



Agenda

Town of Duck Planning Board – Regular Meeting

Paul F. Keller Meeting Hall

Wednesday, April 8, 2026 – 4:00 p.m.

1. Call to Order
2. Public Comment
3. Approval of Minutes
 - a. *Minutes from March 11, 2026 Meeting*
4. *Planning and Zoning E-Module Learning*
 - a. *Types of Land Use Decisions*
5. Zoning Text Review
 - a. *Chapter 156: Land Use*
 - i. *General Provisions, Subsection 156.001 - 156.012 Review*
 - ii. *District Regulations, Subsections 156.025 - 156.040 Review*
 - iii. *Exemptions Generally, Subsections 156.050 - 156-056*
6. Staff Comments
 - a. *Summary of Town Council Meeting, April 1, 2026*
 - b. *Project Updates*
7. Board Comments
8. Adjournment

**PLANNING BOARD
REGULAR MEETING
March 11, 2026**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, March 11, 2026.

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

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

Absent: None.

CALL TO ORDER

Chair Wetzel called to order the Regular Meeting of the Planning Board for March 11, 2026 at 4:00 p.m.

SWEARING IN NEW PLANNING BOARD MEMBER, IRINE DEVROUDE

Hanks swore in new planning board member, Irine Devroude.

PUBLIC COMMENTS

None.

APPROVAL OF MINUTES

Minutes from the January 14, 2025, Meeting

Cofield motioned to approve the minutes as presented. Webb second the motion.

Motion carried 5-0.

PLANNING AND ZONING E-MODULE LEARNING

- a. *Local Land Use Planning in North Carolina*

The Planning Board watched a 20-minute e-module presented by the UNC School of Government regarding the basics of local development regulations.

ZONING TEXT AMENDMENTS

- a. *Chapter 156: Land Use*
 - i. *General Provisions, Subsection 156.001 -156.012 Review*

Cross presented a follow up draft of subsections 156.001 through 156.012 to the Board for review and to continue identifying areas of revision. Staff referenced revisions to Section 156.001, noting a proposed amendment to include “redevelopment” alongside “expansion and development” to better reflect current trends involving the redevelopment of existing structures. On page 13, under Adult Cabaret, to include “digital assets” was acknowledged and added. Discussion moved to baste stamp No. 16 regarding the definition of “bedroom equivalent.” Staff included regulatory language provided by Dare County Environmental Health Department (DCEHD), which had not been available during prior meetings. It was noted that no standard planning dictionary definition had been identified for bedroom equivalent.

Board members discussed the relevance of the term, particularly in relation to occupancy regulations. It was clarified that ordinance enforcement is based on occupancy rather than the number of bedrooms. Occupancy limits are determined by Dare County Environmental Health based on septic capacity and anticipated gallons per day usage, which correlates to the number of occupants rather than designated bedrooms. Wetzel inquired about enforcement of stated occupancy limits. Cross explained that property owners are required by DCEHD to sign documentation specifying occupancy; however, follow-up enforcement is limited. To address this, occupancy limits are included on certificates of occupancy, with parking requirements directly tied to those limits. The Board further discussed that “bedroom equivalents” may be most applicable in determining parking requirements. Examples were provided illustrating that higher occupancy (e.g., four bedrooms accommodating twelve occupants) results in increased parking requirements compared to lower occupancy scenarios. Standard assumption of two persons per sleeping room were noted.

Cross referenced information provided by DCEHD regarding definitions and regulatory alignment. Cross noted that a “bedroom” is defined as a sleeping room under applicable building and recovery codes, with requirements such as doors, windows, and egress determined by building standards. Cross further explained that environmental health evaluations consider factors such as daily design flow (DDF), effluent strength, and site conditions. These determinations are based on the number and function of design units, including the number of bedrooms, occupants per bedroom, or total number of occupants. Cross emphasized that the primary regulatory focus is on total occupancy rather than strictly the number of bedrooms.

Cross revisited the definition of “building setback line,” noting that no revisions have been made pending further review. Cross referenced planning dictionary standards, which define “setback line” rather than “building setback line,” and recommended consideration of removing the word “building” to align with standard terminology. Cross also identified that the current definition includes regulatory language excluding certain features (e.g., uncovered porches, steps, eaves, gutters, and fixtures). She advised that this language is already addressed within the ordinance’s regulatory sections and should be removed from the definition to avoid redundancy and potential confusion. In response to a question from Cofield regarding whether these features are addressed elsewhere, Cross confirmed that the ordinance includes a provision allowing certain building features—such as sills, cornices, bay windows, stoops, covered entryways, and stairs—to project up to three feet into required yard setbacks or beyond building restriction lines.

Cross noted the proposed revision to rename “bulletin board” to “sign, bulletin board” for consistency. She explained that this change will allow the definition to be relocated to the sign section of the ordinance, ensuring that all sign-related definitions are consolidated in one location.

Cross referenced a comment from the recent Council retreat regarding the use of decibel measurements, noting that “dBA” (A-weighted decibels) was suggested as the preferred standard. She indicated that this item has been flagged for further review. Board members discussed existing definitions related to sound and noise, including “sound level,” and considered whether multiple related definitions could be logically consolidated. It was noted that clarity and consistency in terminology will be important. Cross explained that this working document will serve as a guide for a future consultant, pending budget approval, to assist in identifying gaps, inconsistencies, and needed updates within the ordinance. This includes determining appropriate standards for noise measurement. Staff noted that industry standards, such as dBA, may be appropriate to include, but emphasized that the topic is complex and requires careful consideration due to the technical nature of sound measurement.

Discussion then shifted to the definition of “development.” Staff noted prior Board consensus to consolidate definitions from multiple sources, including the floodplain ordinance and Chapter 154 (Areas of Environmental Concern), into a single, clear definition. Cross suggested that, where appropriate, the ordinance could also reference related regulations or external definitions (e.g., general statutes) rather than duplicating language. Further review of both noise-related definitions and the development definition was recommended, as items to be included for consultant evaluation.

ii. District Regulations, Subsections 156.025 – 156.040

Cross brought up the discussion of relevancy surrounding manufactured and mobile homes. The board discussed the definition of “seasonal vacation use” within district regulations, noting the difficulty in clearly defining the term and the lack of a clear solution from prior discussions. It was suggested that a potential distinction could be whether a property is used as a permanent residence, such as receiving mail, versus for seasonal purposes. The conversation also addressed the differences between manufactured and mobile homes, with clarification that manufactured homes are prefabricated structures while mobile homes are trailer-style units. Members noted that these distinctions are already defined in state statutes, and while there was a question regarding a pre-1976 cutoff associated with HUD standards, it was confirmed that the regulations rely on existing statutory references rather than establishing new definitions locally.

Cross combined the changes to eating establishments, note that when they are combined, it will read something like provided table or counter service by an employee and just have sections A and B combined.

Cross reviewed the section on impervious surfaces, referencing prior extensive discussion under lot coverage and confirming that no major items appeared to be missing. A clarification was raised regarding terminology, specifically the use of “innovative wastewater systems,” with discussion

distinguishing engineered systems such as peat systems and noting that their plastic components would count toward lot coverage. It was suggested that the language be revised to “innovative/engineered systems” for clarity to the public. Additional questions were raised about gravel or sand base grid systems, with staff confirming that sub-base inspections are conducted to verify proper installation and ensure compliance.

Cross moved on to parking spaces, noting that calculations would be addressed in the definitions section, and noted a correction in the subsection under “personal service establishment,” updating a typographical error from “photograph studies” to “photograph studios.” The “reader board” definition was identified as a type of sign, with “sign” to be added and the term moved to the sign section, “sign, arcade” will be removed due to duplication with similar terms and to avoid confusion.

Cross brought up discussion of the relationship between the definitions of “structure” and “yard,” emphasizing the need to ensure consistency and clarity in how these terms interact within the ordinance. Concerns were raised about the current definition of “yard,” particularly the inclusion of regulatory language (e.g., fences and height limitations), which should instead be moved to an exceptions section for clarity and ease of use. Cross highlighted that placing regulatory details within definitions can make information difficult to locate for both staff and the public. The necessity of including language referencing a “court” was also questioned, with members noting potential confusion between interior courtyards and recreational courts (e.g., tennis or pickleball), suggesting the term should either be clearly defined or removed.

Additional discussion focused on terminology such as “required front” and “required rear” yards, noting that clearer definitions of setbacks may eliminate the need for such qualifiers. Cross considered whether to add references to structures like sheds, decks, and patios, and identified inconsistencies in the use of “setback areas” versus “building setback lines,” recommending either defining the former or standardizing the terminology. Members also expressed confusion with a section restricting structures in yards, noting that in practice such uses exist and that the language may be unclear or unnecessary. Suggestions included revising the wording to explicitly reference setback areas or potentially removing the section if it does not add value. Cross concluded by identifying related sections for further review and noted that the compiled definitions were drawn from the Planner’s Dictionary, though formatting varies due to extraction methods.

Cross provided multiple definitions of “open space,” noting that many refer to community-oriented areas rather than individual properties. Members discussed refining the definition to focus on private use, suggesting language that emphasizes areas intended for residents of a dwelling unit and preserving natural or landscaped space, while avoiding unnecessary or conflicting references. It was agreed that references to patios should be removed from the open space definition, as patios would instead be classified under “structures.” The group supported simplifying the definition to avoid overlap and confusion.

Cross shifted to the definition of “patio,” with consensus that it should fall under the broader category of “structure.” Members reviewed and refined the language, agreeing that a patio may be constructed of various materials and may or may not be elevated above ground level, to account for different design types. It was also noted that related elements such as decks and porches would

be included under the structure definition. The board agreed to carry these revised definitions forward and to continue discussion at the next meeting, beginning with parking, which had not been addressed as originally planned.

STAFF COMMENTS

Summary of Town Council Meetings, February 4, February 24-25, and March 4, 2026

Cross let the Board members know that the Town Council approved the zoning text amendment for outdoor shower exceptions as well as for pool water discharge and general nuisance code Chapter 91-Addition 156.041. Staff will continue to work towards educational standpoints on these ZTA's. From the Town Council Retreat staff were approved to bring back the peddler's ordinance with possibilities for brick-and-mortar businesses. Staff will also be bringing back the noise ordinance with Connor Winstead in charge of working through it.

Project Updates

Cross informed the Board that project from Wood Duck to Pintail has been completed besides working on grass seed for stabilization. The retaining wall at North Georgetown Sands is completed and the contractors are working on cleaning up the area. Teresa Court received bids however, additional money will be needed to complete the project, which Council approved. The project is slated to begin after the 2026 Duck Jazz Festival to not impact homeowners in the area during the main rental season. Parks and Rec committee received approval for the cul-de-sac improvements and will be attempting to have it completed by Easter. The Town will host a Foster a Tree project for bald Cypress trees. Two trees will be purchased and planted, another 25 smaller tubling trees will be planted along the shoreline, and 50 additional baby trees to be passed out to be raised by volunteers and brought back to the Town for planting after 2 years. March 20, 2026, is Earth Day and this will be the day of passing out trees as well as providing information for care. NC OBX Realtors provided a \$5,000 grant for septic inspection program. Staff has also requested additional funding from Council to help provide the service to more properties. The septic inspection program is expected to kick off in April.

BOARD COMMENTS

Webb mentioned the Parks and Recreation Committee meetings and that there are future plans for the nature play and playground renovations. Devroude asked about the current issues with the noise ordinance. Winstead informed her that the Town has recently received a few complaints about excessive noise from commercial businesses that have affected some residences. Overall, the Town sees this as an opportunity for improvement from an enforceability standpoint. Snyder also let Devroude know that she could watch the public comments from the recent Town Council Retreat for more information. Wetzal requested a decent size map of the Town showing different zoning areas.

ADJOURNMENT

Wetzel adjourned.

The time was 6:16 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: April 1, 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. Staff presented this matter to the Town Council at their February retreat, and we are optimistic that funds will be budgeted to secure a consultant for a comprehensive review of the zoning ordinance and perhaps other sections of our Land Use Code.

Based on feedback from the Board's January meeting, we have developed a spreadsheet that touches on the items that the Board felt should be looked at. During our March Planning Board meeting, we reviewed items discussed at our January meeting and continued review of a variety of definitions that were brought up at the January meeting.

A fair amount of time was spent on the definition of Arcade and staff provided subsequent information to the Board following the March meeting to provide some historical context. Staff would expect that this definition will require some further discussion, and therefore we have not provided a proposal for this definition.

We discussed **Dwelling** and the use of seasonal vacation purpose and the fact that some of the language relating to mobile and manufactures homes stem from GS regulations. No changes were suggested.

The definition of deck and patio were discussed, and it was concluded that the definition of structure should encompass these items.

The definition of **Used or Occupied** was discussed but staff did not have any indication as to whether there was consensus that changes should be made. We would ask that this definition be revisited.

Staff cross-referenced the word "court" to determine whether removal of "other than a court" from the definition of **Yard** could be done without implications. Staff did not find the use of the word "court" anywhere else in the code or zoning ordinance where it was not in reference to a Court of Law or was preceded by tennis or athletic. Staff has included revisions to this definition and recommend removal of this phrase.



Proposed Definitions for discussion:

REMOVE:

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.

REPLACE WITH:

SETBACK. The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

The existing definition does not capture the side or rear yard setbacks. The replacement does this and the 3 feet exception is covered under Section 156.051 so the regulatory piece is recommended for removal.

REMOVE:

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.

REPLACE WITH:

"A" WEIGHTING SCALE. The sound pressure level, in decibels, as measured with the sound level meter using the "A" weighted network (scale). The standard unit of notation is decibel (dB(A)).

- (1) DECIBEL (dB(A)).** The decibel is a unit of measure of sound (noise) level relative to a standard reference sound on a logarithmic scale.

This language is consistent with the revised ordinance that was submitted to Town Council on April 1. While Council did not adopt the amendment, it is anticipated that at some point in the future, revisions will be made and we will want to be consistent with these definitions.



**REVISED:
DEVELOPMENT.**

- (1) Any of the following:
 - (a) Any man-made change to improved or unimproved real estate
 - (b) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - (c) The 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. ~~excavation, grading, filling, clearing, or alteration of land.~~
 - (d) construction or enlargement of a structure
 - (e) The subdivision of land as defined in G.S. § 160D-802.
 - (f) 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.

These additions incorporate language from Chapter 150 - Flood Damage Prevention and Chapter 154 – Areas of Environmental Concern as discussed during the January and March meetings.

NEW:

LANDSCAPE AREA: An area set aside from structures and parking which is developed and maintained with natural materials for the purpose of the growing of trees, shrubs, vines, hedges, grass, lawns and bedding plants

REVISED:

OPEN SPACE. An unoccupied, natural or landscaped area that ~~space~~ is open to the sky and not occupied by any structure or impervious surface.

REMOVE:

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

PROPOSED:

PARKING SPACE (vs. Parking Area?): A clear area accessible to vehicles, improved, maintained, and used for the sole (or primary?) purpose of parking a motor vehicle, and permanently devoid of vegetation.



