



## **Agenda**

### **Town of Duck Planning Board – Regular Meeting**

Paul F. Keller Meeting Hall

Wednesday, June 10, 2026 – 4:00 p.m.

1. Call to Order
2. Public Comment
3. Approval of Minutes
  - a. *Minutes from May 13, 2026 Meeting*
4. *Planning and Zoning E-Module Learning*
  - a. *Legal Procedures for a Rezoning (33.54 minutes)*
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*
      1. *Use Table*
    - iii. *Exemptions Generally, Subsections 156.050 - 156-056*
6. General Review/Discussion of Planning Board Description, Duties and Rules of Procedure
7. Staff Comments
  - a. *Summary of Town Council Meeting, June 3, 2026*
  - b. *Project Updates*
8. Board Comments
9. Adjournment

**PLANNING BOARD  
REGULAR MEETING  
MAY 13, 2026**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, May 13, 2026.

Present: Chair Bob Wetzel, Vice Chair Bob Webb, James Cofield, 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: Dan Snyder.

**CALL TO ORDER**

Chair Wetzel called to order the Regular Meeting of the Planning Board for May 13, 2026 at 4:00 p.m.

**SWEARING IN NEW PLANNING BOARD MEMBERS**

*a. Bob Wetzel*

Hanks swore in Bob Wetzel into the Planning Board.

*b. Bob Webb*

Hanks swore in Bob Webb into the Planning Board.

**ELECTION OF OFFICERS**

*a. Chair*

Webb motioned for Bob Wetzel as Chair of the Planning Board. Devroude second the motion. Motion carried 3-1, with Cofield opposed.

*b. Vice-Chair*

Devroude motioned for Bob Webb as Vice-Chair of the Planning Board. Wetzel second the motion. Motion carried 4-0.

**PUBLIC COMMENTS**

None.

## **APPROVAL OF MINUTES**

### **Minutes from the April 08, 2026, Meeting**

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

Motion carried 4-0.

## **PLANNING AND ZONING E-MODULE LEARNING**

### *a. Legal Procedures for a Rezoning (33.54 minutes)*

Wetzel and Board members agreed to have this moved to the bottom of agenda if time allotted.

## **ZONING TEXT AMENDMENTS**

### *a. Chapter 156: Land Use*

#### *i. General Provisions, Subsection 156.001 -156.012 Review*

Cross explained that, similar to the previous month, staff had prepared a report that aligns with the draft text under consideration. Upon reviewing the material again that day, Wetzel had several questions and planned to identify them during discussion. Cross noted that although the Board may feel finished with the definitions section, each review continues to reveal additional issues that had not previously been identified. Cross apologized if some comments seemed repetitive but emphasized the importance of continuing to refine the definitions.

During the review, Wetzel specifically noted the definition of “ambient noise.” While acknowledging that it is addressed separately, Cross questioned whether, because of its connection to the A-weighting scale and overall noise measurement standards, it might make more sense to place the definition under “A-weighting scale.” Cross stated that this was not a major concern and she could support either approach but suggested that organizing the definitions in that manner could make the ordinance easier to navigate for individuals unfamiliar with it.

Wetzel stated that he had no objection to the proposal but noted that a definition already exists and that he had one question regarding it that he would like to revisit. He observed that the ordinance includes a definition as well as the A-weighted scale, which describes the method for evaluating ambient noise levels. Wetzel suggested that, rather than placing the ambient noise definition under the weighting scale or decibel measurement section, the document should first identify the ambient noise criteria and then indicate how that ambient noise will be measured. He also noted that the current language does not necessarily describe the measurement process itself but instead establishes the criteria through the use of the A-weighted scale.

Winstead suggested that it may be more appropriate to place the definition of ambient noise under the A-weighted scale section, with the A-weighted scale serving as the primary definition and ambient noise addressed beneath it. He stated that he did not believe the intent was to change the existing definition of ambient noise, which would continue to be determined as the A-weighted

## Agenda Item 3

sound level that is exceeded 90 percent of the time. He added that Cross's comments on the matter were reasonable.

Wetzel indicated that he was comfortable with that approach and noted there appeared to be agreement with the suggestion. Turning to the wording of the definition, he referenced the language stating that, for purposes of the chapter, ambient noise shall be the A-weighted sound level in decibels that is exceeded 90 percent of the time. Cross clarified that the definition refers to the sound level that has exceeded 90 percent of the time.

Wetzel questioned how the definition would be applied in practice. He stated that a measurement would be taken to determine the ambient noise level for a particular area but expressed uncertainty about the phrase "exceeded 90 percent of the time." Using a hypothetical example of an ambient noise level of 100 decibels, he asked what specific sound level would be considered exceeded 90 percent of the time and sought clarification regarding the meaning and application of the definition. Staff agreed that was a good question and suggested that they could revisit the language and seek a better comparison or reference source, such as a planning dictionary, if needed. Cross added that it would still be appropriate to group or "nest" the related sound and noise definitions together to maintain consistency and avoid confusion.

Wetzel agreed with that approach. Returning to the example of a 50-decibel sound level, he reiterated his concern about the phrase indicating that the sound level is "exceeded 90 percent of the time." He questioned how that standard should be interpreted and whether exceeding the sound level 90 percent of the time would constitute a violation. He further asked for clarification regarding the origin and purpose of the 90-percent threshold contained in the definition.

Cross referenced definitions of ambient noise from planning resources. She read a definition describing ambient noise as the all-encompassing noise level associated with a given environment, consisting of sounds from all sources while excluding any alleged offensive noise. She noted that, in this context, ambient noise represents the normal or existing environmental noise level at a particular location.

Cross also cited a second definition describing ambient noise as the composite of sounds from all sources, excluding the noise being evaluated, at the location and approximate time when a comparison is to be made. She explained that ambient noise refers to the ordinary background sounds present in an environment, such as wind, a breeze, or leaves rustling in trees. She further noted that the concept is more commonly applied in the context of a noise ordinance rather than within the zoning ordinance.

Wetzel responded that the first sentence of the definition presented by Cross appeared to provide a clear and effective description of ambient noise. Winstead commented that the second sentence of the proposed definition appeared to create confusion, whereas the first sentence provided a clear description of ambient noise. Cross agreed and stated that Cofield had made a valid point regarding the reference to sound levels occurring 90 percent of the time. She explained that ambient noise consists of the sounds commonly present in an environment for the majority of the time. As an example, Cross noted that if a measurement were being taken and a sudden loud crash

## Agenda Item 3

occurred, that sound would not be considered ambient noise because it is an unusual event rather than a typical background sound.

Cofield observed that the discussion appeared to center on the significance of the 90-percent threshold and whether that percentage was the appropriate standard, as opposed to some other percentage such as 80 percent. Wetzel then asked how the ambient noise definition related to the ordinance's provisions concerning excessive or unusual noise. He questioned whether a noise would be considered excessive if it exceeded the ambient noise level for a specified percentage of the time.

Discussion continued regarding the definition of ambient noise and the use of the 90-percent standard. Cross noted that the ordinance currently does not establish specific decibel limits within either the noise ordinance or the zoning ordinance. She explained that the intent of the definition is to distinguish between the normal background sounds commonly present in an environment and unusual or isolated noises. Cross questioned whether the definition could be revised to provide greater clarity and reduce confusion regarding the 90-percent reference. Cofield responded that it likely could be improved. Cross indicated that she would be willing to revise the language and bring a proposed alternative definition back for future consideration. Cofield noted that, if the definition continues to reference sound occurring 90 percent of the time, the ordinance should also define the time period over which that measurement would be evaluated.

Cross stated that she would review how other communities define and reference ambient noise and compare those approaches with the language under consideration. She noted that the planning reference materials she had consulted contained only a limited number of definitions related to ambient noise, but a broader review of noise-related regulations would likely provide additional guidance. In the interest of time, she suggested that staff conduct further research and report back with recommendations at a future meeting.

Cross informed the committee that she had incorporated into the draft markup the definitions and revisions that had been approved by consensus during the previous month's discussion. She noted that those changes had already been added, relocated, or reorganized within the document as previously directed and, therefore, would not be reviewed individually during the current meeting. Cross then turned the committee's attention to the proposed definition of "arcade," which had been identified during the prior meeting as requiring further development. She presented draft language defining an arcade as any commercial building or business establishment containing four or more video, pinball, or sound-player-operated amusement devices available to the public for games, entertainment, or amusement, whether or not the devices register a score.

