maintenance at the Dare County Register of Deeds, which would be consistent with other sections in the ordinance. She added that staff also realized that under the definition of Lot Coverage, it included pools which was removed from the ordinance during the last text revision.

The Planning Board members went on to discuss the item, discussing lot coverage, the homeowner's responsibilities, the process when it came to new construction, and the permit requirements.

Cofield moved to approve the changes staff brought forward as presented. Webb seconded.

Motion carried 5-0.

NEW BUSINESS

None.

OLD BUSINESS

None.

DISCUSSION

Planning Board Basics

Cross stated that since Burton had come on board, she provided him with the Planning Board Basics from the UNC School of Government, adding that she was also providing it to the rest of the Board because it was a good refresher.

Planning and Zoning E-Module Learning

Cross stated that Wetzel had inquired about some training for the Board members to attend, noting that there was this option with the e-module. She stated that a few years ago, the Board had attended some Lunch and Learn sessions to complete some training. She pointed out that since the Board no longer handles quasi-judicial matters, she suggested that the Board members consider completing the e-module learning during the monthly meetings since they were only 20-30 minutes long. She stated that if the Board was in favor of it, the training could start at their January 14, 2026 meeting. She added that she would also invite the members of the Board of Adjustment to attend the e-modules and then discuss with them about completing the quasi-judicial modules at a separate time.

It was *consensus* of the Board to have the e-module learning begin at their January 14, 2026 meeting.

Zoning Ordinance Review

Cross explained that there were some things in the Town's ordinance that needed to be cleaned up, adding that this would be good for the Planning Board to review since a complete review had not been done since 2004. She stated that she was planning to present at the Council Retreat on the zoning ordinance and some of the things staff had encountered in the past year. She thought it would be helpful for the Planning Board to start looking at reviewing the zoning ordinances in sections. She hoped that when it was presented to Council at their Retreat, that they would consider in their budget allowing staff to put out Request for Qualifications to have a consultant help the Board and staff to complete a full review so that the Town was consistent with the General Statutes.

It was *consensus* of the Board to move forward with starting to review the zoning ordinance beginning at their January 14, 2026 meeting.

APPROVAL OF MINUTES

Minutes from the November 12, 2025, Meeting

Snyder motioned to approve the minutes as presented. Webb seconded.

Motion carried 5-0.

STAFF COMMENTS

Summary of December 3, 2025, Town Council Meeting

Cross stated that Monica Thibodeau is now the Mayor for the Town and Council Liaison Sandy Whitman is the new Mayor Pro Tempore. She congratulated Whitman. She stated that former Chair Marc Murray is happy to have been elected to Town Council. She pointed out that the 3rd quarter Mighty Duck award was given to Maintenance Technician Kim Pittman. She stated that former Mayor Don Kingston was recognized for all his years of service not only to the Town but also to North Carolina in general.

Project Updates

Cross stated that the Theresa Court bid opening was held recently and came in way over budget so staff was now working on reviewing options and determining whether the project would be feasible to move forward. She expected the retaining wall work at Plover Drive would begin after the beginning of the new year. She stated that the shoreline stabilization project was wrapping up and the boardwalk should completely reopen by the end of the week. She stated that the trail improvements between Pintail Drive and Wood Duck Drive should be taken to Council at their January 7, 2026 meeting for recommendation and approval to sign a contract with H & H Land Development which will be converting a section of asphalt trail to concrete. She added that the Town was working on a grant application with the Town of Southern Shores that is due on Friday, December 12, 2025 that, if awarded, will improve the intersection of Sea Oats Trail and Charles Jenkins Lane.

Cross stated that Community Planner Jim Gould was working with the Parks and Recreation Advisory Committee with them holding their second meeting on Tuesday, December 16, 2025,

and their first task being how to deal with the cul-de-sac area where the Town's pollinator garden was impacted from the shoreline stabilization project, adding that it was an area that was underutilized, so the hope was that the Committee would reimagine the space in order for it to be improved before the season gets underway.

Snyder asked about the westside trail. Cross explained that it was a Capital Improvement item, but the cost to complete the utility relocation alone was approximately \$180,000. She stated that the Town applied for a grant back in August and were supposed to receive a decision, but because of the Federal shutdown, a decision has not been made and she did not have a timeframe for it at this time. Snyder asked if the work between Duck and Southern Shores would include installing a sidewalk. Cross stated that it would provide space for it because of the turn lane in the area of Jaycrest Road and Sea Oats Trail severely restricts the potential for right-of-way work. She stated that the goal with the grant was to purchase the corner lot and move the house on that corner to the west and use the space for stormwater as well as to address the utility issues.

Cross stated that she sent the revisions of the floodwater discharge pumping plan to Mr. May at Division of Water Quality. He stated that the plan was great, and he only suggested a few minor revisions to the resolution, but he did not touch on Item #6, which she had asked him to review. She recommended that the Planning Board send Item #6 as previously presented with Mr. May's suggested revisions unless any Board members had concerns about what was changed. She stated that if not, it would go before Council at their January 7, 2026 meeting.

It was *consensus* of the Board to send the resolution to Council.

Cross stated that Planner Gould has started doing some review work on the lighting survey, adding that she would like to have him bring the data from it to the Board at their January 14, 2026 meeting. She noted that there would not be any recommendations or suggestions to make any further revisions to the ordinance.

BOARD COMMENTS

Snyder welcomed Burton to the Board. Webb gave a summary of the recent Parks and Recreation Advisory Committee meeting to the Board and audience. Wetzel encouraged the Board members to feel free to voice comments and concerns they may have throughout the meetings in a respectful way and raise a hand if a member had something to say about what another member had said.

ADJOURNMENT

Wetzel moved to adjourn the meeting. Burton seconded.

Motion carried 5-0.

The time was 4:58 p.m.

Approved: _____

Bob Wetzel, Chairman

DRAFT



TO: Chairman Wetzel and Members of the Town of Duck Planning Board
FROM: Sandy Cross, Planning and Permits Manager
DATE: January 14, 2026
RE: Zoning Text Review/Discussion

Background Information

At our December meeting, the Board considered staff's suggestion that we begin a review of Chapter 156 of the Town Code which relates to zoning. A comprehensive review of the zoning ordinance has not been completed since 2004. While staff intend to present the need for this review to Town Council with the hopes of budgeting for assistance from a consultant, staff suggested and the Board agreed that it would be helpful to start identifying areas of ambiguity. This could be a good starting point for a full comprehensive review. This review is not intended to result in immediate text amendments but rather a gathering of information, comments and suggestions similar to the zoning review spreadsheet that we have included as attachment 1.

For our discussion today, we will look at the General Provisions of the Zoning Ordinance, subsections 156.001 through 156.012, the bulk of which consists of definitions. Staff have made a few comments to start but look forward to feedback from the Board to further the conversation.

ATTACHMENTS

- a. Ordinance Review tracking sheet
- b. Mark up of 156.001 through 156.012

GENERAL PROVISIONS

§ 156.001 AUTHORITY FOR ENACTMENT AND PURPOSES OF CHAPTER.