REVISED:

IMPERVIOUS SURFACE. Any material that **substantially reduces or prevents** the infiltration of water into the soil, **as documented by manufacturer's specifications.**

NEW

REDEVELOP(MENT). Any new construction on a site that has pre-existing uses, involving the demolition of existing buildings to reconstruct or the proposed expansion, addition of change to an existing building or structure(s).

REVISED

STRUCTURE. Anything constructed or erected, the use of which requires **more or less permanent** location on the ground or attachment to something having location on the ground, **including but without limiting the generality of the foregoing, advertising signs, sheds, garages, swimming pools, decks, porches, patios (pervious or impervious), pergolas, gazebos, and other similar features, but excluding fences, walls, posts, artificial turf and other customary yard accessories, ornaments and furniture.**

REVISED

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 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.~~

The definition of **Yard** was simplified as much of the definition is regulatory in nature and these aspects will be incorporated into other sections of the zoning ordinance. Board members also indicated that the various aspects of Yard, Front, Rear and Side definitions were confusing. Staff will provide some graphic explanations during the meeting that may help to make this section more easily understood, and staff may suggest that graphics be incorporated in the ordinance.



Additional revisions to the ordinance markup sections 156-001 through 156-012 have been made to include removal/strike through of sections discussed at the March meeting, as well as some new comments revisions that staff will walk the Board through.

Depending on how far we get, we will begin reviewing sections 156-025 through 156.039 and sections 156.050 through 156.056 are intended for you to take home with the expectation those sections will be coming forward at the next meeting.

As we discuss these revisions staff would like to remind the Board that any changes and/or additions recommended should align with our Comprehensive Land Use Plan and the 2032 Vision.

Lastly, we would like to reiterate that this review is not intended to result in immediate text amendments but rather a gathering of information, comments and suggestions intended to support the anticipated comprehensive review process.

ATTACHMENTS

- a. Ordinance Review tracking sheet updated April 1, 2026
- b. Updated Mark up of 156.001 through 156.012
- c. Markup of District Regulations 156.025 through 156-039
- d. Markup of Exceptions Generally 156.050 through 156.056

Definitions from Planners Dictionary (please bring these with you from last meeting if you kept them)

Ordinance Review Items - UPDATED 4/1/2026

Date of Notice	Ordinance Section	Description of Discrepancy	Street # of Concern	Street of Concern	Permit Number	Determination or Action Taken	Date of Action	Response to Action
11/10/2025	156.056 BUILDING FEATURES AND STRUCTURES EXEMPT FROM DISTRICT HEIGHT REGULATIONS.	Should Area of bay windows be included when calculating floor area for cupolas/observation towers? Plans for addition called for cupola up to 5' above 35' height max for RS-1 home but the seating areas brought the struture total floor area to ~ 101 sq. ft.	103	Amy Lane	B25-000338	The definitions of "floor area" include all areas of habitable space to the exterior walls. Therefore, I would interpret the floor area to be inclusive of the proposed seating area, thus 101 square feet. Just because the seating is raised and built-in doesn't exempt that area from being "floor area". If the owners think otherwise, they can appeal that interpretation to the Board of Adjustment. Email was sent to	11/12/2025	homeowner/applicant and plans were revised to reduce square footage by removing bay window features.
11/25/2025	§ 150.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.	The Director of Community Development is designated as Floodplain Administrator. That position no longer exists. This section should be revised to allow flexibility and appointment by the Town Manager.	116	Skimmer Way	B24-0343	No action taken. Noted when working on Order of Floodplain Administrator's determination.		
1/14/2026	§ 156.002 DEFINITIONS.	Planning Board Review of Definitions	n/a	n/a	n/a	Add Definitions for Arcade, Court, Deck, Landscaping, Patio, Redevelopment and Walkway		removed Court, lump deck and patio under structure. See staff memo 4/1/2026
1/14/2026	§ 156.002 DEFINITIONS.	Planning Board Review of Definitions	n/a	n/a	n/a	Clarify definitions related to open space, structures, used or occupied and yard. As it relates to open space, look at earth to sky, natural, organic, no artificial turf and unoccupied		revisit Used or Occupied
1/14/2026	§ 156.001 AUTHORITY FOR ENACTMENT AND PURPOSES OF CHAPTER.	Planning Board Review of Definitions	n/a	n/a	n/a	add redevelopment to last sentence of 156.001(B)		noted in code markup 3/4/2026
1/14/2026	§ 156.002 DEFINITIONS.	Planning Board Review of Definitions	n/a	n/a	n/a	add digital assets to definition of Adult Caberet (3)		noted in code markup 3/4/2026
1/14/2026	§ 156.002 DEFINITIONS.	Planning Board Review of Definitions	n/a	n/a	n/a	clean up building setback line to include side setbacks		revision to definition in staff memo 4/1/2026
1/14/2026	§ 156.002 DEFINITIONS.	Planning Board Review of Definitions	n/a	n/a	n/a	Bulletin Board - rename Sign, Bulletin Board and Reader Board - rename Sign, Reader Board, Outdoor Advertising Structure, rename Sign, Outdoor Advertising Structure		

1/14/2026	§ 156.002 DEFINITIONS.	Planning Board Review of Definitions	n/a	n/a	n/a	Development - add subsections to incorporate parts covered under chapters 150 (floodplain) and 154 (AEC)		revision to definition in staff memo 4/1/2026
1/14/2026	§ 156.002 DEFINITIONS.	Planning Board Review of Definitions	n/a	n/a	n/a	Eating Establishment (2) (a) and (b) seem to be nearly the same and can be combined by adding or changing the language to say and and provided table or counter service by an employee		revision noted in code markup 4/1/2026
1/14/2026	§ 156.002 DEFINITIONS.	Staff	n/a	n/a	n/a	look at definitions for impervious surface		definition revision in staff memo 4/1/2026
1/14/2026	§ 156.002 DEFINITIONS.	Staff	n/a	n/a	n/a	look at definitions for parking space		definition revision in staff memo 4/1/2026
1/14/2026	§ 156.002 DEFINITIONS.	Planning Board Review of Definitions	n/a	n/a	n/a	correct typo - Personal Service Establishment - photographic "studies" should be "studios"		noted in code markup 3/4/2026
1/14/2026	§ 156.002 DEFINITIONS.	Planning Board Review of Definitions	n/a	n/a	n/a	Remove (3) Sign, Arcade as it is identical to Sign, Under-Canopy.		noted in code markup 3/4/2026
1/14/2026	§ 156.002 DEFINITIONS.	Planning Board Review of Definitions	n/a	n/a	n/a	Look at Yard definition and extract the regulatory piece relating to setbacks for driveways and mechanicals.		definition revision in staff memo 4/1/2026
1/14/2026	§ 156.012 YARD REQUIREMENTS.	Planning Board Review of Definitions	n/a	n/a	n/a	review this language - do we need to add decks, patios, sheds? Setback areas are not defined but building setback line is.	4/1/2026	see revisions in code markup 4/1/2026
3/2/2026	§ 156.058 WIRELESS TELECOMMUNICATIONS SYSTEMS (WTS).	Planning Board Review of Definitions	100	Dianne Street	B25-000192	review language in section "J" for small wireless facilities- is the code clear enough to differentiate between small wireless facility v. utility pole. The utility pole or "support structure" seems to be allowed at height of 40' above adjacent grade and the antenna or "facility" is permitted to go 10' higher than that. Clarity may be needed.	3/3/2026	SMC made call that code allowed for top of antenna to exceed 40', however utility pole couldn't. No action taken by applicant.
3/12/2026	§ 156.092 OFF-STREET PARKING REQUIREMENTS FOR SINGLE-FAMILY AND 2-FAMILY (DUPLIX) DWELLINGS	Should parking access be permitted within	136	Wampum Drive	B24-000204	Parking access was allowed to begin, and flare out within 5' of property line, however full dimensions of parking area were located safely outside of 5' buffer, closer to home.	6/24/2024	Permit was issued
	"	"	102	Cook Drive	B23-000165	Access to the parking spot was determined to be setback 5' from the property line. This made for oddly arrange entry to the NW most parking space.	3/12/2026	SMC determined the access to parking could be within 5' from property line, and the recent landscaping changes effecting parking were permitted.

	"	"	102	Christopher Drive	B24-000031	Full dimension of parking space was within 5' of property line. Allowed for majority of SW parking space to be within 5' from property line.	1/6/2025	Permeable pavers were removed and parking space was brought into compliance.
4/1/2026	§ 156.002 DEFINITIONS.	Planning Board Review of Definitions	n/a	n/a	n/a	definitions regarding Yard, Front, Side and Rear are confusing - add graphics?		

Agenda Item 5A/Attachment b

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 requirement; and to give reasonable consideration to expansion, ~~and development~~ and redevelopment 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, digital assets 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.

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.

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.

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.

Commented [SC1]: We can look at what DCEHD considers a "bedroom"

Commented [SC2R1]: DCEHD regulations included

~~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.~~

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Commented [SC3]: This definition does not account for side setbacks.

Commented [SC4R3]: Created a new definition for Setback - see staff report

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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.

Commented [SC5]: Rename and relocated this to Sign - Bulletin Board

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 [SC6]: It was mentioned at the retreat that we should use dba?

Commented [SC7R6]: See proposed replacement in the staff report

Commented [SC8]: 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.

Commented [SC9R8]: There was consensus that this would be appropriate.

Commented [SC10R8]: See 4/1 staff memo for compilation of these items.

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 [SC11]: How is solely for seasonal vacation purpose confirmed? Staff will see if we can find any history on this definition.

Commented [SC12R11]: There was no indication that this should be changed during the March meeting.

(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 service is provided by an employee at a table or county. table service by an employee;

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~~(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.~~

Commented [SC13]: Combine these into one item changing the last portion of the sentence to read and are provided table or counter service by an employee.

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(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.

Commented [SC14]: This is the section that speaks to Eating Establishments in more detail.

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.

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 [SC15]: Impervious surface is not a material. Perhaps this would be better stated: Any surface? Staff will have some alternative options available at the meeting.

Commented [SC16R15]: See 4/1/2026 staff memo for alternative option

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/engineered 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 [SC17]: 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 **NC DENR 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.

Commented [SC18]: We should add Sign in front of this definition so it falls in line with all of the sign definitions

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 [SC19]: 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 ~~studios~~studios, 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.

Commented [SC20]: Rename and relocate this as Sign - Reader Board

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.~~

Commented [SC21]: Delete this as it has the same definition as Sign - Under Canopy.

(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 [SC22]: Note all of the various items considered a structure under the definition of yard. Should we add additional language here?

Commented [SC23R22]: See revised proposal in 4/1 staff memo

Commented [SC24]: Additional language options?

Commented [SC25R24]: This was discussed but I did not have any clarity on what the Board wanted to do with this definition if any.

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,

Commented [SC26]: The regulatory piece of this definition will be pulled into district regulations and other sections of the code.

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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.

(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 ~~setback~~~~front, side or rear yards (setback areas).~~

(Ord. 04-21, passed 10-6-2004, § 12)

Commented [SC27]: Do we need to add any additional language like sheds, decks, patios?

Commented [SC28R27]: REFER to new definition of structure

Agenda Item 5a ii/Attachment c

DISTRICT REGULATIONS

§ 156.025 ZONING DISTRICTS ESTABLISHED; OFFICIAL ZONING MAP.

(A) For the purpose of this chapter, the town is hereby divided into zoning areas within which this chapter will apply. The zones or districts for each zoning area are shown on 1 or more sheets of an "Official Zoning Map of the Town of Duck, North Carolina," which together, with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

(B) The official zoning map for each zoning area shall be identified by the signature of the Mayor and attested by the Town Clerk and shall bear the seal of the town under the following words:

"This is to certify that this is the official zoning map referred to in §§ 156.025 through 156.036 of the Zoning Ordinance of the Town of Duck, North Carolina," together with the date of adoption of this chapter (July 3, 2002)."

(C) If, in accordance with §§ 156.180 through 156.182 below, changes are made in district boundaries or other matter portrayed on the official zoning map, the changes shall be promptly entered on the official zoning map after the amendment has been approved by the Town Council.

(D) Regardless of the existence of purported copies of the official zoning map which may be made or published, the official zoning map which shall be located in the town's municipal office shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the town.

(E) The official zoning map shall be maintained for public inspection in the office of the Town Clerk or the office of the Community Development. The maps may be in paper or a digital format approved by the town.

(F) Other maps and regulatory language, as necessary to accomplish the purpose of this chapter, are hereby incorporated by reference. This includes but is not limited to maps of flood plains, soils, watersheds, water supply protection areas, and United States Geological Survey (USGS) maps depicting streams or other water courses.

(G) For state law as to authority of the town to establish zoning districts and regulate and restrict construction, uses of land or buildings and the like, therein, see G.S. Ch. 160D.

(Ord. 04-22, passed 11-3-2004, § 13.1; Am. Ord. 21-01, passed 6-2-2021)

§ 156.026 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the official zoning map, the following rules shall apply.

(A) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow the centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines.

(C) Boundaries indicated as approximately following town limits shall be construed as following the town limits.

(D) Boundaries indicated as following shorelines shall be construed to follow the shorelines, and in the event of change in the shoreline shall be construed to follow the shoreline as changed; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow the centerlines.

(E) Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (D) above shall be construed to be parallel to or an extension of such features. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(F) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by divisions (A) through (E) above, the Zoning Administrator shall interpret the district boundaries.

(Ord. 04-22, passed 11-3-2004, § 13.2; Am. Ord. 15-04, passed 4-1-2015; Am. Ord. 17-07, passed 8-2-2017; Am. Ord. 21-01, passed 6-2-2021)

§ 156.027 CLASSIFICATION OF ADDED TERRITORY.

All territory not included under the provisions of this chapter but added to the zoned area after July 3, 2002 shall be considered to be in the same classification as contiguous property until otherwise classified.

(Ord. 04-22, passed 11-3-2004, § 14)

§ 156.028 SCHEDULE OF DISTRICT REGULATIONS ADOPTED; AMENDMENTS GENERALLY.

(A) The schedule of regulations set out in this subchapter limiting the use of buildings and land and the bulk and arrangement of buildings within the various districts established by this chapter is hereby adopted for the town.

(B) These district regulations may be amended as provided in §§ 156.180 through 156.182 below.

(Ord. 04-22, passed 11-3-2004, § 15)

§ 156.029 C-PR CONSERVATION PUBLIC RECREATION CONVENTIONAL DISTRICT.

The following regulations shall apply to the C-PR (Conservation Public Recreation District).

(A) Intent. The C-PR District is established to provide restricted usage of property located in areas conducive to and appropriate for recreational facilities, public and private utilities, town uses and conservation areas.

(B) Permitted uses. The following uses shall be permitted by right:

- (1) Conservation and open space areas;
- (2) Passive recreation facilities such as bike trails, picnic areas, bird watching facilities and hiking trails;
- (3) Public parks and playgrounds, parking areas, and pedestrian or vehicular beach access;
- (4) United States government uses and facilities;
- (5) Town uses and facilities;
- (6) Plant nurseries and greenhouses; and
- (7) Fine craft and folk art production.

