# Agenda

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

Paul F. Keller Meeting Hall

Wednesday, July 8, 2026 – 4:00 p.m.

1. Call to Order

2. Public Comment

3. Approval of Minutes
    a. *Minutes from June 10, 2026 Meeting*

4. Zoning Text Review
    a. *Chapter 156: Land Use*
        i. *General Provisions, Subsection 156.001 -156.012*
        ii. *District Regulations, Subsections 156.025 – 156.040*
            1. *Use Table*
        iii. *Exemptions Generally, Subsections 156.050 - 156-056*
        iv. *Special Use Permit 156.057 and Electronic Gaming Operations 156.059 (new)*

5. Discussion: Upcoming Meeting Schedule

6. Staff Comments
    a. *Summary of Town Council Meeting, July 1, 2026*
    b. *Project Updates*

7. Board Comments

8. Adjournment

**PLANNING BOARD**
**REGULAR MEETING**
**JUNE 10, 2026**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, June 10, 2026.

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

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

Absent: None.

## CALL TO ORDER

Chair Wetzel called to order the Regular Meeting of the Planning Board for June 10, 2026 at 4:01 p.m.

## PUBLIC COMMENTS

None.

## APPROVAL OF MINUTES

### Minutes from the May 13, 2026, Meeting

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

Motion carried 5-0.

## PLANNING AND ZONING E-MODULE LEARNING

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

The Planning Board watched a 34-minute e-module presented by the UNC School of Government regarding the legal procedures for a rezoning. Wetzel questioned if the Town had differences compared to what was explained in the video. Cross explained that applications should include all required information. Complete submissions for zoning text amendments, rezoning requests, and related applications make the review process more efficient. Cross plans to review the application forms to ensure they capture all necessary information.

## ZONING TEXT REVIEW

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



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Cross continued the review of proposed zoning text amendments. Cross noted that a staff memo related to the zoning text review had not been included in the pre-meeting packet and had instead been distributed at the meeting. The Board was encouraged to reference the memo during discussion.

Cross explained that revisions had been made to the proposed definition of "ambient noise" following concerns raised during the previous meeting. The revised definition was included in the staff memo and on page 21 of the draft ordinance. Cross stated that the original definition had been removed and replaced with new language intended to better reflect the Board's previous discussion regarding the meaning of ambient noise. The revised definition also removed the reference to noise occurring "90 percent of the time," as that language had created confusion. Cross noted that while the definition remains somewhat subjective, it more accurately captures the intent of the term and invited questions and comments from the Board. Wetzel asked whether ambient noise levels could vary depending on the time of day and whether any identified ambient noise measurement for a particular area would represent only a specific point in time. Cross agreed that ambient noise would naturally fluctuate based on factors such as time of day, weather conditions, open windows, and environmental influences. Cross also emphasized that ambient noise is inherently variable and that the primary objective is to establish a clear understanding of what constitutes ambient noise rather than assign a fixed measurement for all circumstances

The Board reviewed the revised definition of "lot coverage" as part of the ongoing zoning text amendment discussion. Cross explained that the previous definition contained redundant language and repetitive wording, and the proposed revision was intended to simplify and clarify the definition. The revised language defines lot coverage as a measure of the developed intensity of land use and identifies it as the portion of a lot occupied or obstructed by improvements or structures on or above the ground, expressed as a percentage of the lot area. Cross pointed out that the revised wording was adapted from a planning reference source and was intended to provide greater clarity while maintaining consistency with other ordinance definitions, particularly those related to structures and improvements. Wetzel asked whether previous amendments excluding certain features from lot coverage calculations remained intact. Cross confirmed that the existing exemptions were unchanged and remained listed elsewhere in the ordinance. These exclusions include items such as artificial turf, gravel surfaces, uncovered decks, arbors, and other specified features. Cross emphasized that the proposed amendment only simplified the definition and did not alter the substantive provisions governing lot coverage calculations. Following discussion, Wetzel asked for comments from the Board regarding the revised definition. No additional comments or concerns were raised.