She explained that portions of the proposed language were adapted from existing business-related definitions and modified to fit the committee's intended purpose. Cross further noted that she intentionally omitted any requirement that the devices be operated on a pay-to-play basis, recognizing that some businesses may offer amusement devices without charging users. Based on the Board's previous discussion, she believed the proposed definition reflected the Board's intent but invited feedback and suggested revisions if members desired a different approach.

## Agenda Item 3

Wetzel stated that the committee had previously reached consensus on defining an arcade as a facility containing four or more amusement devices. He also recalled that the committee had agreed to keep the definition straightforward and separate from more detailed or complex provisions. Wetzel noted that the proposed definition appeared to satisfy those objectives. Cross indicated that, based on the committee's consensus, she would incorporate the arcade definition into the markup for review at the next meeting. Wetzel asked whether all members were satisfied with the proposed definition and noted that the definition would eventually need to be incorporated into the permitted and prohibited use table.

Cross confirmed that the arcade use had not yet been included in the current month's draft package. She explained that, while preparing the meeting materials, she realized that certain comparison information and related items had not been included due to time constraints. She anticipated that the committee's discussion later in the meeting would address several issues associated with the prohibited use table and noted that some newly drafted definitions currently lacked corresponding references within the use table. Cross stated that those connections would need to be addressed as the review process continued and acknowledged that the committee still had a substantial amount of material remaining for future meetings.

Cross advised the committee that she retained copies of prior meeting materials and zoning tables and could easily refer back to earlier packages if additional information was needed during the discussion.

### ii. *District Regulations, Subsections 156.025 – 156.040 Review*

Cross then turned its attention to the definition of "dwelling." Cross noted that a prior discussion had focused on whether language excluding manufactured homes, mobile homes, or recreational vehicles used solely for residential purposes should be removed from the definition. She stated that she had been unable to determine from previous minutes or ordinance records when the language had been added or the rationale for its inclusion. Cross indicated that additional research could be conducted if the committee desired, although reviewing historical records could require significant time. She noted that the primary question before the Board was whether the language should simply be removed from the definition.

Wetzel stated that his preference would be to remove the language. Cross noted that the suggestion had also been raised previously by Cofield and indicated that, if a consensus emerged, she would make the change.

Wetzel asked whether the Board intended to retain the separate definition of "dwelling unit." Cross responded that the definition had existed in the ordinance for a considerable period of time, although she was uncertain of its original purpose. She suggested that it may have been added before the ordinance included provisions for accessory dwelling units and may have been used to evaluate requests involving secondary living spaces within homes.

Cross stated that she did not believe retaining the definition would cause any problems, although she was unsure whether a meaningful distinction still existed between the terms "dwelling" and "dwelling unit." She suggested that the Board could also seek guidance from the consultant, once

## Agenda Item 3

retained, regarding whether the distinction remained relevant under current statutes and planning practices. Wetzel stated that he did not have a strong opinion on the issue but could envision situations in which a portion of a residence might be converted into a separate living area with its own cooking and bathroom facilities, thereby creating a dwelling unit within a dwelling.

Cross noted that the ordinance already contains a definition for “accessory dwelling unit.” She explained that an accessory dwelling unit is established in conjunction with and subordinate to a principal dwelling. She further recalled previous discussions concerning accessory dwelling units, rooms for rent, and similar housing arrangements. In her view, the dwelling unit definition could still be useful in addressing those situations. Accordingly, she suggested that the definition remain in the ordinance unless a future issue arises that warrants revisiting the matter. Wetzel indicated that retaining the definition was acceptable.

Gould clarified regarding the relationship between the definition of “dwelling unit” and the “accessory dwelling unit” provisions. Noting that the accessory dwelling unit definition specifies that such units may be located either within the same structure as the principal dwelling or as a detached structure on the same lot. Gould asked whether “part of the same structure” would include a room within a house or whether it was intended to refer only to attached units.

Cross responded by distinguishing between the definitions. She explained that a dwelling unit is defined as a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living and sanitation. She further noted that an accessory dwelling unit is defined as being subordinate to and established in conjunction with a principal dwelling. In her view, the dwelling unit definition could encompass interior spaces within a structure that function as independent living quarters, whereas accessory dwelling units are explicitly intended as secondary units associated with a principal dwelling.

Cross recommended retaining the existing definitions and suggested that the Board request input from its consultant to determine whether a meaningful distinction exists among the relevant definitions and whether any could be consolidated or removed. She emphasized that no immediate action was required and that the review process would allow sufficient time for careful consideration.

Cross then introduced proposed revisions to the definition of “impervious surface,” stating that she had modified the language to define it as any surface or material that substantially reduces or prevents the infiltration of water into the soil. She noted that she had removed the reference to “as documented by manufacturer specifications,” explaining that after further consideration, she was concerned that such documentation may not always be available. She stated that the revised language would provide greater flexibility and reduce potential ambiguity, and indicated that she would incorporate the change unless there were objections. Wetzel indicated that he was in agreement with the proposed revision.

Cross added that there had been a question regarding whether the revised definition would affect the treatment of “crusher run” material. She stated that, after reviewing the parking section, she did not believe the proposed change would alter how “crusher run” is addressed in that context.

## Agenda Item 3

Cross then began discussing proposed revisions to the “lot coverage” definition, noting that additional adjustments were likely needed. She stated that, upon further review, the existing language appeared repetitive, referencing various covered structures and paved surfaces multiple times, and indicated that further reworking of the definition should be completed.

Cross stated that she would bring the “lot coverage” definition back to the committee in a fully revised form for further review. She requested input on the portion of the definition describing lot area as the percentage of land occupied or obstructed by an improvement or structure. She noted that she had added language referencing structures located above ground to align with a subsequent sentence in the definition addressing accessory uses or structures requiring above-ground placement.

Cross explained that this issue relates to prior discussions concerning the definition of “structure,” and emphasized the importance of ensuring consistency across definitions. She stated that aligning the language may allow for the removal of certain existing provisions, although she acknowledged that further revisions could also result in some consolidation of content. She indicated her intent to return with a revised version that clarifies the definition and explicitly references the definition of “structure” to eliminate ambiguity regarding what is included in lot coverage. Wetzel expressed his agreement with the proposed approach.

Cross then provided an update on the “yard” definition, noting that several regulatory elements had been removed during the previous month’s discussion. She stated that she had intended to present graphical depictions to assist in clarifying the definition. Cross added that she utilized generative tools to produce illustrative images intended to help explain the concept. She indicated that, if the visuals did not sufficiently clarify the intent of the definition, she would further revise and refine the materials for future consideration.

Webb stated that the graphical illustrations were helpful in clarifying confusion related to the definitions, particularly those involving lot lines. Cross responded that the inclusion of graphics was not initially planned for all definitions but became necessary after reviewing the complexity of the “lot” definitions. She noted that the visuals were intended to improve public understanding, particularly for individuals unfamiliar with zoning terminology. Cross stated that, similar to prior work on land disturbing standards where diagrams were used to distinguish features such as retaining walls and bulkheads, incorporating graphics into the ordinance could be beneficial. She added that if the committee found the approach useful, similar visual aids could be incorporated moving forward in consultation with the project consultant.

Wetzel inquired whether the textual content in the graphics had been generated using artificial intelligence. Ms. Cross clarified that the language used in the ordinance excerpts was taken directly from the existing ordinance, not generated by artificial intelligence. Wetzel then raised a question regarding terminology in the “yard” section, specifically the use of the term “parallel” in describing front and rear yard lines. He noted concern that many lots are irregular in shape, which may make the term unclear or inapplicable in certain cases.

Cross responded that the definition accounts for irregular lot configurations, including triangular, pie-shaped, or multi-sided lots. She explained that staff routinely rely on the established definitions

## Agenda Item 3

when making determinations in such cases. She further provided an example involving rounded street corners, explaining how the ordinance defines the point at which side and front lot lines would intersect if not for the curvature. She noted that, although such geometries can appear complex, the definitions provide a consistent method for interpretation and are regularly applied in practice.

Cofield asked how the approach constrains interpretation in practice. Cross responded that she did not believe the definitions were constraining. She reiterated that the diagrams were intended to aid understanding and that staff could work with the project consultant to refine or adjust them if necessary. She noted that certain illustrations could be further clarified, particularly where relationships between front, side, and rear yards were not fully depicted, but stated that the intent was to improve comprehension rather than limit flexibility.

Wetzel raised a question regarding the depiction of lot depth in one of the illustrations, noting that the measurement appeared to stop at the front porch rather than extending to the right-of-way line. Cross responded that this discrepancy was due to the illustrative nature of the graphic rather than a change in the underlying definition. Staff will work on cleaning up that image.