(C) Special uses. The following special uses are permitted subject to the requirements of this district, and additional regulations and requirements imposed by the Town Council as provided in §§ 156.155 et seq.:

- (1) Fire stations, schools, facilities for water supply, sewerage and police protection, but not including any materials or equipment yard;
- (2) Public clubs, including boat launching areas, golf courses, tennis courts, picnic areas, beach clubs and concessions integral thereto; provided, that there is no open commercial activity;
- (3) Private clubs, including boat launching areas, tennis courts, community centers, libraries, picnic areas, beach clubs and concessions integral to them;
- (4) Transit stops;
- (5) Agricultural buildings;
- (6) Commercial animal production;
- (7) Commercial crop production (indoor or outdoor); and

(8) Livestock shelters and stables.

(D) Dimensional requirements:

(1) Minimum lot size: 20,000 square feet;

(2) Minimum lot width: 100 feet; measured at the building setback line;

(3) Minimum front yard: 50 feet;

(4) Minimum side yard: 25 feet; an additional 25 feet side yard adjacent to the street is required for a corner lot;

(5) Minimum rear yard: 50 feet;

(6) Maximum allowable lot coverage: 25%; and

(7) Height limitation: 35 feet for buildings and structures, except that the height of communications and water towers shall be determined within the context of the approved special use permit therefor.

(Ord. 04-22, passed 11-3-2004, § 16; Am. Ord. 09-03, passed 4-8-2009; Am. Ord. 16-04, passed 7-6-2016; Am. Ord. 17-04, passed 6-7-2017; Am. Ord. 21-01, passed 6-2-2021)

§ 156.030 RS-1 SINGLE-FAMILY RESIDENTIAL CONVENTIONAL DISTRICT.

The following regulations shall apply to the RS-1 Single-Family Residential District:

(A) Intent. The RS-1 District is established to provide for the low-density development of single-family detached dwellings in an environment that promotes orderly neighborhoods, characterized by low vehicular traffic flows, abundant open space and limited impact of development on the natural environment and adjacent land uses.

(B) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwellings, not to include mobile homes;

(2) Customary accessory buildings, including swimming pools and tennis courts;

(3) Town owned or leased facilities;

(4) Minor home occupations;

(5) Plant nurseries and greenhouses;

(6) Fine craft and folk art production; and

(7) Accessory dwelling units, subject to the provisions of § 156.140.

Commented [SC1]: We define accessory dwelling unit and accessory use. Do we want to be consistent with this terminology?

(C) Special uses. The following special uses are permitted subject to the requirements of this chapter and additional regulations and requirements as may be imposed by the Town Council as provided in §§ 156.155 et seq.:

(1) Public and private utility facilities must provide a vegetated buffer strip at least 10 feet in width where the facility abuts a residential lot or use;

(2) Major home occupations;

(3) Private clubs, including boat launching areas, tennis courts, community centers, libraries, picnic areas, beach clubs and concessions integral to them and provided that no sign other than a directional sign is allowed;

(4) Pole-mounted yard and area lighting; provided that the yard or area lighting must be shielded to prevent the direct rays of the light from extending beyond the property lines of the lot on which it is located. Installation of low-voltage ground-mounted lights less than 24 inches in height above the ground are exempt from this special use permit requirement;

(5) Small child care homes as defined in § 156.002 above and subject to the authorization provisions of § 156.057 below;

(6) Churches and other associated church facilities including fellowship halls, sanctuaries, parsonages, church schools, parking areas and offices; and

(7) Bed and breakfast homes may be permitted subject to the requirements of this chapter and provided that the following minimum conditions are met:

(a) No more than 3 guest rooms shall be available for rental to guests. Guest rooms shall be constructed as part of the primary residential structure and not separate or detached from the principal structure. Any other bedrooms or bedroom equivalents in the structure shall be limited to use by the owner;

(b) The bed and breakfast home shall be owner occupied and shall not employ more than the equivalent of 1 full-time employee who is not a resident of the home;

(c) No separate kitchen facilities shall be provided for the guests' use. Microwaves and refrigerators shall not be located in guest rooms. Food service at the bed and breakfast home shall be limited to guests and not open to the public as a restaurant, catering service or take-out food service;

(d) The bed and breakfast home shall be located on a lot with its entire frontage along a state numbered highway. This shall not include roads included in the state's secondary maintenance system and designated with a SR number;

(e) A bed and breakfast home shall be located on an individual lot or a subdivision lot with no deed restriction or subdivision covenant that prohibits commercial activity;

(f) Parking: 1 space for each guest room available for rental plus the requirements of §§ 156.070 through 156.096 for single-family structures. These spaces should be

individually designated for bed and breakfast guests and aligned so that the spaces are horizontally adjacent and will not necessitate vertical double spacing;

(g) Signage: a single sign may be permitted consistent with the standards outlined in § 156.130; and

(h) No retail activities other than food and beverage sales incidental to the operation of the bed and breakfast home shall be allowed on the premises;

Commented [SC2]: Should this section have it's own place similar to the small child care homes?

(8) Transit stops;

(9) Agricultural buildings;

(10) Commercial animal production;

(11) Commercial crop production (indoor or outdoor); and

(12) Livestock shelters and stables.

(D) Dimensional requirements.

(1) Minimum lot size:

(a) Single-family lots served by a private well and an on-site septic tank/drain field system: 20,000 square feet of area;

(b) Single-family lots served by a central water supply and an on-site septic tank/drain field system: 15,000 square feet of area; and

(c) Single-family lots served by a central water supply and a central wastewater disposal system: 15,000 square feet of area.

(2) Minimum lot width: 75 feet, measured at the building setback line.

(3) Minimum front yard: 25 feet.

(4) Minimum side yard: 10 feet. An additional 10-foot side yard adjacent to the street is required for a corner lot.

(5) Minimum rear yard: 25 feet.

(6) Maximum allowable lot coverage by principal use and all accessory structures: 30%. Lot coverage may be increased to 35% provided that stormwater management improvements meeting the following criteria are provided on the development site:

(a) Stormwater runoff from the built-upon area of the site must be directed into an approved stormwater management system designed to accommodate the volume of runoff generated by 1.5 inches of rainfall over a 2 hour period (1.5 inch design storm).

(b) The stormwater management system shall be designed in accordance with the standards, methodology, and procedures prescribed in the state Stormwater Best Management Practices Manual (NCDENR BMP Manual).

(c) Storage capacity (interstitial storage) within existing soils and/or fill material shall not be counted towards the volume requirement for the stormwater management design.

(d) The designed stormwater management system may include any of the following low-impact development principles and best management practices as the primary method for the treatment of stormwater:

1. Landscaped swales;
2. Infiltration basins;
3. Bioretention or rain gardens;
4. Rainwater harvesting to include cisterns and/or rain barrels;
5. Subsurface drainage systems;
6. Other methods approved by the Zoning Administrator.

(e) The bottoms of stormwater swales and basins should maintain 12 inches above the seasonal high-water table to avoid long periods of standing water due to elevated water tables. The seasonal high water table elevation must be verified by a soil inspection by a licensed soil scientist or may be verified by a County Health Department wastewater site evaluation.

(f) The stormwater management systems shall adhere to all setbacks, separations, and standards required by the state on-site wastewater regulations and building code. In no instance shall open drainage systems be located beneath a building.

(g) Rainwater harvesting, rain barrels or cisterns must include plans for the ultimate disposal of the collected rainwater (pump to irrigation, slow release through drip tubing etc.). Open systems must include plans to prevent mosquito breeding.

(h) The stormwater management plan must clearly delineate water sheds or drainage areas within the subject property. This should include a roof plan depicting roof runoff and the method to collect or direct the volume from each portion of the roof area towards the stormwater management system. In some situations, the plan may require a detailed topographic survey and a detailed grading plan.

(i) Stormwater plans must be prepared by a state licensed professional engineer or surveyor and shall include volumetric calculations. Prior to the issuance of a certificate of completion for the project, a state licensed professional engineer or surveyor shall certify that the proposed improvements have been constructed in accordance with the project design.

(j) If permeable surfaces, such as pervious pavement or artificial turf, are used as part of the lot coverage calculation, then the property owner must provide written certification that the surface material was installed and will be maintained according to the manufacturer's specifications.

(7) Height limitation: 35 feet.

(Ord. 04-22, passed 11-3-2004, § 17; Am. Ord. 14-02, passed 6-4-2014; Am. Ord. 16-04, passed 7-6-2016; Am. Ord. 16-07, passed 11-2-2016; Am. Ord. 16-08, passed 2-1-2017; Am. Ord. 17-04, passed 6-7-2017; Am. Ord. 21-01, passed 6-2-2021; Am. Ord. 22-07, passed 9-7-2022; Am. Ord. 23-02, passed 5-3-2023)

§ 156.031 RS-2 SINGLE-FAMILY RESIDENTIAL CONVENTIONAL DISTRICT.

The following regulations shall apply to the RS-2 Single-Family Residential District:

(A) Intent. The RS-2 District is established to provide for the low-density development of single-family detached dwellings in an environment that promotes orderly neighborhoods, characterized by low vehicular traffic flows, abundant open space and limited impact of development on the natural environment and adjacent land uses.

(B) Permitted uses. The following uses shall be permitted by right:

- (1) Detached single-family dwellings, not to include mobile homes;
- (2) Customary accessory buildings, including swimming pools and tennis courts;
- (3) Town owned or leased facilities;
- (4) Minor home occupations;
- (5) Plant nurseries and greenhouses;
- (6) Fine craft and folk art production; and
- (7) Accessory dwelling units, subject to the provisions of § 156.140.

Commented [SC3]: See comment under RS-1

(C) Special uses. The following special uses are permitted subject to the requirements of this chapter and additional regulations and requirements as may be imposed by the Town Council as provided in §§ 156.155 et seq.:

- (1) Public and private utility facilities (must provide a vegetated buffer strip at least 10 feet in width where the facility abuts a residential lot or use);
- (2) Major home occupations;
- (3) Private clubs, including boat launching areas, tennis courts, community centers, libraries, picnic areas, beach clubs and concessions integral to them;
- (4) Pole-mounted yard and area lighting; provided that the yard or area lighting must be shielded to prevent the direct rays of the light from extending beyond the property lines of the lot on which it is located. Installation of low-voltage ground-mounted lights less than 24 inches in height above the ground are exempt from this special use permit requirement;

- (5) Small child care homes as defined in § 156.002 above and subject to the authorization provisions of § 156.057 below;
- (6) Churches and other associated church facilities including fellowship halls, sanctuaries, parsonages, church schools, parking areas and offices;
- (7) Transit stops;
- (8) Agricultural buildings;
- (9) Commercial animal production;
- (10) Commercial crop production (indoor or outdoor); and
- (11) Livestock shelters and stables.
- (D) Dimensional requirements.
- (1) Minimum lot size:
- (a) Single-family lots served by a private well and an on-site septic tank/drain field system: 20,000 square feet of area;
- (b) Single-family lots served by a central water supply and an on-site septic tank/drain field system: 15,000 square feet of area; and
- (c) Single-family lots served by a central water supply and a central wastewater disposal system: 15,000 square feet of area.
- (2) Minimum lot width: 75 feet, measured at the building setback line.
- (3) Minimum front yard: 25 feet.
- (4) Minimum side yard: 10 feet. An additional 10-foot side yard adjacent to the street is required for a corner lot.
- (5) Minimum rear yard: 20 feet.
- (6) Maximum allowable lot coverage by principal use and all accessory structures: 30%. Lot coverage may be increased to 35% provided that stormwater management improvements meeting the following criteria are provided on the development site:
- (a) Stormwater runoff from the built-upon area of the site must be directed into an approved stormwater management system designed to accommodate the volume of runoff generated by 1.5 inches of rainfall over a 2 hour period (1.5 inch design storm).
- (b) The stormwater management system shall be designed in accordance with the standards, methodology, and procedures prescribed in the state Stormwater Best Management Practices Manual (NCDENR BMP Manual).

(c) Storage capacity (interstitial storage) within existing soils and/or fill material shall not be counted towards the volume requirement for the stormwater management design.

(d) The designed stormwater management system may include any of the following low-impact development principles and best management practices as the primary method for the treatment of stormwater:

1. Landscaped swales;
2. Infiltration basins;
3. Bioretention or rain gardens;
4. Rainwater harvesting to include cisterns and/or rain barrels;
5. Subsurface drainage systems;
6. Other methods approved by the Zoning Administrator.

(e) The bottoms of stormwater swales and basins should maintain 12 inches above the seasonal high-water table to avoid long periods of standing water due to elevated water tables. The seasonal high water table elevation must be verified by a soil inspection by a licensed soil scientist or may be verified by a County Health Department wastewater site evaluation.

(f) The stormwater management systems shall adhere to all setbacks, separations, and standards required by the state on-site wastewater regulations and building code. In no instance shall open drainage systems be located beneath a building.

(g) Rainwater harvesting, rain barrels or cisterns must include plans for the ultimate disposal of the collected rainwater (pump to irrigation, slow release through drip tubing etc.). Open systems must include plans to prevent mosquito breeding.

(h) The stormwater management plan must clearly delineate water sheds or drainage areas within the subject property. This should include a roof plan depicting roof runoff and the method to collect or direct the volume from each portion of the roof area towards the stormwater management system. In some situations, the plan may require a detailed topographic survey and a detailed grading plan.

(i) Stormwater plans must be prepared by a state licensed professional engineer or surveyor and shall include volumetric calculations. Prior to the issuance of a certificate of completion for the project, a state licensed professional engineer or surveyor shall certify that the proposed improvements have been constructed in accordance with the project design.

(j) If permeable surfaces, such as pervious pavement or artificial turf, are used as part of the lot coverage calculation, then the property owner must provide written certification that the surface material was installed and will be maintained according to the manufacturer's specifications.

(7) Height limitation: 52 feet.

(Ord. 04-22, passed 11-3-2004, § 18; Am. Ord. 03-16, passed 11-5-2003; Am. Ord. 14-02, passed 6-4-2014; Am. Ord. 16-04, passed 7-6-2016; Am. Ord. 16-07, passed 11-2-2016; Am. Ord. 16-08, passed 2-1-2017; Am. Ord. 17-04, passed 6-7-2017; Am. Ord. 21-01, passed 6-2-2021; Am. Ord. 22-07, passed 9-7-2022; Am. Ord. 23-02, passed 5-3-2023)

§ 156.032 R-2 MEDIUM DENSITY RESIDENTIAL CONVENTIONAL DISTRICT.

The following regulations shall apply to the R-2 Medium Density Residential District.

(A) Intent.

(1) The R-2 District is intended to encourage the development of moderate density residential neighborhoods, with a mix of permanent and short-term seasonal residents, and to serve as a transition zone between the low-density area and more intensely developed areas.

(2) The maximum density shall not exceed 6 dwelling units per acre.