Cross addressed the lot depth graphic discussed at the previous meeting, noting that the illustration had not extended fully to the front property line. The graphic was revised to correct the issue and was recommended incorporating the updated illustration into the ordinance as a visual aid to accompany the definition of lot depth. No additional comments were raised regarding the revised graphics.

Cross continued to review the definition of "structure." Cross explained that meeting notes from the previous month suggested adding the words "wood" or "paver" before the term "patio" within the definition. However, after reviewing the language, she expressed uncertainty about the

necessity of the change and brought the matter back to the Board for clarification. Cross read the current definition, which includes patios, whether permeable or impervious, among a list of examples of structures, and stated that the existing language appeared sufficient to encompass various patio types. Board members discussed whether any additional clarification was needed. Cross indicated that adding references to wood or paver patios would not materially change the meaning of the definition and suggested that the current language already provided adequate coverage. Wetzel asked whether the proposed definition would be sufficient to address concerns raised during recent Board of Adjustment discussions. Cross responded that the revised definition was an improvement over the current ordinance language and would help provide greater clarity. Cross further noted that all recommendations and revisions developed by the Board during the zoning text review process would ultimately be forwarded to the Town's zoning consultant for evaluation. The consultant would review the Board's proposed changes and may recommend additional revisions or refinements as part of the comprehensive ordinance update.

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

**1.** *Use Table*

Cross reviewed several proposed organizational changes to the zoning ordinance intended to improve consistency and readability. She explained that provisions related to bed and breakfast homes, places of worship, and rental property management offices would be removed from the district regulations section and relocated to the ordinance's special use section. References to "churches" throughout the ordinance had previously been updated to "places of worship" to use broader and more inclusive terminology. Cross noted that the operational standards and requirements currently found in the district regulations would be retained and transferred to the special use section, where they would be grouped with other special uses such as childcare facilities. Cross also indicated that requirements currently embedded within definitions would be moved to the appropriate regulatory sections to ensure that definitions remain focused on defining terms rather than establishing standards.

Cross further explained that the section addressing electronic gaming operations would be removed from its current location and placed into a new standalone section of the ordinance. Because electronic gaming operations are permitted uses in certain zoning districts rather than special uses, staff stated that creating a dedicated section would provide a clearer organizational structure, similar to the approach recently used for nuisance regulations.

The discussion then shifted to the prohibited use table. Cross reported that a representative from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives had recently contacted Town staff regarding businesses involved in firearm sales. During a review of the ordinance, staff determined that firearm sales establishments were not specifically identified as either permitted or prohibited uses. While shooting ranges are effectively prohibited because the discharge of firearms is not allowed within Town limits, a retail establishment selling firearms could potentially be classified under general retail sales. Cross noted that the ordinance already specifically prohibits certain retail uses, including smoke shops, vape shops, and pawn shops, and asked whether the Board wished to consider adding firearm sales establishments to the list of prohibited uses.

Board members discussed the issue and suggested that any prohibition could potentially include both firearm sales and the sale of explosives, including fireworks. Questions were raised regarding whether such activities might already be regulated or restricted under other provisions of the ordinance. Cross stated that additional research would be conducted regarding the regulation of firearm and explosive sales. Cross recommended considering language prohibiting firearm and/or explosive sales establishments but noted the distinction between prohibiting specific "shops" and prohibiting all "sales" of such products. Existing ordinance provisions allow some products to be sold as a limited portion of a general retail business while prohibiting businesses primarily devoted to those products. The Board agreed and staff will do further review on gun and firework sale regulations and bring the information back to the next meeting.

Cross discussed whether any additional uses should be added to the permitted and prohibited use table. Wetzel questioned why certain uses, such as commercial crop production and commercial animal production, remained eligible for special use permits when they appeared unlikely to be appropriate within the Town. Cross explained that some uses may have been included as a result of state law changes and legal requirements related to agricultural uses. Cross suggested consulting the Town Attorney and researching the history of the use table to better understand why certain uses were included. Cross offered to have an intern review past records and meeting minutes to provide background information for a future discussion. The Board agreed that additional context would be helpful.