Cross noted that, following removal of several regulatory items from the “yard” definition section, certain provisions would be reintroduced later in the ordinance, including mechanicals and parking setback standards, which she indicated should be relocated to more appropriate corresponding sections.

Cross then addressed district regulations, noting that several residential districts currently list accessory uses such as swimming pools and tennis courts. She proposed replacing these with broader accessory-use language to improve consistency, and Wetzel expressed agreement.

Cross identified a minor correction to the “open space” definition, changing “impervious structure” to “impervious surface,” which she will update in the next draft. Cross recommended relocating several use-specific standards—such as bed and breakfast homes and other special uses—into a consolidated “special uses” section for consistency across the ordinance. She also raised concerns about inconsistencies in childcare regulations, noting that standards exist for small childcare homes but not for medium or large facilities. The Board discussed the numerical thresholds and noted potential alignment with state requirements and existing compliance provisions. Wetzel stated that standards should generally be consistent across categories.

Cross suggested further review of childcare classifications and indicated that additional analysis may be assigned to consultants or staff for clarification and consistency.

Cofield noted that regulatory responsibility for childcare facilities should primarily rest with the appropriate state or county agencies, and expressed concern that the Town should avoid becoming involved in compliance enforcement. The member suggested that it may be sufficient to require general compliance with applicable regulatory authorities rather than establishing detailed local oversight. Wetzel responded that, while compliance with county and state standards is necessary, the Town still has a role in regulating where such uses may be located.

## Agenda Item 3

Winstead added that the usefulness of detailed definitions depends on whether the Town intends to differentiate between types of childcare facilities or regulate their locations more precisely. He suggested that, if such differentiation is not necessary, the categories could potentially be consolidated. The Board also noted that additional staff or consultant review may be needed to further evaluate the childcare regulations.

Cross noted that within the C-2 General Commercial district, electronic gaming operations are currently listed as permitted uses subject to nine associated criteria. She explained that these criteria are presently included within the district regulations but, consistent with prior discussions, she recommended relocating detailed performance standards out of district regulations into a separate section. Cross proposed creating a new section (Section 156.066) under the general provisions to house these standards, similar to how other special use or conditional standards would be consolidated elsewhere in the ordinance. She stated that this approach would improve consistency in how district regulations are structured, as they should identify permitted and special uses without embedding detailed operational parameters.

Wetzel asked for clarification, and Cross reiterated that electronic gaming operations are currently permitted in C-2 districts but subject to multiple criteria that function more as regulatory standards than use designations. She noted that, under the proposed reorganization, these standards would be relocated into a separate section for consistency with other uses such as childcare and bed and breakfast homes. Cross added that related uses within the village commercial category, including church facilities and similar uses, would also be reviewed for potential reclassification under the same organizational structure.

Cross noted that the relevant provisions contain parameters that will be nested under Section 156.057, as these are designated as special use provisions for churches and associated facilities. She also identified a typographical error on page 12 of the draft and indicated it would be corrected. Wetzel raised the issue of terminology, suggesting that the ordinance replace the term “churches” with “places of worship” to be more inclusive of different faith-based facilities. He noted that the Town currently has limited places of worship and may see additional non-church facilities in the future. Cross noted the requested terminology change.

Wetzel further suggested removing the word “church” from references such as “church schools,” noting that the intent would still clearly refer to schools operated by or associated with a place of worship. Cross indicated that the parameters would be incorporated under the relevant special use sections consistent with this revised terminology.

Cross noted that associated regulatory parameters relating to rental property management and maintenance office provisions should be relocated to Section 156.057 for consistency. She further stated that several provisions currently located in this definition should be shifted into 156.057 as well. She indicated she would incorporate these revisions for future review.

### *iii. Exemptions Generally, Subsections 156.050-056*

Cross introduced the Board’s first review of Section 156.050-056, noting that the relevant markup materials were included in the packet for review. She stated that she had incorporated prior

## Agenda Item 3

revisions and directed members to Attachment F for detailed comments, inviting feedback on any additional issues requiring attention.

Cross highlighted the “walls and fences” provisions, referencing prior amendments tied to land disturbance activities and setback requirements. She explained that these provisions were updated in earlier versions of the ordinance and noted that current language references Section 156.128 to ensure consistency in applying setback rules. She then raised an enforcement concern regarding the 12-inch roof overhang allowance within setback areas. Cross stated that measuring overhangs in practice is difficult and may lead to inconsistent interpretation during field inspections. She noted that while the standard is defined, verifying compliance can be challenging and may rely on visual estimates because as-built surveys do not normally call them out.

Wetzel agreed that practical measurement presents difficulties and questioned whether the standard would meaningfully change outcomes if the allowable encroachment were larger. Cross acknowledged the concern and indicated the issue may warrant further consideration for clarity and enforceability.

Wetzel questions the 12-inch roof overhang limit, noting it’s hard to measure and enforce in practice since it isn’t typically detailed in building plans. Cross agrees it’s a recurring enforcement issue but says it’s not consistently encountered and was raised mainly for awareness, not immediate action. Wetzel asks what a practical solution would be—adjust the limit or remove it. Cross suggests either increasing the allowance or eliminating the rule, noting she’ll gather more information and examples from other communities. Webb whether this standard is commonly used by other towns, counties, or states. Staff was unsure and agreed to research how other communities regulate roof overhang encroachments and bring back information for comparison before any changes are considered.

The discussion expands to other setback encroachments (porches, bay windows, stoops), where up to 3 feet is allowed. The staff notes overlapping standards (eave vs. porch encroachments) and inconsistency in how similar projections are treated across structures (principal buildings vs. accessory structures like sheds). The Board agree it may be a broader policy issue worth further review rather than an immediate fix.

Wetzel questions whether the inconsistency in setback enforcement is actually a significant problem or just occasional. Cross responds that the bigger concern is inconsistency in the rules themselves, especially that accessory structures are treated differently from primary dwellings even when similar features (like eaves or overhangs) encroach into setbacks. She cited a shed case where a small eave triggered enforcement action, highlighting how unclear and uneven the standards can feel in practice.

The Board acknowledged this inconsistency and agreed the issue shows up periodically, not constantly. Staff noted that primary buildings are treated more flexibly than accessory structures like sheds, which can create fairness concerns. Cross explained there is already a limited “pressure valve” provision allowing up to 10% setback encroachment in certain cases (e.g., one foot in a 10-foot setback), typically used when impacts are minor or unintentional and resolved through administrative approval and fees.

## Agenda Item 3

Cross explained that minor setback encroachments may be approved when they are unintentional and do not exceed 10% of the required setback. However, easily movable items such as pavers would not qualify for this type of relief. Staff noted that this provision serves as a practical way to address minor errors without requiring more burdensome corrective actions. The Board then reviewed the provision allowing private walkway structures to encroach into setbacks if they are less than four feet wide. Members noted that four feet is a standard walkway width, meaning a walkway exactly four feet wide would not qualify under the current wording. The Board agreed that the language should be revised to allow walkways that are “four feet or less” in width.

Staff also identified several technical revisions within the error-building-location section. These changes would simplify and standardize the language by consistently referring to buildings, structures, driveways, parking areas, signs, and similar features. The intent is to make the ordinance easier to understand and apply while maintaining consistency throughout the code. Finally, staff explained the history behind a similar provision addressing building height. The regulation was adopted after several property owners discovered that additions to older homes exceeded current height limits, requiring them to seek variances. The ordinance now provides a limited administrative remedy for minor height overages, giving staff flexibility to address small discrepancies without requiring applicants to go through the full variance process.

Cross explained that the error in building location provision allows for administrative approval of minor encroachments, provided applicants complete the required process, submit the necessary forms, and pay the applicable fee. The provision serves as a practical mechanism for addressing small, unintentional errors without requiring a full variance process.

The Board did not identify any significant concerns with Section 156.054. Webb asked about the significance of the dates referenced in the ordinance, specifically July 1, 2002, and July 1, 2003. Cross explained that July 1, 2002, was the date the Town was incorporated, while July 1, 2003, marked the date the town became operational. During the period between those dates, the County continued to manage planning and zoning matters on the Town’s behalf. The explanation clarified the historical basis for the dates referenced in the ordinance.