(B) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwellings;

(2) Duplexes, with each unit subject to the dimensional requirements for single-family dwellings in the district, except for the side yards required at any common walls;

(3) Customary accessory buildings, including private swimming pools;

Commented [SC4]: See comment under RS-1

(4) Mobile homes, Class A;

(5) Town owned or leased facilities;

(6) Minor home occupations;

(7) Plant nurseries and greenhouses;

(8) Fine craft and folk art production; and

(9) Accessory dwelling units, subject to the provisions of § 156.140.

(C) Special uses. The following special uses are permitted, subject to the requirements of this district and additional regulations and requirements imposed by the Town Council as provided in §§ 156.150 et seq.:

(1) Churches and cemeteries;

(2) Fire stations, schools and other public buildings;

(3) Major home occupations;

(4) Private clubs, including boat launching areas, golf courses, tennis courts, community centers, libraries, picnic areas, beach clubs and concessions integral thereto; provided, that there is no open commercial activity;

(5) Public and private utility facilities;

(6) Townhouse developments, under the provisions of §§ 156.054 with a maximum density of 6 dwelling units per acre;

(7) Public or private parks and playgrounds;

(8) Small child care homes as defined in § 156.002 above, and subject to the authorization provisions of §§ 156.057 and 156.155;

(9) Small, medium and large child care centers as defined in § 156.002 above, only as an accessory use of an existing or proposed church, school or other public building;

(10) Public and private utility facilities must provide a vegetated buffer strip at least 10 feet in width that provides year round screening to adjacent properties where the facility abuts a residential lot or use;

(11) Pole-mounted yard and area lighting; provided, that the yard or area lighting must be shielded to prevent the direct rays of the light from extending beyond the property lines of the lot on which it is located. Installation of low-voltage ground-mounted lights less than 24 inches in height above the ground are exempt from this special use permit requirement;

(12) Transit stops;

(13) Agricultural buildings;

(14) Commercial animal production;

(15) Commercial crop production (indoor or outdoor); and

(16) Livestock shelters and stables.

(D) Dimensional requirements.

(1) Minimum lot size:

(a) Single-family lots served by a private well and an on-site septic tank/drain field system: 20,000 square feet of area;

(b) Single-family lots served by a central water supply and an on-site septic tank/drain field system: 15,000 square feet of area;

(c) Single-family lots served by a central water supply and a central wastewater disposal system: 15,000 square feet of area; and

(d) Duplex: 25,000 square feet; except, that if served by an approved public or community sewage disposal system, lot size may be reduced to 15,000 square feet.

(2) Minimum lot width: 75 feet, measured at the building setback line.

(3) Minimum front yard: 25 feet.

(4) Minimum side yard: 10 feet. An additional 10-foot side yard adjacent to the street is required for a corner lot.

(5) Minimum rear yard: 20% of lot depth, but the yard need not exceed 20 feet.

(6) Maximum allowable lot coverage by principal use and all accessory structures: 30%. Lot coverage may be increased to 35% provided that stormwater management improvements meeting the following criteria are provided on the development site:

(a) Stormwater runoff from the built-upon area of the site must be directed into an approved stormwater management system designed to accommodate the volume of runoff generated by 1.5 inches of rainfall over a 2 hour period (1.5 inch design storm).

(b) The stormwater management system shall be designed in accordance with the standards, methodology, and procedures prescribed in the state Stormwater Best Management Practices Manual (NCDENR BMP Manual).

(c) Storage capacity (interstitial storage) within existing soils and/or fill material shall not be counted towards the volume requirement for the stormwater management design.

(d) The designed stormwater management system may include any of the following low-impact development principles and best management practices as the primary method for the treatment of stormwater:

1. Landscaped swales;
2. Infiltration basins;
3. Bioretention or rain gardens;
4. Rainwater harvesting to include cisterns and/or rain barrels;
5. Subsurface drainage systems;
6. Other methods approved by the Zoning Administrator.

(e) The bottoms of stormwater swales and basins should maintain 12 inches above the seasonal high-water table to avoid long periods of standing water due to elevated water tables. The seasonal high water table elevation must be verified by a soil inspection by a licensed soil scientist or may be verified by a County Health Department wastewater site evaluation.

(f) The stormwater management systems shall adhere to all setbacks, separations, and standards required by the state on-site wastewater regulations and building code. In no instance shall open drainage systems be located beneath a building.

(g) Rainwater harvesting, rain barrels or cisterns must include plans for the ultimate disposal of the collected rainwater (pump to irrigation, slow release through drip tubing etc.). Open systems must include plans to prevent mosquito breeding.

(h) The stormwater management plan must clearly delineate water sheds or drainage areas within the subject property. This should include a roof plan depicting roof runoff and the method to collect or direct the volume from each portion of the roof area towards the stormwater management system. In some situations, the plan may require a detailed topographic survey and a detailed grading plan.

(i) Stormwater plans must be prepared by a state licensed professional engineer or surveyor and shall include volumetric calculations. Prior to the issuance of a certificate of completion for the project, a state licensed professional engineer or surveyor shall certify that the proposed improvements have been constructed in accordance with the project design.

(j) If permeable surfaces, such as pervious pavement or artificial turf, are used as part of the lot coverage calculation, then the property owner must provide written certification that the surface material was installed and will be maintained according to the manufacturer's specifications.

(7) Height limitation: 35 feet.

(Ord. 04-22, passed 11-3-2004, § 19; Am. Ord. 14-02, passed 6-4-2014; Am. Ord. 16-04, passed 7-6-2016; Am. Ord. 16-07, passed 11-2-2016; Am. Ord. 16-08, passed 2-1-2017; Am. Ord. 17-04, passed 6-7-2017; Am. Ord. 21-01, passed 6-2-2021; Am. Ord. 22-07, passed 9-7-2022; Am. Ord. 23-02, passed 5-3-2023)

§ 156.033 C-1 NEIGHBORHOOD COMMERCIAL CONVENTIONAL DISTRICT.

The following regulations shall apply to the C-1 Neighborhood Commercial District:

(A) Intent. The C-1 District is established primarily to encourage the concentration of commercial facilities in clusters and to provide readily accessible shopping facilities for permanent and seasonal residents.

(1) All C-1 Districts shall be at least 2 acres in area but not larger than 4 acres.

(2) The maximum density shall not exceed 4 residential dwelling units per acre.

(B) Permitted uses. The following uses shall be permitted by right:

(1) Retail sales;

(2) General and medical offices;

(3) Personal service establishments;

(4) Town-owned or leased facilities;

- (5) Small child care centers as defined in § 156.002;
- (6) Medium child care centers as defined in § 156.002;
- (7) Large child care centers as defined in § 156.002;
- (8) Minor home occupations;
- (9) Major home occupations, provided the profession or occupation is a by-right permitted use in the district;

(10) Accessory apartments located above/attached to commercial buildings. The total floor area of accessory apartments shall not exceed 50% of the floor area of the commercial structure to which it is accessory (floor area to be calculated exclusive of porches or decks);

Commented [SC5]: Is this too restrictive given our current housing crisis?

- (11) Resident business;
- (12) Plant nurseries and greenhouses;
- (13) Fine craft and folk art production; and
- (14) Duplexes, subject to the dimensional requirements of the R-2 zoning district for residential uses.

(C) Special uses. The following special uses shall be permitted, subject to the requirements of this section and additional regulations and requirements imposed by the Town Council as provided in this chapter:

- (1) Gas pumps in conjunction with a permitted use under division (B) above; provided, that no principal or accessory building shall be located within 50 feet of a residential use or residential district, and that any gas pumps shall be set back at least 25 feet from any right-of-way;
- (2) Public and private utility facilities;
- (3) Boat-launching and rental facilities;
- (4) Commercial or institutional structures greater than 5,000 gross square feet, excluding decks and porches, but less than 10,000 gross square feet;
- (5) Eating establishments as defined in § 156.002, and subject to the requirements § 156.129;
- (6) Post offices;
- (7) Churches and religious institutions;
- (8) Rental property management and maintenance offices;
- (9) Transit stops;
- (10) Agricultural buildings;

- (11) Commercial animal production;
- (12) Commercial crop production (indoor or outdoor);
- (13) Livestock shelters and stables; and
- (14) Microbreweries/microdistilleries.

(D) Dimensional requirements.

(1) Minimum lot size: Lots shall be of sufficient size to meet the requirements of the County Health Department, to provide adequate siting for structures and to provide parking, loading and maneuvering space for vehicles as required by §§ 156.090 through 156.096. In addition, a vegetated buffer strip at least 10 feet in width that provides year round screening to adjacent properties is required where a commercial use or zone abuts a residential use or zone.

(2) Minimum front yard: 15 feet.

(3) Minimum side yard: 10 feet. No side yard required if commercial building constructed with a common wall. An additional 5-foot side yard adjacent to the street is required for a corner lot.

(4) Minimum rear yard: 20 feet.

(5) Maximum allowable lot coverage by principal use and all accessory structures: 50%.

(6) Height limitation: 35 feet.

(7) Maximum gross building size: 5,000 square feet excluding decks, porches and similar non-heated space, except as otherwise provided herein.

(Ord. 04-22, passed 11-3-2004, § 20; Am. Ord. 11-08, passed 1-4-2012; Am. Ord. 16-04, passed 7-6-2016; Am. Ord. 21-01, passed 6-2-2021; Am. Ord. 22-05, passed 8-3-2022)

§ 156.034 C-2 GENERAL COMMERCIAL CONVENTIONAL DISTRICT.

The following regulations shall apply to the C-2 General Commercial District.

(A) Intent. The C-2 District is established to provide for the proper grouping and development of commercial facilities to serve permanent residents and the general public.

(B) Permitted uses. The following uses shall be permitted by right:

- (1) General and medical offices;
- (2) Retail establishments;
- (3) Personal service establishments;

- (4) Small child care centers as defined in § 156.002 above;
- (5) Medium child care centers as defined in § 156.002 above;
- (6) Large child care centers as defined in § 156.002 above;
- (7) Public and private schools;
- (8) Town-owned or leased facilities; and

(9) Accessory apartments located above/attached to commercial buildings. The total floor area of accessory apartments shall not exceed 50% of the floor area of the commercial structure to which it is accessory (floor area to be calculated exclusive of porches or decks).

(10) Electronic gaming operations, as defined in § 156.002, are permitted as an accessory use to any retail or eating establishment use provided that the following requirements are met:

(a) Minimum separation. Electronic gaming operations shall not be located within 1,000 feet in any direction from any other establishment to which this section applies as an accessory use. Measurement of distance separation shall be in a straight line from the property line of the proposed use to the nearest property line of the uses specified in division (B)(10). For the purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(b) Hours of operation. Operating hours of the electronic gaming operations shall be the same as the normal operating hours of the business in which it is located.

(c) Maximum number of electronic gaming terminals. The maximum number of electronic gaming terminals for electronic gaming operations is 2 per business and only as an accessory use.

(d) Accessibility of electronic gaming terminals. All electronic gaming terminals shall be open for direct, unobstructed access by police officers, fire department personnel, and emergency response personnel, and shall be visible from the main entrance of the business.

(e) Age restrictions. No business engaged in the activity of electronic gaming operations as an accessory use shall allow, permit or condone any person under the age of 18 to engage in electronic gaming operations.

(f) Operations. No alcoholic beverages will be served or consumed on the premises of electronic gaming operations. If food or beverages (excluding alcoholic beverages) are served, the establishment must meet the requirements of the Dare County Department of Health.

(g) Minimum paved parking spaces. Off-street parking shall be provided at the ratio of 1 parking space per electronic gaming terminal.

(h) Signage. Establishments conducting electronic gaming operations shall prominently post the rules of the electronic gaming operations on the interior of the

establishment in a manner that is clearly visible to all patrons and customers. All exterior signs for electronic gaming operations shall meet the standards outlined in § 156.130.

(i) Penalty. Violations of any provisions of division (B)(10) shall be subject to a civil penalty in the amount of \$500 per violation. Each day any single violation continues shall be considered a separate violation and subject to a civil penalty;

(11) Plant nurseries and greenhouses; and

(12) Fine craft and folk art production.

(C) Special uses. The following special uses shall be permitted, subject to the requirements of this district and additional regulations and requirements imposed by the Town Council as provided in § 156.155 et seq.:

(1) Public and private utility facilities;

(2) Commercial or institutional structures greater than 5,000 gross square feet, excluding decks and porches, but less than 15,000 gross square feet;

(3) Hotel resort;

(4) Theaters;

(5) Private commercial recreational facilities such as swimming pools and tennis courts;

(6) Eating establishments as defined in § 156.002, and subject to the requirements § 156.129;

(7) Churches and religious institutions;

(8) Rental property management and maintenance offices;

(9) Transit stops;

(10) Agricultural buildings;

(11) Commercial animal production;

(12) Commercial crop production (indoor or outdoor);

(13) Livestock shelters and stables; and

(14) Microbreweries/microdistilleries.

(D) Dimensional requirements.

(1) Minimum lot size:

(a) Commercial lots shall be of sufficient size to meet requirements of the Dare County Health Department, to provide adequate siting for structures and to provide

parking, loading and maneuvering space for vehicles as required by §§ 156.090 through 156.096 below; and

(b) In addition, a vegetated buffer strip at least 10 feet in width that provides year-round screening to adjacent properties is required where a commercial use or zone abuts a residential use or zone.

(2) Minimum front yard: 15 feet.

(3) Minimum side yard: 10 feet. No side yard required if commercial building constructed with a common wall. An additional 5-foot yard adjacent to the street is required for a corner lot.

(4) Minimum rear yard: 20 feet.

(5) Maximum allowable lot coverage by principal use and all accessory structures: 60%.

(6) Height limitation: 35 feet.

(7) No building or other facility, such as parking areas, incinerators, trash collection areas and the like, shall be located nearer than 50 feet to boundaries of RS-1 Districts. The width of a road and its right-of-way along the boundary may be included as part of all of the 50-foot separation zone.

(8) Maximum gross building size: 5,000 square feet excluding decks, porches and similar non-heated space, except as otherwise provided herein.

(Ord. 04-22, passed 11-3-2004, § 21; Am. Ord. 11-08, passed 1-4-2012; Am. Ord. 12-05, passed 8-1-2012; Am. Ord. 12-08, passed 11-7-2012; Am. Ord. 16-04, passed 7-6-2016; Am. Ord. 17-04, passed 6-7-2017; Am. Ord. 19-09, passed 1-15-2020; Am. Ord. 21-01, passed 6-2-2021)

§ 156.035 S-1 SPECIAL CONVENTIONAL DISTRICT.

(A) Intent. The S-1 Special District is established as a transitional area to allow broad flexibility of services and uses while establishing certain density limitations, setbacks, parking requirements and other general requirements.

(B) Permitted uses. With the exception of those uses specifically prohibited in § 156.040, all uses are permitted.

(C) Multiple building project. Projects with more than 1 principal building per lot shall be submitted for site plan review under §§ 156.059 and 156.117 below, but shall be subject to the dwelling density limitations of division (D) below.

(D) Dimensional requirements.