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

Cross reviewed regulations governing building features that may be exempt from setback and minimum yard requirements. She revisited a previous discussion regarding eave encroachments into setbacks and whether similar allowances should apply to accessory structures. Cross presented examples from neighboring communities and noted that standards vary widely. Because the Town's existing regulations have been in place for many years and have not created significant issues, staff recommended leaving the current standards unchanged unless the Board wished to pursue a specific amendment. During discussion, staff confirmed that accessory structures, including pools, sheds, and cabanas, are required to remain outside setback areas and are not permitted to encroach into setbacks. Cross also noted that enforcement of eave encroachment limits can be difficult in practice and that the current 12-inch allowance has not presented notable enforcement concerns.

Cross also discussed the use of the term "building restriction lines" within the ordinance. It was noted that the term is not separately defined and may be unnecessary because setback requirements already address the same concept. She recommended replacing references to "building restriction lines" with clearer language referencing setbacks and minimum yard requirements. The Board expressed support for the clarification. Cross revisited the ordinance provision allowing reductions in yard requirements for improvements to single-family residences that existed prior to July 1, 2003. It was explained that the provision functions as a "pressure relief valve" for unique situations and noted that it has been used only three times in the past 23 years. Because applicants may also seek a variance if necessary, staff did not recommend any changes to the provision, and no concerns were raised by the Board.

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Cross continued to review regulations regarding building features exempt from district height limitations. Cross discussed a recent project that highlighted ambiguity in the measurement of structures allowed under the 64-square-foot height exemption. To provide clarity and prevent future misunderstandings, staff proposed revising the language to specify that the exemption is based on the horizontal area of the structure rather than floor area. Board members agreed that the clarification would improve consistency in administration and enforcement.

Cross revisited proposed language related to structures that may exceed maximum height limitations, including wireless telecommunication facilities, wind turbines, and water towers. Previously, staff had suggested adding direct references to the specific ordinance sections governing each use to improve clarity and usability for applicants. However, Cross noted that doing so would require a broader reorganization of the section to ensure consistency. After discussion, the Board expressed concern that the current language referring to "other applicable sections" could be unclear to readers and make it difficult to locate relevant requirements. Wetzel emphasized the importance of improving accessibility for the general public and applicants by clearly identifying where additional standards are located in the ordinance.

Cross agreed that adding explicit cross-references would improve navigation, particularly for online use, and noted that similar referencing improvements had been made elsewhere in the ordinance. The Board supported the concept of revising the section to include clearer, direct references to the applicable ordinance sections for each type of structure. Cross indicated they would prepare a revised version for future consideration. Cross noted that there are currently no significant personal wireless facilities within the Town, with the exception of a small installation located on a condominium building. It was added that interest in such facilities has fluctuated over time, particularly during earlier discussions of wireless infrastructure and related ordinance development, but no major installations have been proposed recently.

Cross concluded the zoning text review update and opened the floor for additional questions. Cross then outlined the next phase of the project, indicating that the upcoming meeting will focus on Section 156-057, which addresses special use permits. This section is proposed to be expanded beyond its current limited application (small childcare homes) to include additional uses such as bed and breakfast homes, places of worship, and wireless telecommunications facilities. Cross also noted that portions of the wireless telecommunications regulations are governed by state statute, which limits the extent of local modification. Future discussions may also address additional ordinance sections, including those related to sexually oriented businesses. Staff concluded by stating that the project is progressing well and invited further discussion as needed.

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

Wetzel reviewed proposed revisions to the Planning Board's description, duties, and rules of procedure. Wetzel noted that several edits were intended to clarify the order of business on meeting agendas, including the placement of approval of minutes. It was noted that the revised structure aligns more closely with Robert's Rules of Order and is consistent with practices used by the Town Council and Board of Adjustment. The Board also discussed language regarding the Planning Board's role in reviewing ordinance amendments and other matters assigned by the Town Council.