Staff noted that Section 156.055 had not been fully researched and would be brought back at a future meeting with additional background information. The section is used infrequently, having only come up once or twice in recent years, and staff did not identify any significant issues at this time. However, further review may help determine whether any updates are warranted. The Board also discussed Section 156.056, which allows cupolas to exceed the Town’s height limitations under certain conditions. Staff referenced a recent application involving a cupola that included bay windows, creating concerns that the structure could provide usable interior space beyond what was intended by the ordinance. Although the applicant voluntarily modified the design, staff suggested that the ordinance language should be clarified to better define how allowable area is calculated and prevent future disputes. Staff plans to review related languages and return with proposed revisions.

Cross brought up another issue identified in Section 156.056 involved structures such as wind turbines, wireless communication facilities, and water towers that are permitted to exceed normal

## Agenda Item 3

height limits. The ordinance currently states that applicable procedures can be found elsewhere in the code but does not provide specific references. Staff recommended adding cross-references to the relevant sections to make the ordinance easier for applicants and staff to navigate. Looking ahead, staff proposed bringing revised language back for further review at the next meeting, along with the permitted and prohibited use table. The Board's next phase of work will focus on the special use permit sections, beginning with Section 156.057 and continuing through Section 156.061. Staff noted that these sections primarily address special use standards, while later sections involve broader policy considerations that may require more extensive discussion.

Wetzel asked whether all comments and highlighted issues throughout the draft ordinance had been adequately addressed. Cross responded that discussion notes could be retained and expanded to document the board's decisions, creating a clearer record for future board members, staff, and consultants reviewing the ordinance revisions.

Cross also provided an update on the consultant selection process. Following adoption of the Town budget, a request for qualifications (RFQ) will be issued for planning assistance. Staff indicated that several qualified firms had already expressed interest and that the town should have a strong pool of candidates to help complete the ordinance update process. Board members expressed optimism that consultant support would help move the project forward efficiently.

### **GENERAL REVIEW/DISCUSSION OF PLANNING BOARD DESCRIPTION, DUTIES AND RULES OF PROCEDURE**

Wetzel thanked Sandy, Connor, and others involved in supporting the meeting before introducing Agenda Item 8, a review and discussion of the Planning Board's Rules of Procedure. He noted that while the Town Council had approved the related ordinance, the Rules of Procedure belong to the Planning Board and may be modified by the Board as needed. Wetzel stated that his intent was not to review the documents in detail during the meeting but to ensure all board members had received and reviewed them to better understand the scope of the Board's responsibilities.

Wetzel highlighted Section 30.40, which states that the Planning Board is responsible for reviewing the land use plan from time to time at the direction of the Town Council. Staff clarified that the current plan was completed in 2020 and approved later that year. Wetzel questioned what circumstances trigger a formal review of the plan, asking whether the process is initiated by the Town Council or recommended by staff or the Board. He noted that significant events occurring since the plan's adoption, including the COVID-19 pandemic, may have affected assumptions and population projections contained in the document.

Staff acknowledged the question and indicated that periodic review and updates of the comprehensive land use plan are part of the planning process, leading into further discussion regarding how and when such reviews are initiated.

Cross explained that the 2020 Comprehensive Land Use Plan update was largely driven by state law changes associated with the 160D revisions and the requirement to maintain a comprehensive land use plan. Cross agreed to consult with the Division of Coastal Management regarding recommended update schedules and noted that future updates would likely require significant

## Agenda Item 3

funding due to the need for public engagement, consultant services, demographic analysis, and long-range planning efforts.

Cross noted that conditions in the community have changed substantially since the plan's adoption. The town has experienced a much larger increase in year-round residents than originally projected, shifting environmental conditions, and increased concerns related to resiliency, flooding, drought, storm impacts, septic system performance, and climate adaptation planning. These evolving conditions raise questions about whether the data and recommendations in the current plan remain sufficiently current and whether an update should be considered.

Board members discussed the absence of a statutory requirement for how frequently a Comprehensive Land Use Plan must be updated. While no specific timeline is mandated, staff indicated that best management practices generally suggest reviewing such plans every five to ten years, particularly when a community is experiencing significant growth or changing conditions. Staff also noted that the town's Hazard Mitigation Plan, which is updated every five years, was most recently updated in 2025, making 2030 a logical target for considering a Comprehensive Land Use Plan update and associated funding.

Wetzel observed that the town's growth is somewhat unique because the increase in year-round population has largely resulted from existing homes transitioning from part-time to full-time occupancy rather than from substantial new residential construction. He thanked staff for the information and asked whether any board members had questions regarding the ordinance.

While the Board didn't have any questions Wetzel noted that he had previously suggested moving approval of the prior meeting's minutes to the beginning of the agenda but later realized that the current Rules of Procedure specify that minutes should be approved after routine business matters have been addressed. He stated that the Board could either return the minutes to their previous location on the agenda or amend the Rules of Procedure to reflect the new practice.

Cofield expressed support for returning the approval of minutes to its original position rather than revising the rules. Wetzel explained that his original reasoning was to formally conclude the previous meeting's business before beginning new business, but acknowledged that the current procedure was consistent with the Board's adopted rules. Staff noted that the Town Council typically approves minutes earlier in its agenda and that the change had been made to maintain consistency among board agendas. Legal counsel advised that, while approval of minutes is technically old business and could appropriately appear earlier on the agenda, the Board has the authority to establish its own agenda procedures and amend its rules if desired.

During the review of the Rules of Procedure, Webb also identified language in Section 2 regarding the consideration of agenda items that appears to reference the Planning Board's former role in reviewing special use permits. Webb suggested that the language may be outdated and should be reviewed and updated for consistency with current responsibilities.

The Board discussed possible updates to its Rules of Procedure. Staff noted that the Board may revise the rules without Town Council approval and suggested addressing all proposed changes at the same time. Members agreed that Section 2 may contain outdated language and should be

## Agenda Item 3

reviewed for clarification. Wetzel also suggested revising Section 6 to provide more flexibility regarding when meeting minutes are approved.

The Board reviewed its attendance policy, which currently requires the Chair to report a member to Town Council if they miss two consecutive regular meetings or three meetings within a 12-month period. Chair Wetzel raised concerns that the standard may be too strict given changes in community demographics and increased numbers of members who are employed full-time. Members discussed the issue but expressed general agreement that the existing criteria are manageable and no changes were proposed.

Wetzel confirmed that there was no consensus to modify the attendance requirements or Section 2 language. He proposed amending Section 6 by removing the language that specifies when meeting minutes are approved, allowing the Chair flexibility to place approval of prior meeting minutes anywhere on the agenda. The Board reached agreement on this change.

Cross noted she would bring the proposed Section 6 revision back at the next meeting for formal consideration. Staff also suggested an additional edit to Section 7 to update terminology related to the “Director of Community Development,” noting that the position title should be revised to reflect current organizational structure and to reference the appropriate department leadership instead.

### **STAFF COMMENTS**

#### **Summary of Town Council Meetings, May 6, 2026**

Cross provided an update on the upcoming budget, noting that Town Council is expected to approve it at the June meeting. The budget includes funding for a phased consultant process to further support the Board’s zoning review, with approximately \$75,000 allocated for Phase 1 diagnostics and a second phase for ordinance review and potential rewrite. Cross explained that the consultant selection process will involve issuing a Request for Qualifications, receiving multiple proposals, narrowing candidates to a shortlist, and conducting interviews before making a final selection. It was noted that the selected consultant may either work closely with staff and the Planning Board or take a more independent approach depending on the final contract structure. Wetzel asked what role the Board would have in the selection process, and staff indicated the Board would not be involved in the selection process. Staff estimated that the overall process, including diagnostics and review work, could take approximately nine to twelve months depending on consultant capacity, staff workload, and project scope, similar to previous planning efforts such as the Hazard Mitigation and Land Use Plans.

#### **Project Updates**

Cross provided an update on the planned playground project, noting that funding is expected in the current fiscal year and a purchase order will likely be in place to begin Phase 1 replacement before year-end, with additional improvements anticipated in the following year. The existing

## Agenda Item 3

playground equipment will be removed and staff indicated they will attempt to repurpose or donate usable components where possible. Final design selection is being coordinated through the Parks and Recreation Advisory Committee and will be presented to Town Council at the June meeting. Staff also reported on shoreline “dead sea grass” accumulation, noting ongoing coordination with regional partners and plans for a public information meeting on June 1. The meeting is expected to include a presentation from a coastal research expert, along with input from regulatory agencies and consultants. The purpose of the session is to explain the environmental causes, regulatory context, and property owner responsibilities, as well as available options for addressing the issue. Cross emphasized that while the condition may be visually undesirable, it is associated with positive water quality conditions and broader environmental factors. Additional project updates included ongoing work on a cul-de-sac pollinator and wildflower garden initiative, which is expected to be substantially completed soon.