(1) Minimum lot size; residential lots:

(a) Single-family detached residential lot, 20,000 square feet of soils classified as "suitable" for septic tank ground absorption wastewater treatment systems within the USDA soil survey for Dare County or by the Dare County Department of Health;

(b) Single-family detached residential lot served by central water supply, 15,000 square feet of soils classified as "suitable" for septic tank ground absorption wastewater treatment systems either in the USDA soil survey for Dare County or by the Dare County Department of Health; and

(c) Single-family detached residential lot served by central water supply and central wastewater treatment plant, 15,000 square feet.

(2) The composition of soils on lots served by off-site wastewater treatment shall be as follows:

(a) Soils not classified as wetlands, coastal marsh, or United States Army Corps of Engineers 404 jurisdictional soils: not less than 11,250 square feet per lot; and

(b) Lots that are platted at greater than 15,000 square feet may have a greater amount of wetland soils, but must have at least 11,250 square feet of soils not classified as wetland, coastal marsh, or U.S. Army Corps of Engineers Section 404 jurisdictional soils.

(3) Minimum lot width: 75 feet, measured at the building setback line.

(4) Minimum front yard: 25 feet.

(5) Minimum side yard: 10 feet. For lots with 50 feet or less width existing prior to September 9, 1987 the minimum side yard setback shall be 8 feet. For lots with greater than 50 feet of width the side yard setback shall be 10 feet.

(6) Maximum allowable lot coverage by principal use and all accessory structures: 60%.

(7) Height limitation: 52 feet.

(8) Duplex/2-family structures: 30,000 square feet of soils classified as "suitable" for ground absorption wastewater treatment systems for structures to be served by a private well and septic tank. If a central water supply is available, the minimum lot size may be reduced to 25,000 square feet. If central water and off-site wastewater treatment is available, the lot size may be reduced to 20,000 square feet.

(9) Density limitations for multi-family structures, condominiums, townhouses, hotels and motels:

(a) Multi-family structures:

1. Structures on a lot or tract that have no soils classified as wetlands, coastal marsh, or U.S. Army Corps of Engineers Section 404 jurisdictional soils; 5 units per acre;

2. Structures on a lot or tract that has between 01% and 19.9% of soils that are classified as wetlands, coastal marsh, or U.S. Army Corps of Engineers Section 404 jurisdictional soils; 4 units per acre; and

3. Structures on a lot or tract that has 20% or more of its soils classified as wetlands, coastal marsh or U.S. Army Corps of Engineers Section 404 jurisdictional soils; 3 units per acre.

(b) Hotels, motels, and similar structures:

1. Structures on a lot or tract that has no soils classified as wetlands, coastal marsh, or U.S. Army Corps of Engineers Section 404 jurisdictional soils; 10 rental units per acre;

2. Structures on a lot or tract that has between .01 and 19.9% of its soils classified as wetlands, coastal marsh, or U.S. Army Corps of Engineers Section 404 jurisdictional soils; 8 rental units per acre; and

3. Structures on a lot or tract that has more than 20% of its soils classified as wetlands, coastal marsh, or U.S. Army Corps of Engineers Section 404 jurisdictional soils; 6 rental units per acre.

(10) Group developments:

(a) The minimum lot size requirements for group development projects shall be the same as those for multi-family structures.

(b) Minimum rear yard: 20 feet.

(c) Maximum allowable lot coverage by principal use and all accessory structures: 60%.

(d) Height limitation: 52 feet.

(e) Maximum gross building size: 5,000 square feet excluding decks, porches and similar non-heated space, except as otherwise provided herein.

(11) Commercial lots:

(a) Minimum lot size: commercial lots shall be of sufficient size to meet requirements of the County Health Department, to provide adequate siting for structures and to provide parking, loading and maneuvering space for vehicles as required by §§ 156.090 through 156.096. In addition, a visual buffer is required where a commercial use or zone abuts a residential use or zone;

(b) Minimum front yard: 15 feet;

(c) Minimum side yard: 10 feet. No side yard required if commercial building constructed with a common wall. An additional 5 feet adjacent to the street is required for a corner lot;

(d) Minimum rear yard: 20 feet;

(e) Maximum allowable lot coverage by principal use and all accessory structures: 60%; and

(f) Height limitation: 52 feet.

(Ord. 04-22, passed 11-3- 2004, § 22; Am. Ord. 16-02, passed 4-6-2016; Am. Ord. 16-04, passed 7-6-2016; Am. Ord. 21-01, passed 6-2-2021)

§ 156.036 V-C VILLAGE COMMERCIAL CONVENTIONAL DISTRICT.

(A) Intent. The V-C District is established to provide limited commercial areas to serve existing or developing residential neighborhoods in the town. The intent of this district is to provide the goods and services needed by permanent and seasonal visitors in concentrated locations on state maintained highways.

(B) Permitted uses. The following uses shall be permitted by right:

- (1) General and medical offices;
- (2) Retail establishments;
- (3) Personal service establishments;
- (4) Public and private schools;
- (5) Town-owned or leased facilities;
- (6) Minor home occupations;

(7) Major home occupations, provided the profession or occupation is a by-right permitted use in the district;

(8) Accessory apartments located above/attached to commercial buildings. The total floor area of accessory apartments shall not exceed 50% of the floor area of the commercial structure to which it is accessory (floor area to be calculated exclusive of porches or decks);

Commented [SC6]: Too restrictive?

- (9) Plant nurseries and greenhouses; and
- (10) Fine craft and folk art production.

(C) Special uses. The following special uses may be permitted, subject to the requirements of this district and additional regulations and requirements imposed by the Town Council as provided in §§ 156.155 et seq.:

(1) Gas pumps in conjunction with a permitted use under division (B) above; provided, that no principal or accessory building shall be located within 50 feet of a residential use or residential district, and that any gas pumps shall be set back at least 25 feet from all rights-of-way;

- (2) Public and private utility facilities;

(3) Boat-launching and rental facilities;

(4) Eating establishments as defined in § 156.002, and subject to the requirements § 156.129.

(5) Group developments with a maximum area of 5,000 square feet per individual building excluding porches and decks;

(6) Resident businesses;

(7) Churches and other associated church facilities including fellowship halls, sanctuaries, parsonages, church schools, parking areas, offices, and columbaria structures, provided that the following requirements shall be met:

(a) Columbaria structures shall not significantly change the exterior appearance of the site visible from roadway rights-of-way and adjacent properties.

(b) Columbaria structures shall be constructed with minimum impact to surrounding areas.

(c) Columbaria structures shall not constitute a significant portion of the site.

(d) Columbaria structures shall meet the setbacks of the underlying zoning district.

(e) Columbaria structures shall not exceed 5 feet in height.

(8) Commercial or institutional structures greater than 5,000 gross square feet, excluding decks and porches, but less than 10,000 gross square feet; and

(9) Bed and breakfast inns.

(10) Rental property management/maintenance office.

Commented [SC7]: Should this have a separate section similar to child care homes?

(a) Buildings and sites shall be designed and constructed in strict accordance with the town commercial development and design standards.

(b) Buildings shall not exceed 5,000 square feet of gross floor area excluding decks, porches and similar non-heated space.

(c) Traffic/transportation.

1. The site plan shall incorporate a pedestrian friendly design that limits parking between commercial buildings and adjacent rights-of-way.

2. Vans and step vans are allowed for delivery of items (e.g. parcel delivery) however tractor trailers are not allowed.

(d) All repair work and maintenance activities, other than normal maintenance to the building and grounds, shall occur inside the principal structure.

(e) Freestanding signage shall be discouraged in settings where not practical or necessary to the nature of the business. All signage shall conform to § 156.130.

(f) A vegetated buffer strip at least 20 feet in width that provides year round screening is required where this use abuts a residential zone.

- (11) Post offices;
- (12) Transit stops;
- (13) Agricultural buildings;
- (14) Commercial animal production;
- (15) Commercial crop production (indoor or outdoor);
- (16) Livestock shelters and stables; and
- (17) Microbreweries/microdistilleries.

(D) Dimensional requirements.

(1) Minimum lot area: 20,000 square feet. Commercial lots shall be of sufficient size to meet requirements of the Dare County Health Department, to provide adequate siting for structures, and to provide parking, loading and maneuvering space for vehicles as required by §§ 156.090 through 156.096 below. In addition, a vegetated buffer strip at least 10 feet in width that provides year-round screening to adjacent properties and a 20-foot wide setback is required where a commercial use or zone abuts a residential use or zone.

(2) Minimum front yard: 15 feet.

(3) Minimum side yard: 10 feet. No side yard required if commercial building constructed with a common wall. An additional 5-foot side yard adjacent to the street is required for a corner lot.

(4) Minimum rear yard: 20 feet.

(5) Maximum allowable lot coverage by principal use and all accessory structures: 60%.

(6) Height limitation: 35 feet.

(7) Maximum gross building size: 5,000 square feet excluding decks, porches and similar non-heated space, except as otherwise provided herein.

(Ord. 04-22, passed 11-3-2004, § 23; Am. Ord. 06-05, passed 6-7-2006; Am. Ord. 10-04, passed 3-3-2010; Am. Ord. 11-08, passed 1-4-2012; Am. Ord. 12-06, passed 10-3-2012; Am. Ord. 16-04, passed 7-6-2016; Am. Ord. 19-04, passed 12-4-2019; Am. Ord. 21-01, passed 6-2-2021)

§ 156.037 OCEAN AND SOUND OVERLAY DISTRICT.

(A) Definition. The Ocean and Sound Overlay District shall consist of all waters abutting the town on the Atlantic Ocean and Currituck Sound that are within 1,000 feet of the town's shoreline, plus the adjacent CAMA Areas of Environmental Concern.

(B) Intent. The Ocean and Sound Overlay District is established to provide for the appropriate use of the ocean and sound waters that adjoin the town, including any island areas therein, as well as the Areas of Environmental Concern as established by the Coastal Area Management Act (CAMA) appurtenant thereto, to ensure the continued aesthetic, environmental, and recreational value that these waters provide to the town, its residents, visitors and the surrounding area. The Ocean and Sound Overlay District regulations are in addition to all other town ordinances that regulate, for example, the use of personal watercraft and driving on the beach, and that prohibit specified commercial activities in public trust areas. Nothing contained within this section shall be deemed, however, to prohibit or regulate commercial fishing and navigation. Whenever practical, the town encourages property owners to use natural design and materials when considering shoreline stabilization projects.

(C) Permitted uses.

(1) Swimming, boating, sailing, fishing, hunting, wading, crabbing, clamming, and other active and passive noncommercial recreational activities.

(2) Water-dependent commercial recreation activities, provided that the base of the activity is located in a zoning district that permits such activity or such base is located outside the planning and development regulation jurisdiction of the town and further provided that such activity meets all other relevant town ordinances.

(3) On all land abutting the ocean and sound waters, uses permitted shall be those established in the underlying zoning district, subject to all other relevant town ordinances as well as CAMA and other relevant state and federal agency permitting requirements.

(4) Piers and docks, provided such facilities are permitted by CAMA, U.S. Army Corps of Engineers or U.S. Coast Guard, whichever is applicable, and provided further that the activity associated with the pier or dock is also permitted by the zoning district where the pier or dock is anchored.

(5) Future recreational activities or uses (those not introduced on the waters of the town as of May 1, 2002) may be allowed as a special use, subject to procedures described in § 156.155. The purpose of the special use permit is to provide for appropriate review of new activities prior to their introduction and allow for conditions to ensure activities that are compatible with the character of the district.

(6) The following improvements when associated with the installation of a living shoreline or marsh restoration project in Currituck Sound. Such projects must obtain approval from all applicable state and federal agencies.

(a) Sills;

(b) Groins;

(c) Riprap;

(d) Fill/addition of wetland soils to be planted with marsh vegetation.

(D) Prohibited activities.

(1) No permitted beach push or dune restoration activity may take place in the public trust area on weekends or holidays.

(2) No filling of wetland areas shall occur within the Ocean and Sound Overlay District.

(3) No parasail landing and takeoff or seaplane landing and takeoff or similar activities may take place within the Ocean and Sound Overlay District.

(4) No water skiing or tubing and similar recreational towing activities may take place within the Ocean and Sound Overlay District.

(5) The use or placement of sandbags for the purpose of temporary erosion control as outlined in the North Carolina Administrative Code (15A NCAC 07H .0308) and the North Carolina General Statutes (§ 113A-115.1).

(6) All other uses not expressly permitted are hereby prohibited.

(Ord. 07-08, passed 6-6-2007; Am. Ord. 10-14, passed 1-5-2011; Am. Ord. 17-04, passed 6-7-2017; Am. Ord. 17-15, passed 1-3-2018; Am. Ord. 21-01, passed 6-2-2021) Penalty, see § 156.999

§ 156.038 RESERVED.

§ 156.039 RESERVED.

§ 156.040 PERMITTED AND PROHIBITED USE TABLE.

(A) The following Permitted/Prohibited Use Table lists use classifications, categories, and types and indicates whether each is allowed with an administrative permit, is allowed with a special use permit, or is prohibited.

(B) *Conventional zoning district descriptions.* The use table lists allowable and prohibited uses for each zoning district in the Town of Duck. A general description outlining the intent of each district is provided below.

(1) *Conservation Public Recreation (C-PR).* The C-PR District is established to provide restricted usage of property located in areas conducive to and appropriate for recreational facilities, public and private utilities, town uses and conservation areas.

(2) *Single-Family Residential (RS-1).* The RS-1 District is established to provide for the low-density development of single-family detached dwellings in an environment that promotes orderly neighborhoods, characterized by low vehicular traffic flows, abundant open space and limited impact of development on the natural environment and adjacent land uses.

(3) *Single-Family Residential (RS-2).* The RS-2 District is established to provide for the low-density development of single-family detached dwellings in an environment that promotes orderly neighborhoods, characterized by low vehicular traffic flows, abundant open space and limited impact of development on the natural environment and adjacent land uses.

(4) *Medium Density Residential (R-2).* The R-2 District is intended to encourage the development of moderate density residential neighborhoods, with a mix of permanent and short-term seasonal residents, and to serve as a transition zone between the low-density area and more intensely developed areas.

(5) *Neighborhood Commercial (C-1).* The C-1 District is established primarily to encourage the concentration of commercial facilities in clusters and to provide readily accessible shopping facilities for permanent and seasonal residents.

(6) *General Commercial (C-2).* The C-2 District is established to provide for the proper grouping and development of commercial facilities to serve permanent residents and the general public.

(7) *Special (S-1).* The S-1 Special District is established as a transitional area to allow broad flexibility of services and uses while establishing certain density limitations, setbacks, parking requirements and other general requirements.

(8) *Village Commercial (V-C).* The V-C District is established to provide limited commercial areas to serve existing or developing residential neighborhoods in the town. The intent of this district is to provide the goods and services needed by permanent and seasonal visitors in concentrated locations on state maintained highways.