Cross clarified that while ordinance amendments are the most common items referred to the Board, the Council retains the discretion to assign other types of work as needed. The proposed language was updated to reflect this broader authority.

Wetzel then focused on provisions governing public participation. Wetzel questioned when members of the public would have an opportunity to address the Board outside of formal public comment periods at the beginning of meetings or during specific agenda items. Cross explained that the language reflects historical practice in which members of the public occasionally participated in discussion during agenda items, particularly when no quasi-judicial matters were involved. Cross noted that this informal participation was more common in the past but is now less frequent following procedural changes. Board members discussed whether additional opportunities for public comment at different points in the meeting should be considered. There was general support for allowing the Chair discretion to recognize members of the public during agenda item discussions when appropriate, rather than requiring all comments to occur only at the start or end of the meeting. Some members suggested adding a formal second public comment period at the end of meetings, while others preferred keeping flexibility without adding another structured period. The Board agreed that the Chair should retain authority to manage public input during meetings to ensure orderly proceedings, and no final changes were made to the language at this time.

The Board concluded discussion on proposed revisions to its rules of procedure. It was agreed that the language regarding public comment would remain unchanged, with the understanding that the Chair retains discretion in managing public input during meetings. Additional revisions included clarifying the timing for approval of meeting minutes in Section 6 and making a clerical correction in Section 7 regarding staff representation of the Town. Following discussion, Wetzel requested a motion to approve the changes as presented.

Cofield motioned to approve the changes as made. Snyder second the motion.
Motion carried 5-0

**STAFF COMMENTS**

Cross introduced an intern, Carter Richardson, who will be assisting over the summer and working on multiple planning projects. The intern is currently developing a noise mapping tool identifying venues with music and illustrating sound impact distances (e.g., 50 and 100 feet). Cross noted that Town Council did not make any changes to the noise ordinance at its most recent meeting and staff was tasked with conducting research this summer.

Richardson provided an update on ongoing work related to the noise ordinance and field data collection. He is conducting noise measurements at local restaurants and bars with live music to support development of a noise map to better understand sound impacts at varying distances. Readings are being taken in multiple directions and distances, with environmental factors such as wind conditions recorded to help assess variability. Richardson noted that data is being compiled in a spreadsheet to compare average and peak decibel levels across different venues and conditions. Cross explained that this work is intended to help better understand when noise becomes problematic in terms of duration and intensity, as part of ongoing efforts related to the Town's

noise ordinance. Richardson is gaining experience across multiple departments as part of a broader training effort. Board members asked about methodology, including the frequency of site visits and equipment used. Richardson explained that visits may vary based on complaints or observed conditions and that a handheld decibel meter is being used to collect consistent readings across locations.

Cross also reported that the Richardson is assisting with additional Town operations, including fieldwork related to code enforcement education and data tracking for beach-related compliance efforts.

**Summary of Town Council Meetings, June 03, 2026**

Cross reported that the Town budget was recently approved and that work is underway on an RFP to secure a consultant for Phase One of the ordinance review project. Cross noted that the work the Planning Board has already completed may help reduce costs and allow the project to move forward more efficiently.

**Project Updates**

Gould reported on recent Parks and Recreation Advisory Council activities, including the approval of a contract for new playground equipment through Game Time Recreation/Cunningham Recreation. The new equipment will be installed within the existing playground footprint, likely following the Duck Jazz Festival, and will feature the previously selected Bayview color scheme. Updates were also provided on the pollinator garden, where volunteer efforts—including participation from elected officials and community members—have brought the project close to completion. Remaining work includes installation of a final bench, with additional plantings and features planned to support long-term growth and habitat value. Gould also noted enhancements to the adjacent butterfly garden, including new plantings and decorative "butterfly wings" intended for public photo opportunities, with a red, white, and blue theme planned in recognition of America 250. Gould further reported progress on the Parks and Recreation comprehensive system-wide plan, noting that goals and objectives are nearing finalization for inclusion in the draft document. Cross gave an update on the replacement of an osprey nest at the boardwalk being completed, with further installation planned for a second location in the fall.

**BOARD COMMENTS**

None.