### **BOARD COMMENTS**

Webb as the liaison for the Parks and Recreation Advisory Committee let the Board know they met recently and reviewed the status of the pollinator garden project, including Phase 1 progress and the anticipated timeline for completion of remaining work. The majority of the discussion focused on playground replacement options, where members reached consensus on direction but did not finalize a formal recommendation to Town Council. Additional information is being prepared by staff to support further review so the Committee can make a recommendation to Town Council at their June meeting.

Wetzel officially moved the E-module to next month’s meeting.

### **ADJOURNMENT**

Cofield motioned to adjourn the meeting.

Wetzel adjourned.

The time was 5:55 p.m.

Approved: \_\_\_\_\_  
Bob Wetzel, Chairman

Attachment a

Ordinance Review Items - UPDATED 6/3/2026

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	<a href="#">156.056 BUILDING FEATURES AND STRUCTURES EXEMPT FROM DISTRICT HEIGHT REGULATIONS.</a>	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	<a href="#">§ 150.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.</a>	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	<a href="#">§ 156.002 DEFINITIONS.</a>	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	<a href="#">§ 156.002 DEFINITIONS.</a>	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	<a href="#">§ 156.001 AUTHORITY FOR ENACTMENT AND PURPOSES OF CHAPTER.</a>	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	<a href="#">§ 156.002 DEFINITIONS.</a>	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	<a href="#">§ 156.002 DEFINITIONS.</a>	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	<a href="#">§ 156.002 DEFINITIONS.</a>	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		noted in code markup 5/13/2026

1/14/2026	<a href="#">§ 156.002 DEFINITIONS.</a>	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	<a href="#">§ 156.002 DEFINITIONS.</a>	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	<a href="#">§ 156.002 DEFINITIONS.</a>	Staff	n/a	n/a	n/a	look at definitions for impervious surface		definition revision in staff memo 4/1/2026, and 5/8/2026
1/14/2026	<a href="#">§ 156.002 DEFINITIONS.</a>	Staff	n/a	n/a	n/a	look at definitions for parking space		definition revision in staff memo 4/1/2026
1/14/2026	<a href="#">§ 156.002 DEFINITIONS.</a>	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	<a href="#">§ 156.002 DEFINITIONS.</a>	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	<a href="#">§ 156.002 DEFINITIONS.</a>	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, and 5/8/2026 with graphics provided
1/14/2026	<a href="#">§ 156.012 YARD REQUIREMENTS.</a>	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 and 5/13/2026
3/2/2026	<a href="#">§ 156.058 WIRELESS TELECOMMUNICATIONS SYSTEMS (WTS).</a>	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	<a href="#">§ 156.092 OFF-STREET PARKING REQUIREMENTS FOR SINGLE-FAMILY AND 2-FAMILY (DUPEX) DWELLINGS</a>	Should parking access be permitted within 5' of the property line or right-of-way or does the ordinance pertain more to making sure the parking space is setback 5'. Could a portion of the vehicle be within 5'?	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
3/12/2026	<a href="#">§ 156.092 OFF-STREET PARKING REQUIREMENTS FOR SINGLE-FAMILY AND 2-FAMILY (DUPEX) DWELLINGS</a>	Should parking access be permitted within 5' of the property line or right-of-way or does the ordinance pertain more to making sure the parking space is setback 5'. Could a portion of the vehicle be within 5'?	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.

3/12/2026	<a href="#">§ 156.092 OFF-STREET PARKING REQUIREMENTS FOR SINGLE-FAMILY AND 2-FAMILY (DUPLIX) DWELLINGS</a>	Should parking access be permitted within 5' of the property line or right-of-way or does the ordinance pertain more to making sure the parking space is setback 5'. Could a portion of the vehicle be within 5'?	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.
5/8/2026	<a href="#">§ 156.002 DEFINITIONS.</a>	Planning Board Review of Definitions	n/a	n/a	n/a	definitions regarding Lot are confusing - add graphics?		included in staff memo and attachments 5/8/2026 with minor revisions 6/3/2026
4/1/2026	<a href="#">§ 156.002 DEFINITIONS.</a>	Planning Board Review of Definitions	n/a	n/a	n/a	definitions regarding Yard, Front, Side and Rear are confusing - add graphics?		included in staff memo and attachments 5/8/2026
5/8/2026	<a href="#">§ 156.002 DEFINITIONS.</a>	Planning Board Review of Definitions	n/a	n/a	n/a	tennis courts - changed to athletic		outcome from 4/2026 meeting
5/8/2026	<a href="#">§ 156.002 DEFINITIONS.</a>	Planning Board Review of Definitions	n/a	n/a	n/a	lot coverage - minor revision suggested		included in staff memo and attachments 5/8/2026 and 6/3/2026
5/8/2026	<a href="#">§ 156.002 DEFINITIONS.</a>	Planning Board Review of Definitions	n/a	n/a	n/a	lot, Lot line, width, etc.		graphics provided in staff memo and attachments 5/8/2026
5/8/2026	<a href="#">§ 156.002 DEFINITIONS.</a>	Planning Board Review of Definitions	n/a	n/a	n/a	rental property management/maintenance office		revisions recommended to relocate parameters into a separate sections 156.057 nested under SUPs/parameters deleted from district regulations 6/3/2026
5/8/2026	156.030, 156.031, 156.032	Planning Board Review District Regulations	n/a	n/a	n/a	under permitted uses, revised (2) Customary accessory buildings and uses, including swimming pools and tennis courts;		to accessory buildings and uses
5/8/2026	156.030 RS-1	Planning Board Review District Regulations				Bed and Breakfast homes		relocated parameters associated with SUP to it's own section nested under 156.057 - 6/3/2026
5/8/2026	156.034 C-2	Planning Board Review District Regulations				Electronic Gaming Operations		suggest relocating parameters into its own section 156.066 (new) - 6/3/2026
5/8/2026	156.036 VC	Planning Board Review District Regulations				Churches		suggest relocating parameters associated with SUP to it's own section nested under 156.057 5/8/2026. Revisions to remove "church" and replace with Places of Worship, and deleted parameters 6/3/2026

5/8/2026	156.036 VC	Planning Board Review District Regulations				rental property management/maintenance office	suggest relocating parameters associated with SUP to it's own section nested under 156.057 - 6/3/2026
6/3/2026	<a href="#">§ 156.002 DEFINITIONS.</a>	Planning Board Review of Definitions	n/a	n/a	n/a	ambient noise definition to nest under "A" weighting scale and clean up definition for clarity	revisions noted in staff report and mark up 6/3/2026
6/3/2026	<a href="#">§ 156.051 EXEMPTIONS.</a>	Planning Board Review	n/a	n/a	n/a	staff to pull come local comparisons regarding what other towns exempt from setbacks	see staff report attachments 6/3/2026
6/3/2026	<a href="#">§ 156.051 EXEMPTIONS.</a>	Planning Board Review	n/a	n/a	n/a	corrected language to allow for 4 foot wide walkway	see staff report and markup 6/3/2026
6/3/2026	<a href="#">§ 156.056 BUILDING FEATUR</a>	Planning Board Review	n/a	n/a	n/a	added proposed language revision to address potential exposure for greater area (see noted item dated 11/10/2025	see staff report and markup 6/3/2026

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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" 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.

(2) AMBIENT NOISE. The composite sound level ordinarily present within a given environment, arising from a combination of sources and varying according to time, location, and prevailing conditions. For purposes of this chapter, ambient noise shall mean the A-weighted sound level, expressed in decibels, that is generally present under normal environmental conditions.

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- Commented [SC1]: Original definition: 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.
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~~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, ~~athletic~~ 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."

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**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;

## Attachment b

(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.~~

~~ARCADE: Any commercial building or business establishment containing four or more video, pinball or similar player-operated amusement devices on the premises which are available to the public generally for use as a game, entertainment or amusement, whether or not registering a score.~~

### 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.

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Commented [SC2]: Should this be nested under A Weighting Scale?

Commented [SC3R2]: Relocated/nested under A Weighting scale definition per direction of PB 5/13/2026

Commented [SC4]: As a matter of practice, A juke box or other similar device which plays only music for money; and vending machines dispensing food, drink, tobacco, toys, or written material which does not require further participation by a player-operated amusement device.