(9) *Ocean and Sound Overlay (OSO).* The Ocean and Sound Overlay District is established to provide for the appropriate use of the ocean and sound waters that adjoin the town, including any island areas therein, as well as the Areas of Environmental Concern as established by the Coastal Area Management Act (CAMA) appurtenant thereto, to ensure the continued aesthetic, environmental, and recreational value that these waters provide to the town, its residents, visitors and the surrounding area.

(C) *Organization of uses.* The use table organizes allowable uses by use classifications, use categories, and use types, together providing a systematic basis for identifying and consolidating or distinguishing unidentified land uses to determine whether a particular land use is allowable in a particular zoning district and in addressing future land uses.

(1) *Use classifications.* Use classifications identify broad general classification of uses and include residential uses, institutional uses, agricultural uses, commercial uses, and industrial uses. Use classifications are further broken down into a series of general use categories and more specific use types.

(2) *Use categories.* Use categories describe the major sub-groups of the respective use classifications and are based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. For example, the residential use classification is divided into the household living and group living use categories. Use categories are further broken down into a series of individual use types.

(3) *Use types.* The specific use types are included in the respective use category. They identify the specific principal uses that are considered to fall within characteristics identified in the use category. For example, duplex dwellings, live/work dwellings, manufactured homes, single-family detached dwellings, and townhouse dwellings are use types in the household living use category.

(D) *Prioritization.* Certain use categories and use types are addressed specifically in the zoning ordinance and/or permitted/prohibited use table.

(1) The allowance for any specifically listed use type in the permitted/prohibited use table takes precedence over requirements for a broader use category.

(2) Likewise, the allowance for any use category in the permitted/prohibited use table takes precedence over a broader use classification.

(E) *Permit types.*

(1) *Permitted uses.* A "P" in a cell of the use table indicates that the corresponding use classification, category or type is permitted in the corresponding zoning district. Permitted uses are subject to compliance with all use-specific standards

and applicable development regulations of the zoning ordinance.

(2) *Uses requiring a special use permit.* An "S" in a cell of the use table indicates that the corresponding use classification, category or type is permitted in the corresponding zoning district, subject to approval of a special use permit for the proposed use. Uses requiring a special use permit are subject to compliance with all use-specific standards and applicable development regulations of the zoning ordinance, as well as the special use approval process and criteria found in § 156.155 of the zoning ordinance.

(3) *Prohibited uses.* An "X" in a cell of the use table indicates that the corresponding use classification, category or type is prohibited in the corresponding zoning district

(F) *Classification of unlisted uses.* The Zoning Administrator shall determine whether or not an unlisted use is substantially similar to an already defined use category or use type. Unlisted uses which are found to be dissimilar to an already defined use category or use type are prohibited. The Zoning Administrator 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.

Type of use	Zoning District									Additional Standards
	C-PR	RS-1	RS-2	R-2	C-1	C-2	S-1	V-C	OSO	
AGRICULTURAL										
Agricultural buildings	S	S	S	S	S	S	P	S	X	
Commercial animal production	S	S	S	S	S	S	P	S	X	
Commercial crop production (indoor or outdoor)	S	S	S	S	S	S	P	S	X	
Plant nurseries and greenhouses	P	P	P	P	P	P	P	P	X	
Livestock shelters and stables	S	S	S	S	S	S	P	S	X	
Other agricultural uses	X	X	X	X	X	X	P	X	X	
RESIDENTIAL										
Household Living										
Accessory apartments	X	X	X	X	P	P	P	P	X	§ 156.033(B)(11)
Accessory dwelling units	X	P	P	P	X	X	P	X	X	§ 156.140
Customary Accessory Structures	X	P	P	P	X	X	P	X	X	
Duplexes	X	X	X	P	P	X	P	X	X	
Mobile/manufactured homes	X	X	X	P	X	X	P	X	X	
Multi-family residences	X	X	X	X	X	X	P	X	X	
Single-family residences	X	P	P	P	X	X	P	X	X	
Townhouses	X	X	X	P	X	X	P	X	X	§ 156.032(C)(6)

Group Living										
Bed and breakfast homes	X	S	X	X	X	X	X	X	X	§ 156.030(C)(7)
Bed and breakfast inns	X	X	X	X	X	X	P	X	X	
Convents and monasteries	X	X	X	X	X	X	X	X	X	
Dormitories and residence halls	X	X	X	X	X	X	X	X	X	
Fraternity and sorority houses	X	X	X	X	X	X	X	X	X	
Halfway houses	X	X	X	X	X	X	X	X	X	
Other residential uses	X	X	X	X	X	X	P	X	X	
COMMERCIAL										
Entertainment/Recreational Facilities										
Boat launching/rental facilities	X	X	X	X	S	X	P	S	X	
Campgrounds	X	X	X	X	X	X	X	X	X	
Electronic gaming operations	X	X	X	X	X	P	P	X	X	§ 156.034(B)(10)
Night clubs	X	X	X	X	X	X	X	X	X	
Theaters	X	X	X	X	X	S	P	X	X	
Other entertainment/ recreational facilities	X	X	X	X	X	X	X	X	X	
Offices										
General offices	X	X	X	X	P	P	P	P	X	
Laboratories	X	X	X	X	X	X	X	X	X	
Medical offices	X	X	X	X	P	P	P	P	X	
Rental property management and maintenance offices	X	X	X	X	S	S	P	S	X	§ 156.036(C)(11)
Retail Sales										
Drug paraphernalia sales	X	X	X	X	X	X	X	X	X	
Eating establishments and restaurants	X	X	X	X	S	S	P	S	X	§ 156.129
Formula businesses	X	X	X	X	S	S	S	S	X	§ 156.061
Gasoline pumps and sales	X	X	X	X	S	X	P	S	X	§ 156.033(C)(1)
Group developments	X	X	X	S	S	S	P	S	X	§ 156.059
Microbreweries/ microdistilleries	X	X	X	X	S	S	P	S	X	
Motor vehicle sales, service and rental establishments	X	X	X	X	X	X	X	X	X	
Outdoor display, storage and sale - general merchandise	X	X	X	X	P	P	P	P	X	§ 156.131(B)
Outdoor goods - temporary displays, storage and sales	X	X	X	X	P	P	P	P	X	§ 156.131(A) and (E)
Pawn shops	X	X	X	X	X	X	X	X	X	
Produce stands/holiday goods (temporary)	X	X	X	X	P	P	P	P	X	§ 156.131(C)
Retail sales	X	X	X	X	P	P	P	P	X	
Smoke and vapor shops	X	X	X	X	X	X	X	X	X	
SERVICES										

Alcohol and drug detoxification, rehabilitation and treatment facilities	X	X	X	X	X	X	X	X	X	
Bail bond services	X	X	X	X	X	X	X	X	X	
Childcare center (small)	X	X	X	S	P	P	P	X	X	§ 156.002; § 156.032(C)(9)
Childcare center (medium)	X	X	X	S	P	P	P	X	X	§ 156.002; § 156.032(C)(9)
Childcare center (large)	X	X	X	S	P	P	P	X	X	§ 156.002; § 156.032(C)(9)
Childcare homes (small)	X	S	S	S	P	P	P	X	X	§ 156.057
Home occupations (minor)	X	P	P	P	P	X	P	P	X	§ 156.136(B)
Home occupations (major)	X	S	S	S	P	X	P	P	X	§ 156.136(A)
Hotel resort	X	X	X	X	X	S	P	X	X	
Kennels	X	X	X	X	X	X	X	X	X	
Motor vehicle body and paint establishments	X	X	X	X	X	X	X	X	X	
Motor vehicle washing establishments	X	X	X	X	X	X	X	X	X	
Personal service establishments	X	X	X	X	P	P	P	P	X	
Radio and television stations	X	X	X	X	X	X	X	X	X	
Recreational facilities (commercial)	X	X	X	X	X	S	P	X	X	
Resident businesses	X	X	X	X	P	X	P	X	X	§ 156.002
Sexually oriented businesses	X	X	X	X	X	X	X	X	X	§ 156.006
Shooting ranges	X	X	X	X	X	X	X	X	X	
Tattoo, body piercing and body art establishments	X	X	X	X	X	X	X	X	X	
Other services	X	X	X	X	X	X	P	X	X	
INDUSTRIAL										
Energy facilities										
Satellite dish farms	X	X	X	X	X	X	X	X	X	
Solar energy farms	X	X	X	X	X	X	X	X	X	
Solar energy systems (accessory)	P	P	P	P	P	P	P	P	X	§ 156.139
Wind energy facilities (commercial)	X	X	X	X	X	X	X	X	X	§ 156.138
Wind energy facilities (supplementary)	P	P	P	P	P	P	P	P	X	§ 156.138
Other energy facilities	X	X	X	X	X	X	P	X	X	
Manufacturing, processing and assembly facilities										
Asphalt and concrete plants	X	X	X	X	X	X	X	X	X	
Assembly or packaging of articles	X	X	X	X	X	X	X	X	X	
Beverage manufacturing, bottling and processing facilities	X	X	X	X	X	X	X	X	X	
Brick and masonry facilities	X	X	X	X	X	X	X	X	X	
Electrical equipment assembly	X	X	X	X	X	X	X	X	X	
Fine craft and folk art production	P	P	P	P	P	P	P	P	X	

Foundries	X	X	X	X	X	X	X	X	X	
Manufacturing, processing, assembly and other industrial facilities	X	X	X	X	X	X	X	X	X	
Metal products facilities (fabrication and assembly)	X	X	X	X	X	X	X	X	X	
Recycling materials collection and processing	X	X	X	X	X	X	X	X	X	
Resource extraction facilities	X	X	X	X	X	X	X	X	X	
Stone cutting, shaping and finishing facilities	X	X	X	X	X	X	X	X	X	
Waste recovery facilities	X	X	X	X	X	X	X	X	X	
Other manufacturing, processing and assembly facilities	X	X	X	X	X	X	P	X	X	
Warehousing										
Warehousing and storage facilities	X	X	X	X	X	X	X	X	X	
Junk yards, scrap yards, and salvage facilities	X	X	X	X	X	X	X	X	X	
Landfills, and solid waste disposal facilities	X	X	X	X	X	X	X	X	X	
Outdoor storage of construction equipment and materials	X	X	X	X	X	X	X	X	X	
Outdoor storage in crates, trailers and storage units	X	X	X	X	X	X	X	X	X	§ 156.131(D)
Outdoor storage of vehicles, equipment and other goods	X	X	X	X	X	X	X	X	X	
Other warehousing/storage facilities	X	X	X	X	X	X	P	X	X	
Transportation										
Aircraft hangars (commercial)	X	X	X	X	X	X	X	X	X	
Airports, airfields and heliports	X	X	X	X	X	X	X	X	X	
Bus, truck and transportation terminals, yards and parking lots	X	X	X	X	X	X	X	X	X	
Distribution centers, parcel delivery centers and delivery warehouses	X	X	X	X	X	X	X	X	X	
Taxi and pedicab storage and dispatch	X	X	X	X	X	X	X	X	X	
Transit stops	S	S	S	S	S	S	S	S	X	
Other transportation related facilities	X	X	X	X	X	X	P	X	X	
PUBLIC/INSTITUTIONAL										
Public Institutions										
Post offices	X	X	X	X	S	X	P	S	X	
Schools	S	X	X	S	X	P	P	P	X	
Fire stations	S	P	P	S	P	P	P	P	X	
Jails and prisons	X	X	X	X	X	X	X	X	X	
Mental hospitals	X	X	X	X	X	X	X	X	X	
Police stations	S	P	P	S	P	P	P	P	X	
Town uses and facilities	P	P	P	S	P	P	P	P	P	

United States government uses and facilities	P	P	P	P	P	P	P	P	P	
Other public institutions	X	X	X	X	X	X	P	X	X	
Religious Institutions										
Accessory church schools	X	S	S	S	X	P	P	P	X	
Cemeteries	X	X	X	S	X	X	P	X	X	
Churches and religious institutions	X	S	S	S	S	S	P	S	X	
Crematoriums (human or animal)	X	X	X	X	X	X	X	X	X	
Customary accessory church facilities	X	S	S	S	X	X	P	S	X	§ 156.036(C)(8)
RECREATIONAL										
Conservation and open spaces	P	P	P	P	P	P	P	P	P	
Beach and sound accesses	P	P	P	P	P	P	P	P	P	
Passive recreation facilities	P	P	P	P	P	P	P	P	P	
Public parks and playgrounds (includes associated parking)	P	P	P	P	P	P	P	P	P	
Public clubs and recreational areas	S	P	P	S	P	P	P	P	S	
Private clubs, community centers and recreational facilities	X	S	S	S	S	S	P	X	X	§ 156.030(C)(3); § 156.032(C)(4)
Other recreational facilities	X	X	X	X	X	X	P	X	X	
WIRELESS TELECOMMUNICATION SYSTEMS										
Existing WTS - eligible facilities request	P	P	P	P	P	P	P	P	X	§ 156.058
Existing WTS - substantial modification	X	X	S	X	S	S	S	S	X	§ 156.058
Free-standing telecommunications tower	X	X	X	X	S	S	S	S	X	§ 156.058
Antenna attached to building or structure	X	X	X	X	S	S	S	S	X	§ 156.058
Stealth antenna	P	S	S	P	P	P	P	P	P	§ 156.058
Small wireless facility	P	S	S	P	P	P	P	P	P	§ 156.058

(Ord. 16-04, passed 7-6-2016; Am. Ord. 16-07, passed 11-2-2016; Am. Ord. 16-08, passed 2-1-2017; Am. Ord. 21-01, passed 6-2-2021; Am. Ord. 22-05, passed 8-3-2022; Am. Ord. 23-10, passed 9-6-2023)

Attachment D

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§ 156.050 WALLS AND FENCES.

The setback requirements of this chapter shall not prohibit any necessary retaining wall or prohibit any wall or fence. However, within any residential district no wall or fence, including a retaining wall or bulkhead, shall exceed 6 feet in height, and within any commercial district no wall or fence, including a retaining wall or bulkhead shall exceed 10 feet in height.

(Ord. 04-23, passed 10-6-2004, § 24; Am. Ord. 05-04, passed 4-6-2005; Am. Ord. 06-01, passed 4-5-2006)

Commented [SC1]: See Ordinance 25-05 revisions

§ 156.051 BUILDING FEATURES EXEMPT FROM SETBACKS OR MINIMUM YARD REQUIREMENTS.

Building features that may be exempt from minimum yard requirements, setbacks or building restriction lines are described as follows:

(A) Sills, cornices and similar ornamental features as well as roof eaves and overhangs may project not exceeding 12 inches into any required front, side or rear yard or beyond any required front, side or rear setback or building restriction line;

Commented [SC2]: See Ordinance 26-03 revisions

(B) Bay windows, stoops, covered entryways, stairs and similar features of a principal structure may project not exceeding 3 feet into any required front yard or beyond any required front setback or building restriction line (plus an additional 12 inches for features as noted in this section); and

Commented [SC3]: Practically speaking, this is difficult to confirm and enforce.