**ADJOURNMENT**

Wetzel adjourned.

The time was 5:44 p.m.

Approved: _____
Bob Wetzel, Chairman

**TO:** Chairman Wetzel and Members of the Town of Duck Planning Board

**FROM:** Sandy Cross, Planning and Permits Manager

**DATE:** July 2, 2026

**RE:** Zoning Text Review/Discussion

**Background Information**

At our December meeting, the Board considered staff's suggestion that we begin a review of Chapter 156 of the Town Code which relates to zoning. A comprehensive review of the zoning ordinance has not been completed since 2004. Staff presented this matter to the Town Council at their February retreat, and the budget has been approved to secure a consultant for a phased comprehensive review of the zoning ordinance and perhaps other sections of our Land Use Code.

Based on feedback from the Board's January meeting, we have developed a spreadsheet that touches on the items that the Board and staff have reviewed and revisions notes. This spreadsheet continues to be updated.

During our June 2026 Board meeting, we continued to review items discussed from our January, March, April and May meetings. The items discussed where consensus was reached have been incorporated into the draft markup documents and we have included clean versions this month.

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

New items and revisions for discussion at the June meeting include the following:

**Bar/Tavern:** This definition and use was recently brought up by a new business. We also have an existing business that operates very similar to a bar however our Use table does not permit or prohibit such a use. Staff would like to take some time to discuss this definition.

Other than a discussion regarding the definition of Bar/Tavern, all previous revisions have been included in the attached clean copy.

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

All previous revisions are included along with a clean copy of changes made.

We discussed during the June meeting a recent visit from the Federal Bureau of Alcohol, Tobacco and Firearms which raised some questions as to whether a gun shop would be permitted in Duck. A review of our Use table does not explicitly prohibit a retail operation of this sort. Similar to "smoke and vape" shops, staff suggested that the Board might want to consider prohibiting "gun

shops". The Planning Board agreed that we should consider, and staff indicated we would research. After researching this matter, there are constitutional rights and statutory limitations so this is a bit more complicated than a yes or no answer. Staff would suggest that this be a point that is specifically discussed with our consultant once they are on board. This may at some point also require further discussion with the Town attorney.

Staff were also asked to research the history and development of the Use Table. Attached is basic background information including the timeline as to when discussions began and the uses that were added, deleted and modified. Our research indicates that this table was taken from Currituck County as a starting point and then modified based on the recommendations of staff, the Planning Board and adoption by Town Council. This would explain some of the agricultural uses that would not likely ever be possible in Duck given our development constraints. Staff would recommend that we engage the consultant before removing any existing uses to ensure compliance with General Statutes.

### *iii. Exemptions Generally, Subsections 156.050 - 156-056*

**156.056 Building Features and Structures Exempt from District Height Requirements.**

Staff reworked section (B) of this section which currently reads:

(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.*

**NEW language suggested:**

(B) Certain structures 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, including but not limited to the following:

(1) Dish Antennas subject to §156.132

(2) Solar Energy Facilities subject to § 156.139

(3) Wind Energy Facilities subject to § 156.13

(4) Wireless Telecommunication Systems subject to §156.058

Aside from this change, all previous revisions and corrections have been incorporated. A markup and clean copy with this new language is included.

### *iv. Special Use Permits 156.057, Electronic Gaming Operations 156.059*

Section 156.057 is currently listed as §156.057 Special Use Permit: Small Child Care Homes. Consistent with previous discussions, staff would suggest removing Small Child Care and retitling the section as Special Use Permits. This allows us to nest all the various "Special Use Permits" that have specific parameters and criteria under one section. Since this section was substantially re-written with existing code, we have only included a clean version. You will note that this section now includes special use parameters for Bed and Breakfast Homes, Formula Businesses, Group Development Projects, Places of Worship, Rental Property Management/Maintenance Offices, Small Child Care Homes and Village Commercial Development Option.