(A) In accordance with the applicable provisions of G.S. Chs. 160A and 160D (Local Planning and Development Regulations), the Town Council, having designated the Town Planning Board as the planning agency to prepare a zoning plan showing proposed district boundaries and recommending a procedure by which the zoning regulations and restrictions and the boundaries of the zoning districts shall be determined, established and enforced, and from time to time amended, supplemented or changed, and having received from the Planning Board a certified plan taking into consideration the character of each district and its peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the town, hereby adopts this chapter.

(B) The provisions of this chapter have been prepared in accordance with a comprehensive plan for the development of the town and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to give reasonable consideration to expansion and development within the town, so as to provide for its orderly growth and development.

(Ord. 04-21, passed 10-6-2004, § 1; Am. Ord. 21-01, passed 6-2-2021)

§ 156.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A-WEIGHTED SOUND LEVEL. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).

ACCESSORY DWELLING UNIT. A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached structure on the same lot.

ACCESSORY USE. A use which is clearly incidental to and customarily found in connection with the principal use, and located on the same lot with the principal use. This shall include uses such as swimming pools, tennis courts, private piers and docks, private boathouses, sheds, gazebos, pergolas, and detached garages.

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 chapter. 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 ARCADE. 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 1 or more persons per machine at any 1 time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE. Defined in G.S. § 14-202.10(1) which is incorporated herein by reference.

ADULT CABARET. A nightclub, bar, restaurant or similar commercial establishment that for at least 10% of its business hours in any day features:

- (1) Persons who appear in a state of nudity or semi-nudity;
- (2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;
- (3) Films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- (4) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

ADULT ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide or date for another person for the purpose of participating in, engaging in, providing or facilitating "specified sexual activities."

ADULT ESCORT AGENCY. A person or business that furnishes, offers to furnish, or advertises to furnish adult escorts as 1 of its business purposes for consideration.

ADULT ESTABLISHMENT. Defined in G.S. § 14-202.10(2), which is incorporated herein by reference.

ADULT LIVE ENTERTAINMENT. Defined in G.S. § 14-202.10(3), which is incorporated herein by reference.

ADULT LIVE ENTERTAINMENT BUSINESS. Defined in G.S. § 14-202.10(4), which is incorporated herein by reference.

ADULT MEDIA CENTER.

(1) Adult media center includes, but is not limited to, an adult book store, and an adult video store and means any place:

(a) Which receives more than 50% of its gross income during any calendar month from the sale, rental or both of books, periodicals, magazines, video-tapes, CD-ROM, computer software, movies and other products offered in photographic, print, electronic, magnetic or digital or other imaging medium which are distinguished or characterized by their emphasis on matter depicting, describing or presenting specified anatomical areas as defined in G.S. § 14-202.10(10), or specified sexual activities as defined in G.S. § 14-202.10(11), or sexually oriented devices as defined in G.S. § 14-202.10(9), or any combination thereof; or

(b) Having more than 25% of its merchandise inventory consisting of books, periodicals, magazines, video-tapes, CD-ROM, computer software, movies and other products offered in photographic, print, electronic, magnetic or digital or other imaging medium which are distinguished or characterized by their emphasis on matter depicting, describing or presenting specified anatomical areas as defined in G.S. § 14-202.10(10), or specified sexual activities as defined in G.S. § 14-202.10(11), or sexually oriented devices as defined in G.S. § 14-202.10(9), or any combination thereof.

(2) A commercial establishment may have other business purposes on the same building site that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as ADULT MEDIA CENTER.

(3) Other business purposes will not serve to exempt like commercial establishments from being categorized as an adult media center so long as 1 of its business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

ADULT MOTEL. A hotel, motel, or similar commercial establishment that:

(1) Offer accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides or other photographs reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas;

(2) Offers a sleeping room for rent for a period of time that is less than 12 hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 12 hours.

ADULT MOTION PICTURE THEATER. Defined in G.S. § 14-202.10(5), which is incorporated herein by reference.

ADULT MINI MOTION PICTURE THEATER. Defined in G.S. § 14-202.10(6), which is incorporated herein by reference.

ADULT THEATER. A theater, concert hall, auditorium or similar commercial establishment that for at least 10% of its business hours in any day, features persons who

appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADULT VIDEO STORE. A commercial establishment that, as 1 of its principal business purposes, offers for sale or rental for any form of consideration any 1 or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video tapes or cassettes, video reproductions, CD-ROMS, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or any combination thereof.

ALLEY. A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street and which may be used for public utility purposes.

Commented [SC1]: I can't think of a single instance where we might have an alley in Duck.

AMBIENT NOISE. The sound present in a given environment, being usually a composite of sounds from many sources. For the purposes of this chapter, this shall be the A-weighted sound level in decibels that is exceeded 90% of the time.

AVERAGE FINISHED GRADE.

(1) The average surface elevation of that portion of a lot to be covered by a structure after grading has been completed.

(2) The average finished grade will be calculated by taking the average of the actual elevations at the four corners of a structure. When the footprint of a structure is not generally rectangular or is unusually shaped, the average finished grade will be calculated using the most logical points as determined by the Zoning Administrator.

BAR/TAVERN. An establishment primarily engaged in the sale and service of alcoholic beverages for on-premises consumption during any period of the day as permitted by law. The incidental sale or provision of food or snacks shall not entitle such a use to be considered an eating establishment under other provisions of this code.

Commented [SC2]: Seems like this should be "require"

BED AND BREAKFAST HOME.

(1) A single-family dwelling that consists of a single dwelling unit, together with the rental of not more than 3 dwelling rooms on a daily or weekly basis to tourists, vacationers or other transients; where the provision of meals, if provided at all, is limited to the breakfast meal; and where the bed and breakfast operation is conducted by persons who own and reside within the dwelling unit with the assistance of not more than the equivalent of 1 full-time employee and where the permitted occupancy is 12 persons or less.

(2) A BED AND BREAKFAST HOME must be located on NC 12.

BED AND BREAKFAST INN. A commercial establishment providing for the rental of dwelling rooms on a daily or weekly basis to tourists, vacationers or other transients; where the bed and breakfast operation is conducted by persons who own and reside on the property, with the assistance of not more than 3 full-time employees and where the permitted occupancy is 24 persons or less.

BEDROOM EQUIVALENT.

(1) An area or room other than a designated bedroom which may serve as a bedroom by virtue of its layout, as determined by the Dare County Department of Environmental Health in its review and determination of septic capacity of a dwelling.

(2) BEDROOM EQUIVALENTS so determined shall count as bedrooms for the purposes of determining standards for residential construction based on lot size per § 156.126.

Commented [SC3]: We can look at what DCEHD considers a "bedroom"

BONA FIDE FARM PURPOSES. Agricultural activities as set forth in G.S. § 160D-903.

BUFFER STRIP. A device of material or space used to provide sight and sound screening from adjoining properties. The required height and width of the BUFFER STRIP and the materials used in its construction vary according to use. Where a BUFFER STRIP is required under the provisions of this chapter, the Zoning Administrator shall approve or disapprove the buffer strip.