(C) No ornamental feature, bay window, stoop, stairs, eave, overhang or similar feature of an accessory structure shall project into any required front, rear or side setback or building restriction lines applicable to accessory structures;

Commented [SC4]: Not sure why it matters whether it is a principal structure or accessory?

(D) Community ocean and sound access walkway structures located within common property designated as such at the time of subdivision plat recordation, within an easement granted to a subdivision or community association for the purposes of providing community access to the ocean or sound, or within the right-of-way of a private street, are exempt from the minimum yard requirements of this chapter as well as the applicable provisions of § 156.128(A)(2). Dune walkover structures subject to this exemption must still comply with all applicable standards found in § 156.124(C)(1);

(E) Private walkway structures less than 4 feet in width that directly connect to walkway structures listed in division (D) above are exempt from the minimum yard requirements of this chapter as well as the applicable provisions of § 156.128(A)(2). This exemption shall also apply to private walkway structures constructed for the purpose of providing ocean or sound access that are shared between 2 adjoining property owners. Dune walkover structures subject to this exemption must still comply with all applicable standards found in § 156.124(C)(1);

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(F) Private walkway structures less than 4 feet in width constructed less than 12 inches above grade are exempt from the minimum yard requirements of this chapter as well as the applicable provisions of § 156.128(A)(2). Dune walkover structures and sound access walkways are not exempt from minimum yard requirements unless in compliance with the standards of § 156.051(E). Walkway structures are not exempt from minimum yard requirements if the walkway abuts a swimming pool deck or is located within 3 feet of a swimming pool; and

(G) Municipally owned walkways, boardwalks, multi-use paths and sidewalks are exempt from the minimum yard requirements of this chapter as well as the applicable provisions of § 156.128(A)(2).

(Ord. 04-23, passed 10-6-2004, § 24; Am. Ord. 05-04, passed 4-6-2005; Am. Ord. 06-01, passed 4-5-2006; Am. Ord. 08-05, passed 11-5-2008; Am. Ord. 17-07, passed 8-2-2017; Am. Ord. 21-01, passed 6-2-2021; Am. Ord. 22-08, passed 9-7-2022)

§ 156.052 REDUCTION IN MINIMUM YARD REQUIREMENTS IN RESIDENTIAL DISTRICTS BASED ON ERROR IN BUILDING, STRUCTURE OR SITE FEATURE LOCATION.

Notwithstanding any other provision of this chapter, the Zoning Administrator may approve a reduction in the minimum yard requirements where an existing or partially constructed building or structure, driveway, patio, swimming pool or pool deck, sign or similar feature does not comply with the requirements applicable when construction of a building or structure or similar features noted above began, provided that:

Commented [SC5]: As we work through the definition of structure, we may want to come back to this.

(A) The Zoning Administrator determines that:

(1) The error does not exceed 10% of the minimum yard or setback requirement;

(2) The noncompliance occurred in good faith and through no fault of the property owner, or was the result of an error in the location of the building or other site feature subsequent to the issuance of a building permit, if it was required;

(3) The reduction will not be detrimental to the use and enjoyment of other property in the immediate vicinity or result in unsafe conditions;

(4) To enforce compliance with the minimum yard or setback requirements would cause unreasonable hardship upon the owner; and

(5) The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

(B) In approving a like reduction, the Zoning Administrator shall allow only a reduction necessary to provide the requested relief and may prescribe conditions, including, but not limited to, landscaping and screening measures, to mitigate any negative impacts of the reduction.

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(C) Upon the issuance of written approval of a reduction for a particular building, sign, structure or similar site feature in accordance with the provisions of this section, the same shall be deemed to be lawful.

(Ord. 04-23, passed 10-6-2004, § 24; Am. Ord. 05-04, passed 4-6-2005; Am. Ord. 06-01, passed 4-5-2006)

§ 156.053 VERTICAL ADDITIONS TO NON-CONFORMING STRUCTURES.

(A) Notwithstanding any other provision of this chapter, for single-family dwellings built prior to July 3, 2002, with principal structures that encroach into the minimum required yards of a residential zoning district, additions shall be permitted within the existing building footprint, exclusive of uncovered decks, provided that the completed structure shall not exceed the maximum building height of the zoning district in which it lies, and provided that the side yard shall not be less than 8 feet, and the front and rear yards shall be not less than 15 feet, and that the addition conforms to all other provisions of the zoning district regulations.

(B) Vertical additions to uncovered decks shall be permitted only as additional uncovered decks of the same or less footprint.

(C) Notwithstanding any other provision of this chapter, for any single-family dwelling built prior to July 3, 2002 that exceeds the maximum height for the zoning district in which it is located, an addition can be constructed to match the height of the existing roofline, provided that the addition does not exceed the maximum building height of the zoning district by more than one foot. The addition must conform with all other provisions of the town's adopted zoning, flood damage prevention, and building code regulations.

Commented [SC6]: This was a recent amendment to provide some flexibility when constructing additions to existing older homes

(Ord. 04-23, passed 10-6-2004, § 24; Am. Ord. 05-04, passed 4-6-2005; Am. Ord. 06-01, passed 4-5-2006; Am. Ord. 17-02, passed 4-5-2017; Am. Ord. 21-01, passed 6-2-2021; Am. Ord. 25-03, passed 6-4-2025)

§ 156.054 SPECIAL USES FOR SPECIFIED IMPROVEMENTS TO SINGLE-FAMILY DWELLINGS IN EXISTENCE ON JULY 1, 2003.

The Town Council may, by special use permit, modify the minimum yard and building setback and height requirements to allow improvements to existing single-family homes that had approved certificates of occupancy on July 1, 2003, in accordance with the following provisions:

(A) The Zoning Administrator shall review the proposed application and determine if a special use permit is necessary to permit reasonable opportunity to improve the subject property;

(B) Upon determination by the Zoning Administrator that a special use permit is necessary, the town shall process the application and schedule an evidentiary public

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hearing by the Town Council in accordance with the procedures set forth in § 156.155 as well as the procedures set forth below:

(C) The Town Council may grant a special use only after determining that the application meets the following criteria:

(1) The site for the proposed use is adequate in size and shape, and the proposed use will not negatively affect adjacent property or the surrounding area;

(2) The special use will not be inconsistent with the objectives specified in the CAMA Comprehensive & Land Use Plan;

(3) The applicant has demonstrated that the requirements of this chapter are unreasonable or impractical due to unusual building design, lot shape or mature vegetation; or there are practical siting constraints where original placement of the dwelling on the lot prohibits reasonable improvements that meet existing requirements;

(4) Any height special use authorized under the terms of this section for an addition to an existing structure shall be limited to no greater than 5 feet beyond the maximum height permitted in the zoning district; and

(5) The proposed structural modifications meet sound residential design objectives to:

(a) Minimize loss of privacy on neighboring properties;

(b) Maximize image of quality residential development to the street frontage; and

(c) Avoid reduction of light and air to neighboring properties.

(Ord. 04-23, passed 10-6-2004, § 24; Am. Ord. 05-04, passed 4-6-2005; Am. Ord. 06-01, passed 4-5-2006; Am. Ord. 09-07, passed 8-5-2009; Am. Ord. 21-01, passed 6-2-2021)

§ 156.055 ADMINISTRATIVE REDUCTION IN MINIMUM YARD REQUIREMENTS FOR IMPROVEMENTS TO SINGLE-FAMILY RESIDENTIAL DWELLINGS IN EXISTENCE ON JULY 1, 2003.

The Zoning Administrator may approve a reduction in the minimum yard requirements for existing single-family homes that had approved certificates of occupancy on July 1, 2003, only to accommodate limited improvements to an existing residence and to approve construction of driveways on substandard lots or shared driveways in accordance with the following provisions:

(A) The property owner or contract purchaser shall submit an application to the Zoning Administrator. At the time of application, the applicant shall pay a fee in accordance with the town's fee schedule;

(B) The applicant shall submit all information deemed necessary by the Zoning Administrator to permit adequate review of the application;

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(C) The applicant shall provide notice, by certified mail, to the homeowners' association in the community to which the subject property belongs and to owners of each property abutting or across the street from the subject property informing them that a request for reduction of minimum yard requirements has been submitted and will be considered by the Zoning Administrator. If the property abutting or across the street from the subject property is of condominium ownership, then notification sent to the condominium association shall be sufficient to satisfy this provision;

(D) For applications concerning residential properties located in neighborhoods with homeowners' association architectural review processes, the applicant shall submit evidence of approval of the requested special use by the applicable homeowners' association. For properties without homeowners' association architectural review processes, the applicant shall submit a notarized affidavit stating that an architectural review process does not exist in the subject community;

(E) The Zoning Administrator may approve a reduction upon finding that the proposal meets the following criteria:

(1) The improvement proposed is consistent with the Comprehensive & Land Use Plan;

(2) The improvement proposed does not increase the footprint of the existing single-family dwelling, nor does it convert structural elements that are not currently under roof (such as open decks) to living space;

(3) The proposed expansion will not adversely affect adjacent property or the surrounding area;

(4) The applicant has demonstrated that the proposed improvement cannot reasonably or logically be accommodated elsewhere on the lot (in the case of shared driveways or individual driveways on narrow lot frontages that render the combination of setback and driveway width standards impossible to attain); and

(5) The proposed structural modifications meet sound residential design objectives to:

(a) Minimize loss of privacy on neighboring properties; and

(b) Avoid reduction of light and air to neighboring properties.

(F) The Zoning Administrator may impose conditions upon any reduction as deemed necessary in the public interest to secure compliance with the considerations in this section; and

(G) If the Zoning Administrator does not approve a reduction, the applicant may file a special use for consideration by the Town Council or a variance for consideration by the Board of Adjustment, in accordance with the provisions of this chapter.

(Ord. 04-23, passed 10-6-2004, § 24; Am. Ord. 05-04, passed 4-6-2005; Am. Ord. 06-01, passed 4-5-2006; Am. Ord. 21-01, passed 6-2-2021)

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§ 156.056 BUILDING FEATURES AND STRUCTURES EXEMPT FROM DISTRICT HEIGHT REGULATIONS.

(A) The following architectural features may extend no more than 5 feet above the applicable zoning district height limit:

(1) Chimneys;

(2) Cupolas/observation towers, provided the floor area of the structure is no greater than 64 square feet, including the stairwell; and

Commented [SC7]: We may want to clarify floor area

(3) Parapet walls and mechanical appurtenances, provided they extend no more than 4 feet above the roof line of the building to which they are attached.

(B) Certain structures, including wind turbines, wireless telecommunications systems, and water towers, are allowed to exceed maximum height limitations of the zoning district in which they are located, subject to the standards, limitations, and procedures as set forth in other applicable sections of this chapter.

(C) Church spires may extend no more than 30 feet above applicable zoning district height limit.

(D) This section shall not apply to variances to the height regulations contained in this chapter, which shall be considered by the Board of Adjustment in accordance with the procedures of § 156.167.

(Ord. 04-23, passed 10-6-2004, § 25; Am. Ord. 10-10, passed 1-5-2011; Am. Ord. 10-13, passed 1-5-2011; Am. Ord. 21-01, passed 6-2-2021)

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE TOWN OF DUCK, NORTH CAROLINA REGARDING EXEMPTIONS
GENERALLY AND LAND DISTURBING ACTIVITIES**

Ordinance 25-05

WHEREAS, the Town Council of the Town of Duck may enact ordinances to protect the health, safety, and welfare of its citizens under the North Carolina General Statutes § 160A-174; and

WHEREAS, in response to a substantial number of special use applications, the Town Council reviewed the history and background regarding fill and retaining wall standards at its February 2025 retreat; and

WHEREAS, the Town Council of the Town of Duck directed the Duck Planning Board to review current fill and retaining walls standards with input from Town Engineer, Mike Robinson and considering best management practices; and

WHEREAS, the Duck Planning Board has considered these standards at multiple public meetings (5) and voted to recommend approval of this ordinance at its public meeting on August 6, 2025; and

WHEREAS, the Town Council has found these text amendments to be consistent with the Town's adopted Comprehensive & CAMA Land Use Plan and 2032 Vision; and

WHEREAS, the Town Council has determined that these amendments are in the public interest by offering property owners resilient strategies to develop and protect their properties and mitigate against floodwaters and sea level rise.

NOW THEREFORE BE IT ORDAINED by the Town Council for the Town of Duck, North Carolina that Sections 156.050 and 156.128 of the Zoning Ordinance shall be amended as follows:

PART I. § 156.050 WALLS AND FENCES be amended to read as follows:

Unless otherwise noted in Section 156.128, the setback requirements of this chapter shall not prohibit any necessary retaining wall or prohibit any wall or fence. Within any residential district no wall or fence, including a retaining wall or bulkhead, shall exceed 6 feet in height, and within any commercial district no wall or fence, including a retaining wall or bulkhead shall exceed 10 feet in height unless otherwise specifically provided under Section 156.128.

PART I. § 156.128 LAND DISTURBING ACTIVITIES be amended to read as follows:

(A) *Mandatory standards for land disturbance activities.*

- (1) The provisions of this section shall apply to any land disturbance activity regardless of the size of the disturbed area. A land disturbance permit is required as provided in division (B)(1) below.
- (2) Land disturbing activities shall not be permitted within 5 feet of any property line except in accordance with the following provisions:
 - a. Necessary clearing and grubbing may occur within 5 feet from the property line provided no grade change occurs.
 - b. Drainage, stormwater improvements and underground utilities may be located within 5 feet of the property line. These improvements shall be identified on a site plan submission for land disturbing activities.
 - c. Landscaping and fences may be located within 5 feet of the property line provided they do not impede the flow of stormwater.
 - d. Land disturbances on front (street) property lines for driveways may be located within 5 feet of the property line but shall be limited to culvert, drainage, and driveway improvements and shall comply with all provisions of this chapter
- (3) Fill is not allowed within 5 feet of any side or rear property line except to directly match a higher adjacent grade at the property line. Fill is not allowed within 5 feet of the front (street) property line except to directly match the grade at the street and to accommodate driveway improvements as approved by the Zoning Administrator during administrative review or Town Council during special use permit review.
- (4) Except as provided in § 156.128(A)(3) above, no fill of any kind shall be allowed within 5 feet of any property line except as associated with a driveway, bulkhead or other permitted setback encroachments. Driveways shall be designed to mitigate the direct flow of stormwater runoff to streets or adjacent properties.
- (5) Except as provided in § 156.128(A)(3) above, a lot shall not be filled/graded higher than the adjacent grades or nearer than 5 feet to any property line in any of the following circumstances:
 - (a) When the Dare County Health Department determines that fill is necessary for a septic system to function properly, the fill area shall be limited to the septic system and drainfield areas and the fill depth as required by the permit. Copies of the septic permit, once issued by the Health Department, shall be submitted to the Planning Department verifying the amount of fill material needed and the location of the septic improvements as authorized by the Health Department. Fill material used in conjunction with the installation of septic improvements shall be graded and sloped to avoid runoff on adjacent properties, rights-of-way, waterways and easements.