Commented [SC5R4]: I also left out pay to play

Commented [SC6R4]: PB agreed this definition was acceptable 5/13/2026

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### 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

Commented [SC7]: We can look at what DCEHD considers a "bedroom"

Commented [SC8R7]: DCEHD regulations included

Commented [SC9R7]: It was decided no action was necessary here.

## Attachment b

the lowest floor above the regulatory flood protection elevation when no portion of the structure is located at grade, whichever is applicable, provided that the top of the lowest floor does not exceed 2 feet above the regulatory flood protection elevation.

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

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

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

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

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

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

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

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

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

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Commented [SC10]: This definition does not account for side setbacks.

Commented [SC11R10]: Created a new definition for Setback - see April 2026 staff report

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Commented [SC12]: Rename and relocated this to Sign - Bulletin Board

## Attachment b

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.

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Commented [SC13]: It was mentioned at the retreat that we should use dba?

Commented [SC14R13]: See proposed replacement in the staff report

## Attachment b

### 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) ~~(b) 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. grading, filling, clearing, or alteration of land.~~
- (d) The construction or enlargement of a structure.

(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 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. §

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**Commented [SC15]:** 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 [SC16R15]:** There was consensus that this would be appropriate.

**Commented [SC17R15]:** See 4/1 staff memo for compilation of these items.

## Attachment b

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.

(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;~~

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

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

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

ELECTRONIC GAMING OPERATIONS. Any for-profit business or enterprise, whether as a principal or an accessory use, where persons utilize electronic gaming terminals to conduct games of chance, including but not limited to sweepstakes, and where cash, merchandise or

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Commented [SC18]: How is solely for seasonal vacation purpose confirmed? Staff will see if we can find any history on this definition.

Commented [SC19R18]: There was no indication that this should be changed during the March meeting.

Commented [SC20R18]: PB agreed 5/13/2026 that this sentence could be removed.

Commented [SC21]: Dwelling Unit appears in the original 2002 adoption of our zoning ordinance in a modified fashion.

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Commented [SC22]: 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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Commented [SC23]: This is the section that speaks to Eating Establishments in more detail.

## Attachment b

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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,

## Attachment b

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 substantially reduces or 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.

**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/or bedding plants.

**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 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.** A measure of the developed intensity of land use. The term "lot coverage" is that portion of a the lot's area, expressed as a percentage, that is occupied and obstructed by an improvement or a structure on or above the ground except as

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**Commented [SC24]:** 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 [SC25R24]:** See 4/1/2026 staff memo for alternative option

**Commented [SC26R24]:** Further revision suggested 5/8/2026 staff memo

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~~otherwise provided herein; 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

## Attachment b

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.

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.

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**Commented [SC27]:** This section has been reviewed multiple times in the past few years but are we missing anything?

**Commented [SC28R27]:** The primary definition states on or above the ground and requiring location above ground. We may want to use only one version of this similar statement to avoid confusion. See Staff memo.

**Commented [SC29R27]:** Staff reworked definition based on 5/13/2026 PB discussion

## Attachment b

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(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.

## Attachment b

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**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 natural or landscaped area that ~~space~~ is open to the sky and not occupied by any structure or impervious surface.

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

## Attachment b

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

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

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

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

~~PARKING SPACE. A vehicular storage space, plus the necessary access space. It shall always be located outside any dedicated right-of-way. A clear area accessible to vehicles, improved, maintained, and used for the purpose of parking a motor vehicle.~~

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

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Commented [SC30]: We should add Sign in front of this definition so it falls in line with all of the sign definitions

Commented [SC31]: Staff will have some additional options for this definition

## Attachment b

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.~~

~~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).~~

### 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.

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

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## Attachment b

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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.

## Attachment b

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

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

~~(5) SIGN, 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.~~

~~(65) SIGN, CANOPY. Any sign which is painted or printed on or attached flat against a canopy or awning.~~

~~(76) 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).~~

~~(87) SIGN FACE. The area of a sign used for visual communication.~~

~~(98) SIGN, FLASHING. An illuminated sign of direct or indirect lighting on which the artificial light flashes on and off in regular or irregular sequences.~~

~~(109) 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.~~

~~(110) SIGN, GOVERNMENT. A sign or notice erected and maintained by the town, county, state or Federal government.~~

~~(124) SIGN, HANGING. A sign suspended from braces, beams or other supports which may be either freestanding or building-mounted.~~

~~(132) 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.~~

~~(143) 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.~~

~~(15) SIGN, 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~~

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Commented [SC35]: Delete this as it has the same definition as Sign - Under Canopy.

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## Attachment b

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.

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

(175) 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.

(18) SIGN, 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.

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

(2017) 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.

(2118) SIGN, REVOLVING/ROTATING. A sign that revolves 360 degrees.

(2219) SIGN, ROOF. A sign erected, constructed or maintained above or on the roof of any building.

(230) 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.

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

(252) 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.

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

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

## Attachment b

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(285) 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.

## Attachment b

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 more or less permanent location on or above the ground or attachment to something having location on or above the ground, including but without limiting the generality of the foregoing: advertising signs, sheds, garages, swimming pools, decks, porches, patios (permeable or impervious), pergolas, gazebos and other similar features, but excluding fences, walls, posts, artificial turf and other customary yard accessories.

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.

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Commented [SC39]: Note all of the various items considered a structure under the definition of yard. Should we add additional language here?

Commented [SC40R39]: See revised proposal in 4/1 staff memo

Commented [SC41R39]: Added “or above” to be consistent with definition of lot coverage as well.

Commented [SC42R39]: My 5/13/2026 notes suggested adding paver or wood in from of patios but I am not sure that is needed.

## Attachment b

**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.

**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

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Commented [SC45R43]: PB decided to leave this as is at the 4/8/2026 meeting.

## Attachment b

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 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.

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**Commented [SC46]:** The regulatory piece of this definition will be pulled into district regulations and other sections of the code.

**Commented [SC47R46]:** The deleted sections here will be relocated to sections 156.012 yard requirements, district regulations or exemptions and 156.090 - further discussion on the mechanical relocation should be had.

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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 re-adoption of a new zoning map for the entire planning and development regulation jurisdiction; or (3) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

(Ord. 04-21, passed 10-6-2004, § 2; Am. Ord. 04-24, passed 11-3-2004; Am. Ord. 05-06, passed 5-4-2005; Am. Ord. 06-02, passed 5-3-2006; Am. Ord. 07-12, passed 9-5-2007; Am. Ord. 07-15, passed 10-3-2007; Am. Ord. 08-03, passed 7-2-2008; Am. Ord. 09-002, passed 4-8-2009; Am. Ord. 10-04, passed 3-3-2010; Am. Ord. 10-06, passed 5-5-2010; Am. Ord. 10-10, passed 1-5-2011; Am. Ord. 11-08, passed 1-4-2012; Am. Ord. 12-01, passed 6-6-2012; Am. Ord. 12-06, passed 10-3-2012; Am. Ord. 12-08, passed 11-7-2012; Am. Ord. 14-02, passed 6-4-2014; Am. Ord. 15-07, passed 6-3-2015; Am. Ord. 16-01, passed 1-6-2016; Am. Ord. 16-04, passed 7-6-2016; Am. Ord. 16-07, passed 11-2-2016; Am. Ord. 17-04, passed 6-7-2017; Am. Ord. 17-05, passed 7-5-2017; Am. Ord. 17-07, passed 8-2-2017; Am. Ord. 17-11, passed 10-4-2017; Am. Ord. 19-07, passed 12-4-2019; Am. Ord. 20-02, passed 5-20-2020; Am. Ord. 21-01, passed 6-2-2021; Am. Ord. 22-05, passed 8-3-2022; Am. Ord. 23-01, passed 5-3-2023; Am. Ord. 23-08, passed 8-2-2023; Am. Ord. 23-14, passed 12-6-2023; Am. Ord. 24-04, passed 1-8-2025)

### § 156.003 INTERPRETATION OF CHAPTER; CONFLICTING PROVISIONS.

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

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

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

- (1) Consistency with the stated intent of the zoning district;
- (2) Consistency with the adopted vision statement and Comprehensive & Land Use Plan;
- (3) Density of development (number of units, square footage, etc.);

Attachment b

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- (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;

Attachment b

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(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:

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(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),~~ except 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.