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

BUILDING, ACCESSORY. A subordinate building consisting of walls and a roof, the use of which is clearly incidental to that of a principal building on the same lot.

BUILDING HEIGHT. The vertical distance measured from the tallest roofline of a building (not counting chimneys and similar features) to the top of the slab at the approximate center of the structure or to the average finished grade where no slab is present. Finished grade below the slab shall be established in accordance with the town's land-disturbing activities regulations.

(1) In cases where the regulatory flood protection elevation (as defined in Chapter 150) is higher than the average finished grade in AE, AO, or X flood zones, the height measurement shall begin at the top of the slab at grade for enclosures, or from the top of the lowest floor above the regulatory flood protection elevation when no portion of the structure is located at grade, whichever is applicable, provided that the top of the lowest floor does not exceed 2 feet above the regulatory flood protection elevation.

(2) In cases where the regulatory flood protection elevation (as defined in Chapter 150) is lower than the average finished grade in AE, AO, or X flood zones, the height measurement shall begin at the top of the slab at the approximate center of the structure or to the average finished grade where no slab is present.

(3) In a Coastal High Hazard Area (as defined in Chapter 150), the height measurement shall begin at the bottom of the lowest horizontal member consistent with the town's standards for free and clear of obstruction (as defined in Chapter 150). Such measurement shall begin no higher than 3 feet above the highest finished adjacent grade.

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

BUILDING SETBACK LINE. A line parallel to or concentric with the street right-of-way establishing the minimum allowable distance between the right-of-way and the nearest portion of any building, excluding the outermost 3 feet of any uncovered porches, step, eaves, gutters and similar fixtures.

Commented [SC4]: This definition does not account for side setbacks.

BUILT UPON AREA or BUA. That portion of a development project that is covered by impervious materials or partially impervious surfaces and used to calculate stormwater run-off potential, including buildings; pavement and compacted gravel areas, such as roads or parking lots; and paths and recreation facilities, such as athletic courts and concrete pool decks. BUILT-UPON AREA does not include the surface area of pools, wooden slatted decks, or un-compacted, washed gravel, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material. BUILT-UPON AREA is distinct from lot coverage, as calculated under this chapter. For the purposes of this chapter, BUILT-UPON AREA shall be calculated in accordance with the methodology prescribed in the latest edition of the NCDENR - Division of Water Quality - Stormwater Best Management Practices (BMP) Manual.

BULLETIN BOARD. A sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center or similar non-commercial place of public assembly.

CHILD CARE CENTER, LARGE. Any child-care center, which is authorized to provide care to 80 or more children.

CHILD CARE CENTER, MEDIUM. Any child-care center, which is authorized to provide care to at least 30 but no more than 79 children.

CHILD CARE CENTER, SMALL. Any child-care center, which is authorized to provide care for a maximum of 29 children.

CHILD CARE HOME, LARGE. A child care arrangement as described above in which the provider may care for between 6 and 12 children when any child present is pre-school aged and a maximum of 15 children all of whom are school aged.

CHILD CARE HOME, SMALL.

(1) Any child care program or child care arrangement wherein any person not excluded in G.S. § 110-86(2) provides child care on a regular basis of at least once a week for more than 4 hours per day for more than 2 children under the age of 13 and for fewer than 6 children at any 1 time, wherever operated and whether or not operated for profit.

(2) The 4-hour limit applies regardless of the time of day and regardless of whether the same or different children attend.

(3) Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment are not included.

(4) To determine whether a child care arrangement is a child care home, all children shall be counted except for the operator's own school-aged children and school-aged children who reside at the location of the day care home.

COLUMBARIUM. A structure or building substantially exposed above ground intended to be used for the interment of the cremated remains of a deceased person.

COMPREHENSIVE PLAN. A comprehensive plan that has been officially adopted by the governing board pursuant to G.S. § 160D-501.

CONDOMINIUM. Ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants, together with individual ownership in fee of a particular unit in the building.

DECIBEL (dB). A unit for describing the amplitude of sound equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micro newtons per square meter.

DECISION-MAKING BOARD. A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this chapter.

DESIGN STORM. Rainfall event, expressed in depth, measured in inches, for the purposes of this chapter and independent of storm duration, utilized for the calculation of storage volume required for BMP's.

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.

(1) Any of the following:

(a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

(b) The excavation, grading, filling, clearing, or alteration of land.

(c) The subdivision of land as defined in G.S. § 160D-802.

(d) The initiation or substantial change in the use of land or the intensity of use of land.

(2) This definition does not alter the scope of regulatory authority granted by this chapter.

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

Commented [SC5]: Our floodplain ordinance also includes a definition for development. Should this definition include any other that language?

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

There is also a definition for Development in Chapter 154 Areas of Environmental Concern

DEVELOPMENT. Any activity in a duly designated area of environmental concern involving, requiring or consisting of the construction or enlargement of a structure; excavation; dredging, filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake or canal.

permits (formerly conditional use permits), variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

DEVELOPMENT REGULATION. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, flood plain 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 this chapter.

DRIVE-IN RESTAURANT OR REFRESHMENT STAND. Any place or premises used for sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

DRUG PARAPHERNALIA SALES. The term is defined in G.S. § 90-113.21(a). In addition to the list of factors or evidence enumerated in G.S. § 90-113.21(b) that may be considered in determining whether an object is drug paraphernalia for purposes of this chapter, the town may also consider the following other relevant evidence, as expressly referenced in G.S. § 90-113.21(b), in determining whether an object is drug paraphernalia and whether a business enterprise is engaging in drug paraphernalia sales:

(1) Direct or circumstantial relevant evidence of the ratio of sales of the objects to the total sales of the business enterprise; and

(2) Direct or circumstantial relevant evidence of the ratio of the quantity of the objects physically on display and physically in stock at or in the physical location of the business enterprise located in the town, to the total quantity of all merchandise physically on display and physically in stock at or in the location of the business enterprise physically located in the town.

DUPLEX. Any dwelling place designed for, or occupied by, two families.

DWELLING. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. The term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

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.

EATING ESTABLISHMENT.

Commented [SC6]: How is solely for seasonal vacation purpose confirmed? Staff will see if we can find any history on this definition.

(1) Any establishment that provides as a principal use the sale of food, frozen desserts or beverages in a ready form for consumption state either within the eating establishment or off-premises.

(2) EATING ESTABLISHMENTS may consist of any of the following:

(a) Establishments where patrons are seated on premises, either inside the building or at an exterior dining area, and provided table service by an employee;

(b) Establishments where patrons are seated on premises, either inside the building or at an exterior dining area, and are served at a counter by an employee;

(c) EATING ESTABLISHMENTS shall also include carry-out establishments, where food, frozen desserts or beverages are served primarily in disposable or edible containers, and packaged in a manner where customers can readily take the food off-premises. This includes, but is not limited to, delis, snack bars, ice cream shops, coffee shops, pastry shops and yogurt shops.

(3) Eating establishments shall comply with all applicable requirements of § 156.129.