- (b) When an additional 12 inches of fill above the septic system and drainfield fill has been required by the Health Department for the house pad to ensure adequate flow from the building to the septic system.
- (c) When fill is required to raise the lot elevation to the regulatory flood protection elevation. If more than 36 inches of fill material is necessary to raise a lot to regulatory flood protection elevation, the applicant for a land disturbance permit shall submit a drainage plan prepared by a North Carolina licensed surveyor, North Carolina licensed engineer, North Carolina licensed landscape architect, or North Carolina licensed soil scientist depicting how stormwater on the site will be managed to avoid runoff on adjoining properties, rights-of-way, waterways and easements. The plan shall depict the existing and proposed elevations at all property lines around the perimeter of the site and internal to the site where improvements, including septic improvements, are proposed. The grading and shaping plan shall depict the areas on the site where fill material will be placed and the limits of the fill material in relation to the property lines. The grading and shaping of the fill material shall be completed so that no fill material is located within 5 feet of any property line. If drainage improvements and/or stormwater measures such as infiltration basins, swales or ditches are used to address stormwater runoff, these improvements may be placed within this 5-foot area. If utilized, design details on guttering and rooftop rainwater collection systems must be provided in the plan. Such improvements cannot flow directly onto driveways, impervious surfaces, or adjacent properties. An on-site visit may be requested as part of the review process. Verification of the completion of the drainage plans as proposed shall be submitted before the certificate of occupancy is released by the Duck Building Inspector and Zoning Administrator.
- (d) When stormwater retention areas proposed as part of a designed drainage plan are located up to property lines, provided no associated fill is located within 2 feet of the property lines.
- (6) All fill shall be established at a slope not to exceed 3 feet horizontal run for every 1-foot vertical rise. Except as provided in § 156.128(A)(3) above, the toe of the slope shall meet the 5-foot setback requirement from all property lines.
- (7) A permanent ground cover, sufficient to prevent erosion, must be established on all fill slopes as follows:
 - (a) Prior to issuance of the certificate of occupancy for construction projects; or
 - (b) For projects where land disturbance activity has ceased for more than 6 months, whichever occurs first.
- (8) Retaining walls may be utilized as a method to stabilize or contain fill provided they do not exceed 3 feet in height and are located no closer than five feet from a property line.

- (9) Bulkheads may be established for shoreline protection as a means to stabilize or contain fill provided:
 - a. They are no taller than and do not extend any further seaward than 2 feet from an existing shoreline protection bulkhead.
 - b. Where no shoreline protection exists, bulkheads may be established for shoreline protection as a means to stabilize or contain fill provided they do not extend any further seaward than 3 feet from adjacent grade or exceed 3 feet in height.
- (10) Any lot requiring a land disturbance permit shall install temporary erosion and sediment control measures to prevent sediment from leaving the site. The erosion and sediment control measures shall be implemented on the site prior to the commencement of land disturbing activities and be continuously maintained during the land disturbance phase of development.
- (11) A fill permit issued by the North Carolina Division of Water Quality shall be required to fill any 401 wetlands.
- (12) A fill permit issued by the United States Army Corp of Engineers shall be required to fill any 404 wetlands.
- (13) Fill materials shall be of substantially similar composition to the soils present on the lot being filled and not include debris or be finished with soils or materials that will adversely affect the absorption of storm water.
- (14) Residential lots may be graded, subject to the requirements of this section, to create a level area for a single-family detached dwelling and its accessory structures and driveway/parking areas. Fill material that is either brought to the lot or re-graded on the lot under the footprint of the principal dwelling unit is subject to the following limitations. For the purposes of this subchapter, the building footprint shall be considered the plan view of the heated area of the principal dwelling unit. Pre-disturbance elevations shall be taken at the four corners of building footprint. In cases where the building footprint is irregular and has more than four sides, pre-disturbance elevations shall be taken using the four building corners closest to the four corners of the smallest square or rectangle that could be drawn to encompass the footprint.
 - a. Lot depressions that constitute less than 3% of the lot size and are located a minimum of 5 feet from all lot lines may be filled no higher than to the level of the directly adjacent grade completely surrounding the depression. The post-fill condition shall be considered as the pre-disturbance ground elevations of such depressions in permitting leveling and calculating building height.
 - b. Where fill/grading is not necessary to raise a house to the regulatory flood protection elevation, there shall be a maximum allowance of 3 feet of rise in ground elevation from the lowest pre-disturbance ground elevation beneath the footprint of the house.

(B) *Land disturbance permit required.*

(1) A land disturbance permit shall be required for filling and/or grading a lot; any lot clearance, filling or grading activity prior to issuance of a building permit; any installation of gravel or pavers or accessory structures and similar site features whether or not subject to building permit requirements; and any removal or installation of site features such as septic systems, wells and drainage systems that disturb the land.

(2) (a) The land disturbance permit application shall be filed with the Zoning Administrator or his/her designee. The following information shall be submitted as part of the permit application as deemed necessary by the Zoning Administrator:

1. Where fill or grading is proposed within 5 feet of any property line, adjacent property elevations at the subject property lines shall be depicted on the site plan;
2. Existing elevations sufficient to determine the drainage patterns on site and on adjoining sites;
3. Locations and elevations of the adjoining street pavement, shoulder, ditches, drainage systems, upstream and downstream driveway culverts;
4. Proposed elevations of the top of bank and toe of slope and limits for fill necessary to construct the dwelling, including driveway access;
5. For all grading/filling activities, a survey depicting the existing and proposed ground elevations shall be submitted at the time building permits are requested. The survey shall also depict the areas on the site where fill material will be placed and the limits of the fill material in relation to the property lines. Fill material shall be graded to avoid runoff on adjoining properties, rights-of-way, waterways and easements. Fill material shall not be located within 5 feet of any property line except as provided in §156.128(A)(3);
6. A topographic plan (shown in 1-foot intervals) may be required for all development where changes in the natural grade of the property greater than 36 inches in height are proposed or have taken place in the past year. The plan shall indicate the location and elevation changes above or below natural grade and contain the following certificate:

I, _____, owner/agent do hereby certify that I will develop the property in accordance with the approved plans which will be constructed or maintained so that surface waters from the development are not unreasonably collected and channeled onto adjacent properties at locations or at volumes as to cause substantial damage to adjacent properties. In addition, the property will be constructed or maintained so that it will not impede the natural flow of water across the development, thereby causing damage to adjacent properties. On the site plan entitled _____, stormwater drainage improvements shall be installed according to these plans and specifications and approved by the Town of Duck. The Town of Duck assumes no

responsibility for the design, maintenance or the guaranteed performance of the stormwater drainage improvements.

Date

Owner/Agent

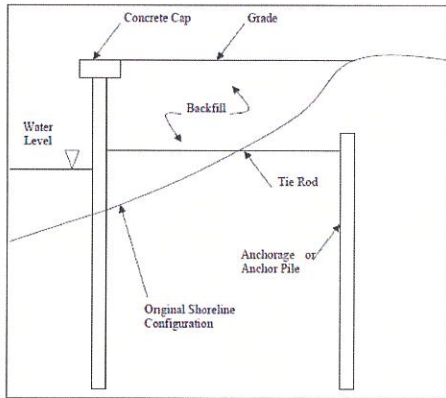
Date

Registered Land Surveyor/Civil Engineer

7. Location of existing and proposed improvements including features such as driveways parking areas, structures, patios, walkways and septic systems.
8. *Plan copies.* Two copies of the land disturbance permit plans shall be filed with the permit application for administrative review. Plan copies submitted as part of a special use request shall be determined by the Zoning Administrator.
- (3) Prior to issuance of the land disturbance permit, an on-site inspection of the project site may be scheduled by the Zoning Administrator or his/her designee to evaluate the pre-disturbed conditions of the site and review and discuss the proposed land disturbance activity.
- (4) For all grading/filling activities requiring a special use under the terms of this chapter, the use shall be approved prior to issuance of the land disturbance permit.
- (5) After issuance of the land disturbance permit, an on-site inspection shall be conducted by the Zoning Administrator or his/her designee to ensure adequate erosion control measures and project activities are in compliance with this chapter. When the Zoning Administrator or his/her designee determines that erosion and sedimentation will likely continue, despite installation and maintenance of protective practices, the person conducting the land disturbance activity will be required to undertake additional protective measures as are required to meet permit requirements.
- (6) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADJACENT GRADE. The elevation measured where the subject property lines abut the adjoining lots or rights-of-way. For filling activities to match the grade at the adjacent property line, the grade shall be shown on a recent survey as described herein at the lot corners and along the lot lines as necessary to determine the elevation of the directly **ADJACENT GRADE**.

BULKHEAD. A vertical structure erected and anchored typically with tie rods along and parallel to the shoreline intended to retain and prevent sliding of land, arrest wave action, control erosion, provide shoreline protection.



CUT SLOPE. A portion of land surface or area created when soil material is excavated forming a slope or embankment.

FILL. Any material placed or graded on a lot where the material has the effect of increasing the elevation of any portion of the lot.

FILL SLOPE. A portion of land surface or area created when adding fill material to form a slope or embankment.

RETAINING WALL. A structure designed to hold back soil or other fill material, preventing it from sliding or collapsing onto a lower level.

- (7) Any development that requires a CAMA major development permit or a sedimentation and erosion control plan shall be subject to the state stormwater runoff policies promulgated in 15 N.C.A.C. 2H § .1000, unless exempted by those regulations. The town may not issue a zoning or special use permit and may not grant final plat approval for subdivisions with respect to any development that would cause land disturbing activity requiring prior approval of an Erosion and Sedimentation Control Plan by the North Carolina Sedimentation Control Commission under G.S. § 113A-57(4) (Mandatory Standards for Land Disturbing Activity) unless the Commission has certified to the town, either that:
 - (a) An erosion and sedimentation control plan has been submitted to and approved by the Commission; or
 - (b) The Commission has examined the preliminary plans for the development and it reasonably appears that an erosion and sedimentation control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin (and no building permits may be issued) until the Commission approves the erosion and sedimentation control plan.


(C) *Special uses for fill/grading activities.*

- (1) All proposals to add fill on a lot in excess of 36 inches or otherwise inconsistent with the standards of this section will require approval of a special use application by the Town Council in accordance with the procedures established in § 156.155.
- (2) The Town Council may grant a special use permit only after determining that the application meets the following criteria:
 - (a) The site for the proposed fill is otherwise adequate in size, shape and other characteristics to accommodate the proposed project;
 - (b) The applicant has demonstrated that the requirements of this chapter are unreasonable or impractical due to the necessity for the fill, lot shape, topographical features, location of mature vegetation, or location and characteristics of existing improvements on the lot;
 - (c) The amount of fill proposed is the minimum necessary to accommodate the proposed project, especially for soundfront properties;
 - (d) The proposed fill will not negatively impact adjacent properties or the surrounding area, especially for soundfront properties;
 - (e) The special use will be consistent with any applicable goals, policies and objectives specified in the town's adopted CAMA Comprehensive & Land Use Plan and vision statement. This review includes the town's evaluation of the proposal's consistency with its adopted CAMA Comprehensive & Land Use Plan, which may be more flexible or more stringent than interpretations by others; and
 - (f) The applicant has submitted a drainage plan consistent with the requirements described in § 156.128(A)(5)(c).

PART III. This ordinance shall be effective upon its adoption.


Don Kingston, Mayor

ATTEST:


Lori Ackerman, Town Clerk

Date adopted: October 1, 2025
Motion to adopt by: Donald Kingston
Vote: 5 AYES 0 NAYS



**AN ORDINANCE AMENDING § 156.051, BUILDING FEATURES EXEMPT FROM
SETBACKS OR MINIMUM YARD REQUIREMENTS IN THE ZONING ORDINANCE
OF THE TOWN OF DUCK, NORTH CAROLINA**

Ordinance 26-03

WHEREAS, the Duck Town Council and Planning Board have concluded that the proposed text amendments will provide a benefit to the community with clear and consistent standards for development; and

WHEREAS, the Town Council has determined that this amendment is in the public interest by offering property owners reasonable options; and

WHEREAS, the Town Council and Planning Board have found that these changes are reasonable and consistent with the intent and recommendations of the Town's adopted CAMA Core Land Use Plan.

NOW THEREFORE BE IT ORDAINED by the Town Council for the Town of Duck, North Carolina that the following sections of the Zoning Ordinance shall be amended as stated:

PART I. The following sections of the Zoning Ordinance shall be amended as stated:

The standards in §156.051 shall be amended to read as follows:

Building features that may be exempt from minimum yard requirements, setbacks, or building restriction lines are described as follows:

(A) Sills, cornices and similar ornamental features as well as roof eaves and overhangs may project not exceeding 12 inches into any required front, side, or rear yard or beyond any required front, side, or rear setback or building restriction line; and

(B) Bay windows, stoops, covered entryways, stairs and similar features of a principal structure may project not exceeding three feet into any required front yard or beyond any required front setback or building restriction line (plus an additional 12 inches for features as noted in this section); and

(C) Outdoor shower enclosures with functional plumbing and a shower head that are not fully enclosed and attached to a principal structure, with or without a roof covering, may project not exceeding three feet into any required rear yard or beyond any required rear setback or building restriction line (plus an additional 12 inches for features as noted in Section (A)) provided that the length contiguous with the principal structure is no longer than eight feet and the rear setback or building restriction line is not less than 25 feet; and

(D) No ornamental feature, bay window, stoop, stairs, eave, overhang, or similar feature of an accessory structure shall project into any required front, rear or side setback or building restriction lines applicable to accessory structures; and

(E) Community ocean and sound access walkway structures located within common property designated as such at the time of subdivision plat recordation, within an easement granted to a

subdivision or community association for the purposes of providing community access to the ocean or sound, or within the right-of-way of a private street, are exempt from the minimum yard requirements of this chapter as well as the applicable provisions of §156.124(C)(1); and

(F) Private walkway structures less than four feet in width that directly connect to walkway structures listed in Division (D) above are exempt from the minimum yard requirements of this chapter as well as the applicable provisions of §156.128(A)(2). This exemption shall also apply to private walkway structures constructed for the purpose of providing ocean or sound access that are shared between two adjoining property owners. Dune walkover structures subject to this exemption must still comply with all applicable standards found in §156.124(C)(1); and


(G) Private walkway structures less than four feet in width constructed less than 12 inches above grade are exempt from the minimum yard requirements of this chapter as well as the applicable provisions of §156.128(A)(2). Dune walkover structures and sound access walkways are not exempt from minimum yard requirements unless in compliance with the standards of §156.051(E). Walkway structures are not exempt from minimum yard requirements if the walkway abuts a swimming pool deck or is located within three feet of a swimming pool; and

(H) Municipally owned walkways, boardwalks, multi-use paths and sidewalks are exempt from the minimum yard requirements of this Chapter as well as the applicable provisions of §156.128(A)(2).

PART II. This ordinance shall be effective upon its adoption.


Monica Thibodeau, Mayor

ATTEST:


Lori Ackerman, Town Clerk

Date adopted: February 4, 2026

Motion to adopt by: Mayor Pro Tempore Sandy Whitman

Vote: 5 AYES 0 NAYS