(Ord. 04-21, passed 10-6-2004, § 12)

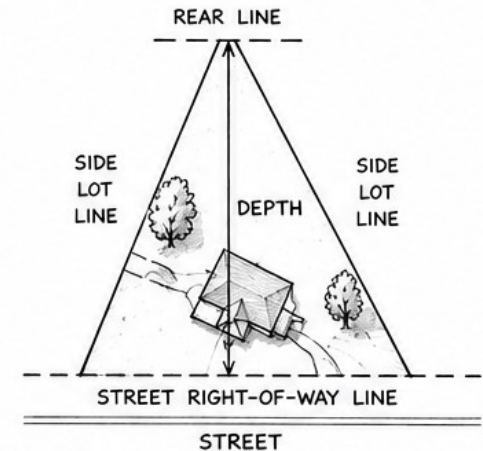
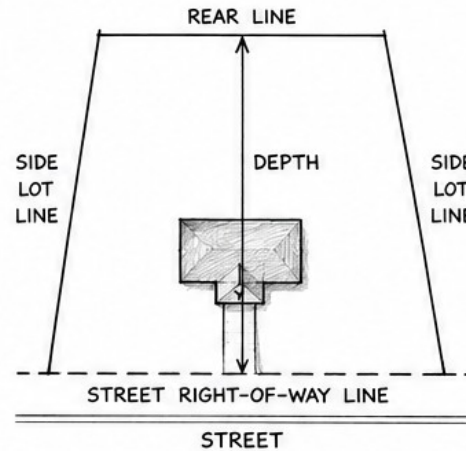
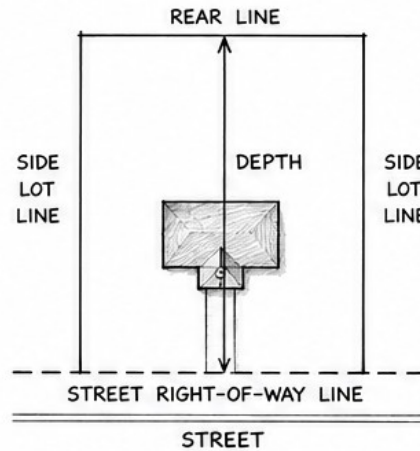
**Commented [SC48]:** Do we need to add any additional language like sheds, decks, patios?

**Commented [SC49R48]:** REFER to new definition of structure

**Commented [SC50R48]:** This added language regarding heating and air was pulled from the definition of yard. Is this the best place for it or should we consider rewording Section 156.051 Building Features Exempt from Setbacks or Minimum Yard requirements?

**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.**

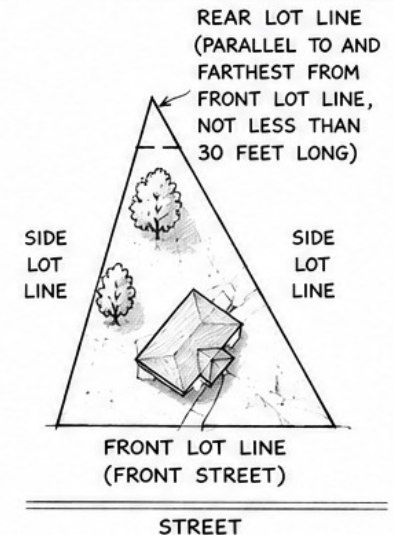
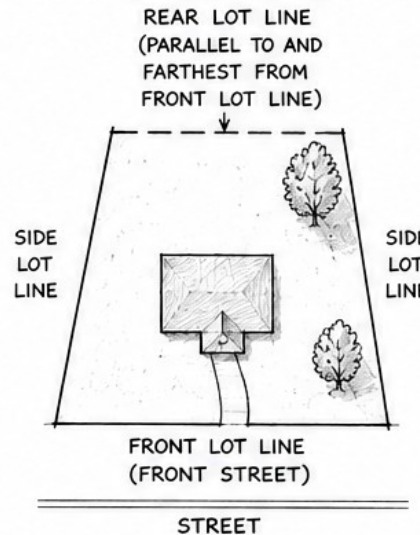
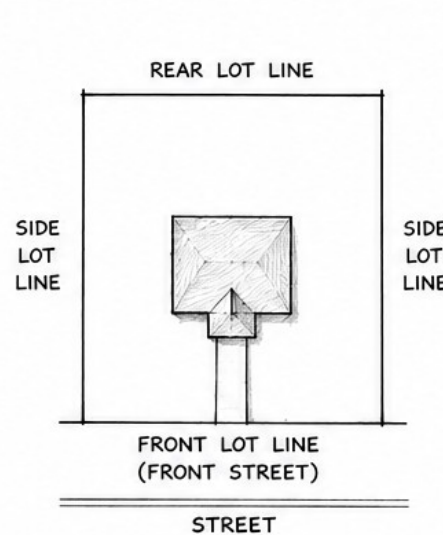
The line separating a lot from that street which is designated as the front street on the building permit, certificate of occupancy or subdivision plat.

**(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.

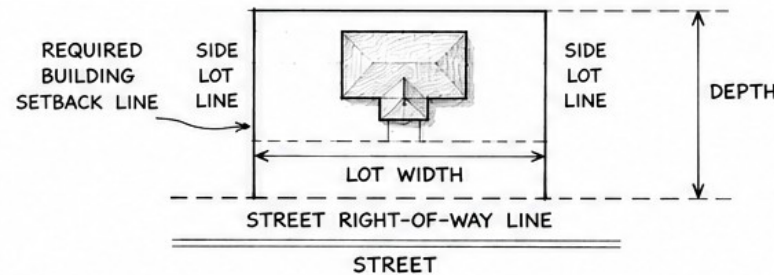
**(3) Lot line, side.**

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.



Attachment d

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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.

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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.

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(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

Attachment d

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(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 and uses, 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?

Commented [SC2R1]: This change aligns with our definitions

## Attachment d

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(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) ~~Places of Worship, Churches and other associated church facilities~~, including fellowship halls, sanctuaries, parsonages, ~~church~~ schools, parking areas and offices; ~~and~~

(7) Bed and breakfast homes ~~as defined in § 156.002 and subject to the authorization provisions of in § 156.057; 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~~

## Attachment d

~~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;~~

- (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).

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Commented [SC3]: Should this section have it's own place similar to the small child care homes?

Commented [SC4R3]: PB agreed 5/13/2026 to relocate to 156.057 Special Use Permits, consistent with how Small Child Care Homes are noted.

## Attachment d

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(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.

Attachment d

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(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 and uses, 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.

(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;

Commented [SC5]: See comment under RS-1

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

(6) ~~Places of Worship, 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).

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(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.

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(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 and uses, including private swimming pools;~~

Commented [SC6]: 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 §§ ~~156.1505~~ et seq.:

Commented [SC7]: Correcting an incorrect code section reference

(1) Churches and cemeteries;

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

(3) Major home occupations;

## Attachment d

(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.

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(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.

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(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;

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(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 [SC9]: 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

Commented [SC10R9]: April 8, 2026 Planning Board consensus was to remain unchanged.

(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;

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- (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;

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- (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 subject to the authorization provisions of § 156.066 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~~

## Attachment d

~~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) Places of Worship~~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

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Commented [SC11]: Do we want to pull this criteria into its own section - perhaps 156.066?

Commented [SC12R11]: PB agreed to pull the parameters into a separate section consistent with small child care homes and other special uses.

Attachment d

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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:

## Attachment d

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(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;

## Attachment d

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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;

Attachment d

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(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 [SC13]: 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;

Attachment d

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(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) ~~Places of Worship Churches and other associated church facilities~~ including fellowship halls, sanctuaries, parsonages, ~~church~~ schools, parking areas, offices, and columbaria structures, ~~provided subject to the authorization provisions of § 156.057 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 as defined in § 156.002 and subject to the authorization provisions of § 156.057;

- Commented [SC14]: Modify and shift parameters to its own section nested under 156.057
- Commented [SC15R14]: PB concurred 5/13/2026

~~(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.~~

- Commented [SC16]: Should this have a separate section similar to child care homes?
- Commented [SC17R16]: PB concurred 5/13/2026

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~~—(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)

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§ 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.

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- (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	
<b>AGRICULTURAL</b>										
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	
<b>RESIDENTIAL</b>										
<b>Household Living</b>										
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	
<b>COMMERCIAL</b>										
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	
<b>SERVICES</b>										

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	
<b>INDUSTRIAL</b>										
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	
<b>Warehousing</b>										
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	
<b>Transportation</b>										
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	
<b>PUBLIC/INSTITUTIONAL</b>										
<b>Public Institutions</b>										
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	
<b>Religious Institutions</b>										
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)
<b>RECREATIONAL</b>										
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	
<b>WIRELESS TELECOMMUNICATION SYSTEMS</b>										
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)

Agenda Item 5a.iii

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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.