ELECTRONIC GAMING OPERATIONS. Any for-profit business or enterprise, whether as a principal or an accessory use, where persons utilize electronic gaming terminals to conduct games of chance, including but not limited to sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of the distribution is determined by electronic games played or by predetermined odds. The businesses or enterprises have as a part of its operation the running of one or more games or processes with any of the following characteristics: (1) payment, directly or as an intended addition to the purchase of a product, whereby the customer receives one or more electronic sweepstakes tickets, cards, tokens or similar items entitling or empowering the customer to enter a sweepstakes, and without which item the customer would be unable to enter the sweepstakes; or (2) payment, directly or an intended addition to the purchase of a product, whereby the customer can request a no purchase necessary free entry of one or more sweepstakes tickets or other item entitling the customer to enter a sweepstakes. The term **ELECTRONIC GAMING OPERATIONS** includes, but is not limited to, cyber-gaming establishments, internet cafes, internet sweepstakes, beach sweepstakes, video sweepstakes, cybercafes or internet cafes, which have a finite pool of winners and includes both those connected to an internet or not. This does not include any electronic gaming terminal that directly accepts cash or coins in any way other than payment or purchase through an attendant. This term does not include any machine, computer, terminal or software deemed illegal and in no way attempts to make legal any electronic gaming operation or part thereof that has been determined to be illegal by state and federal authorities. This does not include any lottery endorsed or permitted by the state.

ELECTRONIC GAMING TERMINAL. Any electronic machine, computer gaming terminal, gaming station or similar device, used in connection with electronic gaming operations.

Commented [SC7]: This is the section that speaks to Eating Establishments in more detail.

EVIDENTIARY HEARING. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this chapter.

FAMILY. One or more persons operating as a housekeeping unit.

FASCIA. A plain horizontal band placed at the termination of a roof.

FLAG. A piece of cloth, paper or similar flexible material generally displayed on a flagpole.

GOVERNING BOARD. The Town Council shall be known as the GOVERNING BOARD of the Town of Duck.

GUEST-ROOM. A room or group of rooms available for rent in a bed and breakfast home that is used or intended for habitation and sleeping but not for cooking or eating purposes.

HOME OCCUPATION. A profession or occupation carried on by a member of a family or a member of a recognized profession residing on the premises; provided, that no merchandise or commodity other than that produced on the premises is sold on the premises; provided, further, that not over 25% of the total actual floor area of any structure is used for home occupations or professional purposes.

HOTEL (also applicable to MOTEL). A commercial establishment that contains multiple guest rooms for the purpose of providing overnight lodging facilities to the general public for compensation,

with or without meals and/or other services, and which has common facilities for reservations, cleaning services, combined utilities and on-site management and reception. This definition shall not preclude the use of trade names such as "Holiday Inn," "Travelodge" or similar trade names. The application of the definition shall apply to the nature of the structure and not its trade name).

IMPERVIOUS SURFACE. Any material that prevents the infiltration of water into the soil.

LANDOWNER OR OWNER. The holder of the title in fee simple. Absent evidence to the contrary, the town may rely on the county tax records to determine who is a LANDOWNER. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

LEGISLATIVE DECISION. The adoption, amendment or repeal of a regulation under this chapter. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of G.S. Ch. 160D, Article 10.

LEGISLATIVE HEARING. A hearing to solicit public comment on a proposed legislative decision.

LOT.

(1) A parcel of land which fronts on and has ingress and egress by means of a public right-of-way or an approved private street and which is occupied or intended to be

Commented [SC8]: Impervious surface is not a material. Perhaps this would be better stated: Any surface? Staff will have some alternative options available at the meeting.

occupied by a building or groups of buildings as provided herein with the customary accessories and open spaces.

(2) The word LOT includes the words “plot,” “parcel” or “tract.”

LOT AREA. The total horizontal area included within lot lines. For the purposes of determining lot coverage, maximum building size or number of bedrooms, the lot area for oceanfront properties shall be considered the area landward of the static vegetation line or first line of stable natural vegetation (as determined pursuant to Coastal Area Management Act regulations) that lies within the remaining lot lines or the lot square footage determined by the Dare County Tax Assessment Office for real estate tax assessment purposes, whichever is greater.

LOT, CORNER. A lot, at least 2 adjoining sides of which abut for their full lengths on a street provided, that the interior angle at the intersection of 2 adjoining sides is less than 135 degrees.

LOT COVERAGE. That portion of the lot area, expressed as a percentage, that is occupied and obstructed by an improvement or a structure on or above the ground, including but not limited to buildings, covered decks, concrete patios, gazebos, pools, concrete, asphalt, or similar paved parking areas, concrete, asphalt, or similar paved private sidewalks, concrete, asphalt, or similar driveways and roadways, and any accessory use or structure requiring location above ground.

(1) Impervious components of innovative wastewater systems to be installed shall be included in the calculation of LOT COVERAGE.

(2) Uncovered decks and open arbors, pergolas, overhangs and similar structures located over pervious surfaces shall be excluded from the calculation of LOT COVERAGE.

(3) For single-family dwellings, gravel over a sand base or plastic grid reinforced gravel pavement systems shall be excluded from the calculation of LOT COVERAGE.

(4) On commercially zoned properties, gravel driveways, drive aisles, and parking spaces constructed in accordance with § 156.112 shall be excluded from the calculation of LOT COVERAGE.

(5) Artificial turf installed over an entirely pervious base shall be excluded from the calculation of LOT COVERAGE.

(6) The water area of a swimming pool shall be excluded from the calculation of LOT COVERAGE.

(7) Driveways and parking areas consisting of alternative materials that are entirely pervious, including pervious pavers and similar surfaces, shall not be included in the calculation of LOT COVERAGE. An N.C. licensed engineer must prepare a design and specifications certifying that such materials are 100% pervious for a 10-year, 2-hour storm event. Prior to the issuance of a certificate of completion, the licensed engineer must certify that the proposed improvements have been constructed in accordance with the project design and specifications. The engineer must also submit a maintenance plan for the

pervious surface materials to maintain perviousness over time. It is the responsibility of the property owner to record the design specifications, maintenance plan, and certification of the owner's responsibility for maintenance at the Dare County Register of Deeds Office and maintain the pervious materials consistent with the recorded maintenance plan.

(8) Other semi-pervious surfaces used for driveways or parking, such as pervious concrete, shall be considered 60% impervious for the purpose of LOT COVERAGE calculation. Similarly, other types of improvements located elsewhere on a site shall be considered 60% impervious for the purposes of LOT COVERAGE calculation. Such materials must either be documented for perviousness and certified by an N.C. licensed engineer or installed according to the manufacturer's specifications for the base and surface. It is the responsibility of the property owner to provide sufficient documentation, including owner certification, of installation consistent with manufacturer's standards and to maintain the surface according to the engineer's or manufacturer's specifications to maintain perviousness over time. It is the responsibility of the property owner to record the design specifications, maintenance plan, and certification of the owner's responsibility for maintenance at the Dare County Register of Deeds Office and maintain the pervious materials consistent with the recorded maintenance plan.

(9) Ground-mounted components of solar energy systems shall be excluded from the calculation of lot coverage; however, no more than 5% of the total lot area may be covered with a solar energy system.