Section 156.059 is currently listed as 156.059 Group Development Projects. Since Group Development Project will now be nested under 156.057, we can retitle this for the electronic gaming operation section. You may recall this was previously listed under the district regulations with a number of parameters. Consistent with the Special Uses, we removed the parameters associated with electronic gaming operations from the district regulations and created a new section. There is no markup.

Please note that we skipped 156.058 Wireless Telecommunication Systems. Staff would suggest that we have our consultants conduct a thorough review of this section to ensure consistency and compliance with General Statutes.

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

ATTACHMENTS

a. Ordinance Review tracking sheet updated July 2, 2026
b. Updated Markup of 156.001 through 156.012
c. Clean copy of 156.001 through 156.012
d. Updated Markup of District Regulations 156.025 through 156.039
e. Clean copy of District Regulations 156.025 through 156.039
f. Use Table history
g. Updated Markup of Exceptions Generally 156.050 through 156.056
h. Clean copy of Exceptions Generally 156.050 through 156.056
i. New Sections 156.057 and 156.059

## Ordinance Review Items - UPDATED 7/2/2026

| Date of Notice | Ordinance Section | Description of Discrepancy | Street # of Concern | Street of Concern | Permit Number | Determination or Action Taken | Date of Action | Response to Action |
|---|---|---|---|---|---|---|---|---|
| 11/10/2025 | 156.056 BUILDING FEATURES AND STRUCTURES EXEMPT FROM DISTRICT HEIGHT REGULATIONS. | Should Area of bay windows be included when calculating floor area for cupolas/observation towers? Plans for addition called for cupola up to 5' above 35' height max for RS-1 home but the seating areas brought the struture total floor area to ~ 101 sq. ft. | 103 | Amy Lane | B25-000338 | The definitions of “floor area” include all areas of habitable space to the exterior walls. Therefore, I would interpret the floor area to be inclusive of the proposed seating area, thus 101 square feet. Just because the seating is raised and built-in doesn’t exempt that area from being “floor area”. If the owners think otherwise, they can appeal that interpretation to the Board of Adjustment. Email was sent to | 11/12/2025 | homeowner/applicant and plans were revised to reduce square footage by removing bay window features. |
| 11/25/2025 | § 150.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR. | The Director of Community Development is designated as Floodplain Administrator. That position no longer exists. This section should be revised to allow flexibility and appointment by the Town Manager. | 116 | Skimmer Way | B24-0343 | No action taken. Noted when working on Order of Floodplain Administrator's determination. | | |
| 1/14/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | Add Definitions for Arcade, Court, Deck, Landscaping, Patio, Redevelopment and Walkway | | removed Court, lump deck and patio under structure. See staff memo 4/1/2026 |
| 1/14/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | Clarify definitions related to open space, structures, used or occupied and yard. As it relates to open space, look at earth to sky, natural, organic, no artificial turf and unoccupied | | revisit Used or Occupied |
| 1/14/2026 | § 156.001 AUTHORITY FOR ENACTMENT AND PURPOSES OF CHAPTER. | Planning Board Review of Definitions | n/a | n/a | n/a | add redevelopment to last sentence of 156.001(B) | | noted in code markup 3/4/2026 |
| 1/14/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | add digital assets to definition of Adult Caberet (3) | | noted in code markup 3/4/2026 |
| 1/14/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | clean up building setback line to include side setbacks | | revision to definition in staff memo 4/1/2026 |
| 1/14/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | Bulletin Board - rename Sign, Bulletin Board and Reader Board - rename Sign, Reader Board, Outdoor Advertising Structure, rename Sign, Outdoor Advertising Structure | | noted in code markup 5/13/2026 |