Commented [SC1]: See Ordinance 25-05 revisions

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

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

Commented [SC2]: See Ordinance 26-03 revisions

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

(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

(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 or less, 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);

(F) Private walkway structures ~~less than~~ 4 feet in width ~~or less~~ 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, parking area, 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.

Agenda Item 5a.iii

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(C) Upon the issuance of written approval of a reduction for a particular building, ~~structure, driveway, parking area, sign, structure, sign~~ 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

Agenda Item 5a.iii

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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;

**Commented [SC7]:** Staff will try to provide some context as to the origins of this section of code at the meeting

**Commented [SC8R7]:** See staff 6/3/2026 staff report

(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)

Agenda Item 5a.iii

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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 horizontal floor-area of the structure is no greater than 64 square feet, including the stairwell; and

Commented [SC9]: 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.

Commented [SC10R9]: We will have an example to consider at the meeting.

(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.

Commented [SC11]: Do we want to reference those sections?

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

Commented [SC12R11]: There are several sections that come into play here (156.058, 156.132, 156.138) so we may be better off leaving this language as it currently exists

(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)

Building Features Exempt from Setbacks – Ordinance Comparisons

Jurisdiction	Architectural Features Allowed in Setbacks	Maximum Encroachment
<b>Town of Duck</b>	Sills, cornices, ornamental features, roof eaves, overhangs	12 inches into any setback
	Bay windows, stoops, covered entryways, stairs and similar principal structure features	3 feet into front setback (+ 12 inches for eaves/ornamental features)
	Community and certain private walkways	Exempt from yard requirements under specified conditions
	Municipal walkways, boardwalks, sidewalks, multi-use paths	Fully exempt
<b>Town of Southern Shores</b>	Eaves, fences, walls, poles, posts, dune platforms, walks, ramps, steps, customary yard accessories and ornaments	Not specifically limited
	<i>Recent text amendment regarding generators, HVAC, pool equipment, and small accessory structures was considered but denied.</i>	N/A

Jurisdiction	Architectural Features Allowed in Setbacks	Maximum Encroachment
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Town of Kitty Hawk	Uncovered porches, steps, eaves, gutters, similar fixtures	4 feet into front setback
Town of Kill Devil Hills	Sills, belt courses, lattice, siding, corner boards	3 inches
	Chimneys, ornamental features, eaves	24 inches
	HVAC and LP gas equipment	Up to 4 feet into setback
	Stairs and ADA ramps	Up to 50% of front setback (max 10 feet)
	Walkways ≤5 ft wide and ≤6 in. above grade	Allowed in front yard
	Accessory structures	5-foot setbacks from side/rear lot lines

Jurisdiction	Architectural Features Allowed in Setbacks	Maximum Encroachment
<b>Town of Nags Head</b>	Eaves, gutters, uncovered ramps, uncovered steps, cargo lifts	First 3 feet excluded from setback measurement
	HVAC replacement units/stands	May be located within 5 feet of side lot line when replacement requires expansion
	Accessory structures, pools, pool surrounds, HVAC stands, sheds	Minimum 5-foot setback from property lines
<b>Currituck County</b>	Eaves, gutters, canopies, chimneys, bay windows	Up to 3 ft
	Porches, decks, patios, steps, sidewalks (uncovered)	3 ft (impervious) / 5 ft (pervious)
	Handicap ramps, fences, walls, landscaping features	Allowed within setbacks
	Public walkways, boardwalks, sidewalks, gazebos	Allowed within setbacks (except sight triangles)

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**TOWN OF DUCK PLANNING BOARD  
RULES OF PROCEDURE**

**ADOPTED 7/12/23**

**Article I – Purpose.**

Subject to the parameters outlined in Town Code Sections 30.35 through 30.40, the Planning Board is appointed to serve primarily in an advisory capacity to the Town Council on plans for the future development of the town so that residential areas may be provided with healthy surroundings, so that the needs and rights of businesses and individual property owners may be recognized, and so that transportation systems, recreational facilities and land use in the town may develop in an efficient manner for the benefit of all.

**Article II – Meeting Conduct & Voting Procedures.**

Section 1 – Conduct of Meetings – The Chair shall preside over all Board meetings and shall take whatever action is necessary to enforce compliance with these rules of procedure, provide a full opportunity for public comments, focus comments, and discussion on issues directly related to the item being considered, ensure polite and orderly proceedings, and otherwise promote the efficient and effective disposition of matters before the Board. Such actions may include limiting the time allotted to speakers, interrupting personal attacks or digressions into immaterial issues, and ordering an end to disorderly conduct.

Section 2 – Consideration of Agenda Items – The Chair shall begin the Board’s consideration of each agenda item by announcing the title of the item, identifying the nature of the decision involved, and briefly explaining the steps in Board consideration of the item. In doing so, the Chair shall note the opportunity for public comments, **where appropriate**. The Chair shall then ask Town staff to present findings and recommendations for Board action. Following the staff report, Board members may ask staff members for more information about the item and request clarification or explanation of the reasons for the staff’s findings and recommendation.

**The meeting will have an agenda similar to this sample format:**

- Call to order**
- Public comments**
- Approval of minutes**
- Old business**
- New business**
- Staff comments**
- Board comments**
- Adjournment**

**In cases where the Planning Board is reviewing ordinance amendments or other matters assigned by the Town Council,** the Chair shall provide the applicant with an opportunity to make a presentation and respond to staff findings and recommendations. The applicant is not, however, required to make a presentation. Board members may ask the applicant for more information about the proposal or request the applicant’s response to staff recommendations, and may ask the staff

to clarify their recommendations in light of the applicant's comments. The Chair shall then solicit comments on the item from persons attending the meeting, asking them to first state their name and address.

Section 3 – Questions from Non-Board Members – Persons other than Board members who have questions related to previous presentations and comments shall direct them to the Chair, who may then redirect them to the appropriate persons. The Chair may choose not to redirect questions that are immaterial, rhetorical, or that constitute a personal attack.

Section 4 – Board Discussion – If the item involves a request for specific Board action, the Chair shall invite Board members to formally discuss the item and recommended action, without the need for a prior motion. Otherwise, the Chair shall state that a motion is in order, and Board members may discuss the item only in response to a motion for specific Board action. The Chair shall determine the order in which Board members are recognized to comment and shall ordinarily give each member present an opportunity to comment before allowing one member to comment a second time. Only Board members may participate in the Board's discussion of an item. If, however, the discussion raises requests for more information or questions about the previously heard presentations and comments, the Chair may relay those requests and questions to the appropriate persons and invite their response in the context of the Board discussion.

Section 5 – Board Action – Generally, a Board action is adopted by vote after a Board member makes a proper motion for action; another Board member seconds the motion; the Chair restates the motion (including making any clarifications); all Board members have an opportunity to discuss the motion; the Chair restates the motion again and asks for a vote; the requisite proportion of Board members present vote in favor of the motion; and the Chair announces the result of the vote.

Section 6 – Approval of Minutes – ~~After the Board has disposed of routine business matters on the agenda,~~ Following public comments, the Chair shall ask Board members if they wish to make any corrections and revisions to the draft minutes of previous Board meetings, as noted on the agenda. The Board may adopt or revise minutes by voting on a proper motion for action or by unanimous consent.

Section 7 – Reports – After the Board has disposed of all other business on the agenda, the Chair shall invite ~~the Director of~~ a representative of the Department of Community Development to report any information they believe is likely to be of interest to the full Board, e.g. information about the disposition or status of matters previously considered by the Board, notification about matters likely to demand Board consideration in the near future, information about the status of ongoing staff projects, etc. The Chair may then report any additional information to the Board. Reports should be limited to the presentation of information only, and should not involve requests for Board action unless for the purposes of referring the matter to the staff or scheduling it for consideration at a later meeting.

**Article III – Conduct of Board Members.**

Section 1 – Conflicts of Interest – To preserve public confidence in the integrity of the Planning Board and the Town’s governmental process, each Board member shall have the duty to avoid even the appearance of a conflict of interest.

Section 2 – Meeting Attendance – Each Board member is responsible for faithfully attending all regular Board meetings. Any Board member who expects to be absent at an upcoming meeting shall so notify the Chair or Secretary as soon as possible. If any member is absent from any two (2) consecutive regular meetings or three (3) regular meetings held within a twelve-month period beginning each May 1<sup>st</sup>, the Chair shall forward that member’s name and attendance record to the Town Council along with a recommendation that the Council request the member’s resignation and appoint a new member as a replacement.