(10) Public sidewalks and similar public improvements located on privately owned properties shall not be included in the calculation of LOT COVERAGE.

LOT, DEPTH. The average distance from the street right-of-way line of the lot to its rear line, measured in a general direction of the sidelines of the lot.

LOT LINES. The line bounding a lot, as follows.

(1) Lot line, front. The line separating a lot from that street which is designated as the front street on the building permit, certificate of occupancy or subdivision plat.

(2) Lot line, rear. The lot boundary opposite and most distant from the front lot line, in the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line, not less than 30 feet long and wholly within the lot.

(3) Lot line, side. Any lot boundary line not a front line or rear lot line.

LOT WIDTH. The width of a lot at the required building setback line, measured at right angles to its depth.

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

LOW IMPACT DEVELOPMENT. A stormwater management design framework aimed at minimizing the negative impacts of stormwater run-off by mimicking pre-development hydrology.

Commented [SC9]: This section has been reviewed multiple times in the past few years but are we missing anything?

MAJOR HOME OCCUPATION.

(1) A profession or occupation carried on by a member of a family or a member of a recognized profession residing on the premises; provided, that no merchandise or commodity other than that produced on the premises is sold on the premises.

(2) The term MAJOR HOME OCCUPATION shall exclude any funeral home, kennel, veterinary office, animal hospital, nursery school and any establishment in which goods other than that produced on the premises are offered for sale.

MANUFACTURED HOME OR MOBILE HOME. A structure as defined in G.S. § 143-145(7).

MEDICAL CLINIC. A building or structure, or portion thereof, where medical services are provided for outpatients only.

MINOR HOME OCCUPATION.

(1) The use of an area located within a dwelling unit for business or commercial purposes by a person for whom the dwelling unit is the primary residence and in which he or she resides during nonbusiness hours.

(2) It shall be understood that home telecommuting for an employer located elsewhere, which is allowed by right, is not a minor home occupation.

(3) Any of the occupations listed under the definition of the term "major home occupation" may qualify as a MINOR HOME OCCUPATION provided that the proposed use meets the criteria listed above.

(4) The term MINOR HOME OCCUPATION shall not include any funeral home; kennel; veterinarian office; animal hospital; nursery school; minor or major repair, detailing, or painting of engines (small or large), major appliances, vehicles, trailers or boats; palm reading or fortunetelling; health salon, gym, dance studio, aerobic exercise studio, beauty or hair salon, massage establishment; welding, material or metal fabrication shops or machine shops; gift or antique shop or on-premises retail sales not meeting the criteria in this section; or other similar uses which will likely create an adverse impact on a residential neighborhood, subject to review and approval of the Zoning Administrator.

MOBILE HOME, CLASS A. A mobile home that meets or exceeds the construction standards promulgated by the United States Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

(1) The home has a length not exceeding 3 times its width;

(2) The pitch of the home's roof has a minimum vertical rise of 1 foot for each 5 feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;

(3) The exterior siding consists of wood, hardboard or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in

composition, appearance and durability to the exterior siding commonly used in standard residential construction;

(4) A continuous, permanent masonry curtain wall, unpierced except for required ventilation and access, is installed under the home after placement on the lot and before occupancy; and

(5) The tongue, axles, transporting lights and removable towing apparatus are removed after placement on the lot and the home shall be attached to the ground as required by the building code before occupancy.

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

NIGHT CLUBS. A place of entertainment generally open primarily in the evening offering entertainment such as music, space for dancing, and/or a stage area; and usually serving alcoholic beverages and food for consumption on the premises. An establishment is not a nightclub if it has a Class A restaurant license from the State of North Carolina.

NON-CONFORMING USE.

(1) A use of a building or land which does not conform to the regulations of the district in which the building or land is situated but was lawful before adoption of this chapter.

(2) The term NON-CONFORMING USE shall not be deemed to apply to renovation or expansion of a single-family residence where the number of bedrooms permitted in relation to lot size is not increased.

NORTH CAROLINA STORMWATER BEST MANAGEMENT PRACTICES MANUAL or NCDENR BMP MANUAL. The stormwater design manual approved by the North Carolina Division of Energy, Mineral, and Land Resources. All references herein to the NC BMP Manual are to the latest published edition or revision.

NUDE MODEL STUDIO. Any place where a person who appears in a state of nudity or 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 form of consideration. There is excepted from this definition any studio which is part of a school for artists who are regularly enrolled in a course of instruction in the arts, and in which the use of nude models involves less than 10% of the course hours.

NUDITY or STATE OF NUDITY. The appearance of a human bare buttock, anus, male genitals, female genitals or female breast without a fully opaque complete-covering of the 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.

OFFICE.

(1) Any room, studio, clinic, suite or building wherein the primary use is the conduct of a business such as accounting, correspondence, research, editing, administration or analysis; or the conduct of a business by salespersons, sales representatives, or manufacturer's representatives; or the conduct of a business by professionals such as engineers, architects, land surveyors, artists, musicians, lawyers, accountants, real estate brokers, insurance agents, dentists or physicians, and landscape architects.

(2) For the purpose of this chapter, an OFFICE shall not involve manufacturing, fabrication, production, processing assembling, cleaning, testing, repair or storage of materials, goods and products; or the sale and/or delivery of any materials, goods or products which are physically located on the premises.

OPEN SPACE. An unoccupied space open to the sky.

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

OUTDOOR ADVERTISING STRUCTURE. A sign and structure (also known as a billboard) which directs attention to a business, commodity, service or entertainment conducted, sold or offered which are not produced, sold or otherwise available on the premises where the sign is erected and maintained. This definition shall not be held to include any board, sign or surface used to display official notices issued by courts or public officers in the performance of official duty, or used to advertise any business or institution conducted on the premises where the structure is located, nor shall it be held to include a real estate sign advertising for sale or rent the property upon which it stands.

OUTDOOR RECREATION ACTIVITY. Any activity conducted outdoors for the purpose of leisure, relaxation and/or personal enjoyment.

OUTDOOR RECREATION ACTIVITY, ACCESSORY. Any activity or improvement designed and used incidental and subordinate to a principal use where access to the activity or improvement is limited to the exclusive use of the patrons of the principal use.

OUTDOOR RECREATION ACTIVITY, COMMERCIAL. Any conduct or any improvement designed solely for the purpose of facilitating an outdoor recreation activity where fees are collected in exchange for access to the improvement. This definition shall not be held to include outdoor recreation activities for which fees are collected but which is conducted by or sponsored by local government or which is conducted for a bona fide nonprofit and approved by the local government.

PARKING SPACE. A vehicular storage space, plus the necessary access space. It shall always be located outside any dedicated right-of-way.

Commented [SC10]: Staff will have some additional options for this definition

PENNANTS. As prohibited herein, pennants are triangular pieces of flexible material generally tapering to a point and joined by a string. Individual tapered pieces of material (such as nautical signaling devices) are considered flags and regulated as flags herein.

PERSONAL SERVICE ESTABLISHMENT. Establishment primarily engaged in the repair, care, maintenance or customizing of personal property that is worn or carried about the person, or is a physical component of the person, including laundry cleaning services, linen

supply, photographic studies, beauty shops, barbershops, shoe repair, clothing rental, tailors and similar place of business.

PLANNING AND DEVELOPMENT REGULATION JURISDICTION. The geographic area defined in G.S. Ch. 160D within which the town may undertake planning and apply the development regulations authorized by this chapter.

PORCH. An area that is open and unobstructed to the exterior, except for guard railings, and is covered by a pitched roof that is supported by columns.

PROPERTY. All real property subject to land-use regulation by the town. The term includes any improvements or structures customarily regarded as a part of real property.

QUASI-JUDICIAL DECISION. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are QUASI-JUDICIAL in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

READER BOARD. A permanent sign, affixed either to the wall of a structure or to an existing freestanding sign, which is comprised of a surface to which letters may be attached on a temporary basis. The area of a READER BOARD sign is to be included in the area of wall-mounted or ground-mounted signage permitted.

RENTAL PROPERTY MANAGEMENT/MAINTENANCE OFFICE.

(1) Any building or portion of a building where the principal function is to serve as an administrative office and centralized logistics facility for conducting property management, maintenance, housekeeping, and general upkeep of vacation rental properties.

(2) For the purpose of this chapter, a rental property management/maintenance office shall not involve the storage or staging of construction materials or equipment. Storage and repair(s) of materials shall be limited to the following items:

(a) Minor repairs such as window screen repair, appliance repair, and the like.

(b) Storage of vacation rental convenience items such as housewares, small countertop appliances, water bottles, linens, and the like.

RESIDENT BUSINESS. A profession or occupation carried on by a member of a family or a member of a recognized profession residing on the premises; provided that merchandise or services produced on or off the premises may be displayed and sold on the premises and up to 1,000 square feet or 40% of the total floor area of the home, whichever is lesser, may be used for the purpose of conducting business.

SAND DUNE. A rounded hill or ridge of loose, gritty grains of disintegrated rock heaped up by the wind. A SAND DUNE may or may not be covered by vegetation or trees.

SEMI-NUDE. A state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals or female breast without a fully opaque complete-covering of the 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.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as 1 of its business purposes, offers for any form of consideration:

(1) Physical contact by customers in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons, or persons of the same sex when 1 or more of the persons is in a state of nudity or semi-nudity.

SEXUALLY ORIENTED BUSINESS.

(1) A business which offers its customers or patrons any device, activity or demonstration depicting specified sexual activities, or which is intended to appeal to sexual interests, titillation or arousal of the customer or patron.

(2) A SEXUALLY ORIENTED BUSINESS shall include an adult establishment as defined in G.S. § 14-202.10(2) and, in addition, without limitation: adult arcade, adult bookstore, adult video store, adult cabaret, adult media center, adult live entertainment business, adult motel, adult motion picture theater, adult mini motion picture theater, adult theater, adult escort agency, nude model studio and sexual encounter center.

SEXUALLY ORIENTED BUSINESS ACTIVITIES. Those activities usually provided for, promoted, or offered by a sexually oriented business as defined herein, whether or not as the principal business purpose or as a sideline or accessory business purpose and whether or not in connection with or on the same premises with a business which is not a sexually oriented business.

SEXUALLY ORIENTED DEVICES. Defined in G.S. § 14-202.10(9) which is incorporated herein by reference.

SHADOW FLICKER. The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow

SIGN. A SIGN shall include all structural members.

(1) **SIGN, ANIMATED.** Any sign, which uses movement or change of lighting to depict action or to create a special effect or scene.

(2) **SIGN AREA.**

(a) The entire face of a sign including any nonstructural embellishments, but not including the supporting structure.

(b) In the case of a double-faced sign where the interior angle formed by the faces is 45 degrees or less or where the sign faces are parallel with no more than 24 inches between each sign face, only 1 display face shall be used in calculating the area.

(c) The AREA OF SIGNS, composed in whole or in part of free-standing letters, devices or sculptured matter not mounted on a measurable surface, shall be construed to be the area of the least square, rectangle or circle that will enclose the letters, devices or sculptured matter.

(3) SIGN, ARCADE. Any sign suspended underneath an awning, canopy, marquee, eave, archway or other structure which forms a covered walkway.

(4) SIGN, BUILDING-MOUNTED. Any sign attached to a building, including a wall-mounted sign, projecting sign, canopy sign, porch sign, and window sign, but specifically excluding any roof sign.

(5) SIGN, CANOPY. Any sign which is painted or printed on or attached flat against a canopy or awning.

(6) SIGN, ELECTRONIC MESSAGE BOARD. A sign, or portion of a sign that displays electronically generated text, images, graphics, or video whereby the message is formed using a panel or matrix consisting of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. ELECTRONIC MESSAGE BOARD SIGNS include, but are not limited to, signs also known as electronic reader boards, electronic message center signs, tri-panel message systems, and commercial electronic-variable message signs (CEVMS).

(7) SIGN FACE. The area of a sign used for visual communication.

(8) SIGN, FLASHING. An illuminated sign of direct or indirect lighting on which the artificial light flashes on and off in regular or irregular sequences.

(9) SIGN, FREESTANDING. A sign supported by 1 or more poles or braces set firmly in the ground or in a foundation and not attached to a building.

(10) SIGN, GOVERNMENT. A sign or notice erected and maintained by the town, county, state or Federal government.

(11) SIGN, HANGING. A sign suspended from braces, beams or other supports which may be either freestanding or building-mounted.

(12) SIGN HEIGHT. As applied to a sign, height shall be measured as the vertical distance between the highest part of the sign or its supporting structure, whichever is highest, and the ground.

(13) SIGN, NON-CONFORMING. A lawfully existing sign which becomes nonconforming on the effective date of a new ordinance or amendment thereto because it does not conform fully with all standards and regulations therein.

(14) SIGN, PORCH. A sign that is attached in whole or in part to the fascia of a porch roof.

(15) SIGN, PORTABLE. A sign that is not permanently attached to the ground, a structure or a building and that can be moved from one location to another and used for a temporary purpose. This shall include "A"-frame signs, sandwich board signs and signs mounted and displayed on a stationary vehicle.

(16) SIGN, RESIDENTIAL. Any sign located on property within a residential zoning district (RS-1, RS-2, and R-2).

(17) SIGN, RESIDENTIAL IDENTIFICATION. A sign which denotes the name of a residential subdivision, condominium or apartment complex. Such signs are permitted for the purpose of assisting the local government with traffic flow and public safety.

(18) SIGN, REVOLVING/ROTATING. A sign that revolves 360 degrees.

(19) SIGN, ROOF. A sign erected, constructed or maintained above or on the roof of any building.

(20) SIGN, SANDWICH (also called an A-FRAME SIGN). A portable sign which is constructed of durable materials, which has 2 flat faces, with or without changeable copy, and is designed to be placed on the ground.

(21) SIGN STRUCTURE. Anything built or constructed for the purpose of supporting a sign.

(22) SIGN, TEMPORARY. A sign constructed of cloth, fabric, plywood or other lightweight material, and designed or intended for a period not to exceed 90 days and which does not constitute a structure subject to the North Carolina State Building Code or Town of Duck ordinances.

(23) SIGN, UNDER-CANOPY. Any sign suspended underneath an awning, canopy, marquee, eave, archway or other structure which forms a covering for a walkway.

(24) SIGN, WALL. A sign painted on or attached parallel to the wall of a building, including any sign attached to a mansard.

(25) SIGN, WINDOW. A sign attached to or applied upon the inside or outside face of a window or transparent door or adjacent thereto (placed in a manner within a building so that it is visible from the exterior of the building through a window and intended to be viewed from the outside), not to include window merchandise displays.

SITE PLAN. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The SITE PLAN may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of

objective standards is an administrative decision, and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A SITE PLAN may also be approved as part of a conditional zoning decision.

SKIRTING AREA. That area beneath a mobile home from the underside of the floor area to the ground.

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.

SOLAR ENERGY SYSTEM. An energy system which converts solar energy to usable thermal, mechanical, chemical or electrical energy for use in the heating or cooling of a structure, for heating domestic water or water used in swimming pools and hot tubs, or for the generation of electricity.

SOLAR PHOTOVOLTAIC SYSTEM. The total components and sub-systems of a solar energy system that, in combination, convert solar energy into electric energy suitable for connection to a utilization load. This may include cells arranged in solar arrays, combiners, inverters, over-current protection devices, and any required disconnecting means.

SOLAR WATER HEATING SYSTEM. A solar energy system that converts direct solar radiation energy into thermal energy and transfers that energy to raise the temperature of water.

SPECIAL USE PERMIT. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

SPECIFIED ANATOMICAL AREAS. Defined in G.S. § 14-202.10(10), which is incorporated herein by reference.

SPECIFIED SEXUAL ACTIVITIES. Defined in G.S. § 14-202.10(11) which is incorporated herein by reference.

STORMWATER BEST MANAGEMENT PRACTICES or BMPs. Hereafter referred to as “Best Management Practices” or “BMPs”; actions to control stormwater runoff, and can include structural BMPs, such as infiltration devices, retention ponds, filters, and constructed wetlands; and non-structural BMPs, such as maintenance practices, street sweeping, public education, and outreach programs.

STORMWATER RUNOFF. The flow of surface water resulting from precipitation.

STREET.

(1) Any permanently dedicated public right-of-way which has been accepted for maintenance by the State Department of Transportation; or

(2) Any other open area providing the principal means of access for vehicles or pedestrians from a public right-of-way to a building or use of land and which:

(a) Is at least 30 feet in width;

(b) Has been approved by the Town Council as a street to satisfy the requirements of this chapter; and

(c) Is covenanted by its owner to remain open and unobstructed throughout the life of any building or use which depends thereon to satisfy any requirement of this chapter.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

SUBDIVISION. The division of land for the purpose of sale or development as specified in G.S. § 160D-802.

TAVERN. See BAR/TAVERN.

TOWNHOUSE.

(1) A single-family dwelling on its own individual lot but connected on 2 sides, by means of a common wall for at least 10 feet of its length, to 2 other single-family dwellings or an end dwelling of a row of such or like dwellings.

(2) No more than 6 like dwelling units may be attached in a single group.

TRAILER. Any of the following.

CAMPING TRAILER. A folding structure of canvas or other material mounted on wheels and designed for travel, recreation and vacation use.

MOTOR HOME. A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self propelled vehicle.

PICKUP COACH. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

TRAVEL TRAILER. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses. When factory-equipped for the roads, it shall have a body width not exceeding 8 feet and a body length not exceeding 32 feet.

TRANSIT STOPS. A place along a route where buses, trolleys, or other forms of mass transportation stop to discharge and take on passengers.

USED or OCCUPIED. As applied to any land or building, shall be construed to include the words INTENDED, ARRANGED or DESIGNED TO BE USED OR OCCUPIED.

Commented [SC11]: Note all of the various items considered a structure under the definition of yard. Should we add additional language here?

VARIANCE.

(1) A relaxation of the terms of this chapter where the variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

(2) As used in this chapter, a VARIANCE is authorized only for height, area and size of structure or size of yards and open spaces.

(3) The establishment or expansion of the use otherwise prohibited shall not be allowed by variance, nor shall a VARIANCE be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

WIND DEVICE.

(1) Any flag, banner, balloon, streamer or similar device that moves freely in the wind.

(2) All WIND DEVICES are considered to be flags and are regulated as flags, except as otherwise provided herein.

WIND ENERGY FACILITY. An electric generating facility, whose main purpose is to supply electricity, consisting of 1 or more wind turbines and other accessory structures and/or buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

WIND ENERGY FACILITY, COMMERCIAL. An electric generating facility consisting of 1 or more wind turbines under common ownership or operating control that includes substations, MET towers, cables/wires and other building accessories to such facility, whose main purpose is to supply electricity to off-site customer(s).

WIND ENERGY FACILITY, SUPPLEMENTARY. A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A supplemental wind energy facility may consist of a single wind turbine mounted either on a freestanding tower or on the roof of a building with associated control or conversion electronics.

WIND POWER. The conversion of wind energy into another form of energy.

WIND TURBINE. A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, guy wires and pad transformer.

WIND TURBINE HEIGHT. The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

YARD. A required open space other than a court, unoccupied and unobstructed by an improvement or a structure or portion of a structure (including pools, sheds, decks, patios, gazebos and similar features); provided, that fences, walls, poles, posts and other

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customary yard accessories, ornaments and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility or any other requirement of this chapter and further provided that driveways and parking spaces may be located within the required front and side yards but no closer than 5 feet to the side property line and further provided that building mechanicals such as heating and air conditioning units may be located in the side or rear yard but no closer than 5 feet from any property line.

YARD, FRONT.

(1) A yard extending between side lot lines across the front of a lot adjoining a street. Depth of the required FRONT YARD shall be measured at right angles to a straight line joining the foremost points of the side lot lines.

(2) The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without the rounding. FRONT and rear yard lines shall be essentially parallel.

YARD, REAR. A yard extending across the rear of the lot between side lot lines. Depth of a required REAR YARD shall be measured in a manner so that the yard established is a strip of the minimum width required by district regulations, with its inner edge parallel with the rear lot line.

YARD, SIDE.

(1) A yard extending from the rear line of the required front yard to the rear yard.

(2) Width of a required SIDE YARD shall be measured in a manner so that the yard established is a strip of the minimum width required by district regulations, with its inner edge parallel with the side lot line.

ZONING MAP AMENDMENT OR REZONING. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (1) the initial application of zoning when land is added to the territorial jurisdiction of the town that has previously adopted zoning regulations; and (2) the application of an overlay zoning district or a conditional zoning district. The term does not include (1) the initial adoption of a zoning map by the town; (2) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction; or (3) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

(Ord. 04-21, passed 10-6-2004, § 2; Am. Ord. 04-24, passed 11-3-2004; Am. Ord. 05-06, passed 5-4-2005; Am. Ord. 06-02, passed 5-3-2006; Am. Ord. 07-12, passed 9-5-2007; Am. Ord. 07-15, passed 10-3-2007; Am. Ord. 08-03, passed 7-2-2008; Am. Ord. 09-002, passed 4-8-2009; Am. Ord. 10-04, passed 3-3-2010; Am. Ord. 10-06, passed 5-5-2010; Am. Ord. 10-10, passed 1-5-2011; Am. Ord. 11-08, passed 1-4-2012; Am. Ord. 12-01, passed 6-6-2012; Am. Ord. 12-06, passed 10-3-2012; Am. Ord. 12-08, passed 11-7-2012; Am. Ord. 14-02,

passed 6-4-2014; Am. Ord. 15-07, passed 6-3-2015; Am. Ord. 16-01, passed 1-6-2016; Am. Ord. 16-04, passed 7-6-2016; Am. Ord. 16-07, passed 11-2-2016; Am. Ord. 17-04, passed 6-7-2017; Am. Ord. 17-05, passed 7-5-2017; Am. Ord. 17-07, passed 8-2-2017; Am. Ord. 17-11, passed 10-4-2017; Am. Ord. 19-07, passed 12-4-2019; Am. Ord. 20-02, passed 5-20-2020; Am. Ord. 21-01, passed 6-2-2021; Am. Ord. 22-05, passed 8-3-2022; Am. Ord. 23-01, passed 5-3-2023; Am. Ord. 23-08, passed 8-2-2023; Am. Ord. 23-14, passed 12-6-2023; Am. Ord. 24-04, passed 1-8-2025)

§ 156.003 INTERPRETATION OF CHAPTER; CONFLICTING PROVISIONS.

(A) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare.

(B) It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces, than are imposed or required by other ordinances, rules or regulations, or by easements, covenants or agreements, the provisions of this chapter shall govern.

(C) The Zoning Administration shall use the following factors as a guideline when classifying a new or unlisted use to determine if such use is classified in a manner consistent with other similar uses in the applicable zoning district.

- (1) Consistency with the stated intent of the zoning district;
- (2) Consistency with the adopted vision statement and Comprehensive & Land Use Plan;
- (3) Density of development (number of units, square footage, etc.);
- (4) Intensity of use;
- (5) Type of activity associated with the use;
- (6) Number of customers and length of stay;
- (7) Generation of pedestrian and vehicular traffic;
- (8) Potential impacts such as noise, light, odor, etc.; and
- (9) Public safety.

(Ord. 04-21, passed 10-6-2004, § 3; Am. Ord. 16-02, passed 4-6-2016; Am. Ord. 21-01, passed 6-2-2021)

§ 156.004 TERRITORIAL APPLICABILITY OF CHAPTER.

(A) The provisions of this chapter shall apply to all lands, structures and uses thereon within the planning and development regulation jurisdiction designated on the official zoning map of the town.

(B) Pursuant to G.S. § 160D-903, property that is located in the extraterritorial jurisdiction which is used for bona fide farm purposes is exempt from the regulations of this chapter.

Commented [SC12]: We have no ETJs or farms so is this necessary? Likely a legal question.

(C) The planning and development regulation jurisdiction of the town may be modified from time to time in accordance with G.S. § 160D-202.

(Ord. 04-21, passed 10-6-2004, § 4; Am. Ord. 21-01, passed 6-2-2021)

§ 156.005 COMPLIANCE WITH CHAPTER; USE, OCCUPANCY AND CONSTRUCTION REQUIREMENTS.

No building, structure or land shall be used or occupied, and no structure thereof shall be constructed, except in conformity with all of the regulations specified in this chapter for the district in which it is located.

(Ord. 04-21, passed 10-6-2004, § 5) Penalty, see § 156.999

§ 156.006 HEIGHT, BULK, DENSITY, LOT COVERAGE, YARD AND OPEN SPACE REQUIREMENTS.

No building or other structure shall be erected or altered:

- (A) To exceed the height or bulk limitations as set forth in this chapter;
- (B) To accommodate or house a greater number of families than permitted by this chapter;
- (C) To occupy a greater percentage of lot area than permitted by this chapter; or
- (D) To have narrower or smaller rear yards, front yards, side yards or other open spaces than required in this chapter, or in any other manner contrary to the provisions of this chapter.

(Ord. 04-21, passed 10-6-2004, § 6) Penalty, see § 156.999

§ 156.007 COMBINATION OF REQUIRED SPACES.

No part of a yard or other open space, or off-street parking or loading space, required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space

similarly required for any other building, except as otherwise provided in this chapter (e.g. group development projects or village commercial development option).

(Ord. 04-21, passed 10-6-2004, § 7) Penalty, see § 156.999

§ 156.008 REDUCTION OF YARDS OR LOTS BELOW MINIMUM REQUIREMENTS.

(A) No yard or lot existing on July 3, 2002 shall be reduced in dimension or area below the minimum requirements set forth in this chapter.

(B) Yards or lots created after July 3, 2002 shall meet at least the minimum requirements established by the chapter.

(Ord. 04-21, passed 10-6-2004, § 8) Penalty, see § 156.999

§ 156.009 ONE PRINCIPAL BUILDING PER LOT.

Only 1 principal building and its customary accessory buildings may be erected on any lot, except as otherwise provided in this chapter (e.g. group development projects or village commercial development option).

(Ord. 04-21, passed 10-6-2004, § 9) Penalty, see § 156.999

§ 156.010 LOT ACCESS REQUIREMENTS.

No structure requiring a building permit shall be erected on any lot which:

(A) Does not abut either a public right-of-way or a private street or easement at least 30 feet in width, which has been approved in accordance with the provisions of this chapter and recorded by the Register of Deeds of the county; or

(B) Does not have a cart road, land or other access to a public street or highway, which access is described in an instrument recorded in the office of the County Register of Deeds prior to adoption of this section or described and sworn to or affirmed by affidavits presented to the Zoning Administrator setting forth the fact that the same existed prior to adoption of this section.

(Ord. 04-21, passed 10-6-2004, § 10) Penalty, see § 156.999

§ 156.011 VISION CLEARANCE AT INTERSECTIONS.

(A) On a corner lot which abuts a state-maintained right-of-way in any district, no planting, structure, fence, wall or other obstruction to vision more than 3 feet in height shall be placed or maintained within the triangular area formed by the intersecting street

right-of-way lines and a straight line connecting points on street lines, each of which is 25 feet distance from the point of intersection.

(B) On all rights-of-way proper setback for vision clearance shall be determined by the Zoning Administrator, but in no case shall the requirement exceed that above.

(Ord. 04-21, passed 10-6-2004, § 11)

§ 156.012 YARD REQUIREMENTS.

Unless otherwise provided in this chapter, no principal structure or principal use, structure intended for outdoor recreational use, such as pools and tennis courts, or other accessory buildings or structures shall be located within the front, side or rear yards (setback areas).

(Ord. 04-21, passed 10-6-2004, § 12)

Commented [SC13]: Do we need to add any additional language like sheds, decks, patios?