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| 1/14/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | Development - add subsections to incorporate parts covered under chapters 150 (floodplain) and 154 (AEC) | | revision to definition in staff memo 4/1/2026 |
| 1/14/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | Eating Establishment (2) (a) and (b) seem to be nearly the same and can be combined by adding or changing the language to say and and provided table or counter service by an employee | | revision noted in code markeup 4/1/2026 |
| 1/14/2026 | § 156.002 DEFINITIONS. | Staff | n/a | n/a | n/a | look at definitions for impervious surface | | definition revision in staff memo 4/1/2026, and 5/8/2026 |
| 1/14/2026 | § 156.002 DEFINITIONS. | Staff | n/a | n/a | n/a | look at definitions for parking space | | definition revision in staff memo 4/1/2026 |
| 1/14/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | correct typo - Personal Service Establishment - photographic "studies" should be "studios" | | noted in code markup 3/4/2026 |
| 1/14/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | Remove (3) Sign, Arcade as it is identical to Sign, Under-Canopy. | | noted in code markup 3/4/2026 |
| 1/14/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | Look at Yard definition and extract the regulatory piece relating to setbacks for driveways and mechanicals. | | definition revision in staff memo 4/1/2026, and 5/8/2026 with graphics provided |
| 1/14/2026 | § 156.012 YARD REQUIREMENTS. | Planning Board Review of Definitions | n/a | n/a | n/a | review this language - do we need to add decks, patios, sheds? Setback areas are not defined but building setback line is. | 4/1/2026 | see revisions in code markup 4/1/2026 and 5/13/2026 |
| 3/2/2026 | § 156.058 WIRELESS TELECOMMUNICATIONS SYSTEMS (WTS). | Planning Board Review of Definitions | 100 | Dianne Street | B25-000192 | review language in section "J" for small wireless facilities- is the code clear enough to differentiate between small wireless facility v. utility pole. The utility pole or "support structure" seems to be allowed at height of 40' above adjacent grade and the antenna or "facility" is permitted to go 10' higher than that. Clarity may be needed. | 3/3/2026 | SMC made call that code allowed for top of antenna to exceed 40', however utility pole couldn't. No action taken by applicant. |
| 3/12/2026 | § 156.092 OFF-STREET PARKING REQUIREMENTS FOR SINGLE-FAMILY AND 2-FAMILY (DUPLEX) DWELLINGS | 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 outwithin 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 | § 156.092 OFF-STREET PARKING REQUIREMENTS FOR SINGLE-FAMILY AND 2-FAMILY (DUPLEX) DWELLINGS | 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. |

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| 3/12/2026 | § 156.092 OFF-STREET PARKING REQUIREMENTS FOR SINGLE-FAMILY AND 2-FAMILY (DUPLEX) DWELLINGS | 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 | § 156.002 DEFINITIONS. | 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 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | definitions regarding Yard, Front, Side and Rear are confusing - add graphics? | | included in staff memo and attachments 5/8/2026 |
| 5/8/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | tennis courts - changed to athletic | | outcome from 4/2026 meeting |
| 5/8/2026 | § 156.002 DEFINITIONS. | 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 | § 156.002 DEFINITIONS. | 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 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | rental property management/maintenance office | | revisions recommened 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 parmeters 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 | § 156.002 DEFINITIONS. | 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 | § 156.051 EXEMPTIONS. | 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 | § 156.051 EXEMPTIONS. | 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 | § 156.056 BUILDING FEATUR | 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 |
| 7/2/2026 | § 156.002 DEFINITIONS. | Planning Board Review of Definitions | n/a | n/a | n/a | recent inquiry into a "bar" use vs. eating estabilshment have developed and staff would like to discuss | | see staff report 7/2/2026 |
| 7/2/2026 | District Regulations and §156 | Planning Board Review | n/a | n/a | n/a | Can we prohibit sale of firearms, fireworks or explosives? | | see staff report 6/2026 and 7/2026 - have consultants review |
| 7/2/2026 | District Regulations and §156 | Planning Board Review | n/a | n/a | n/a | Do we need all of the agriculteral items in the Use table? | | see staff report 7/2026 - have consultants review |
| 7/2/2026 | § 156.057 | Planning Board Review | n/a | n/a | n/a | retitled section and nested all Special Uses under this section | | see multiple staff reports and markups of district regulations |
| 7/2/2026 | § 156.059 | Planning Board Review | n/a | n/a | n/a | retitled section from Group Development and added Electronic Gaming Operations parameters | | see multiple staff reports and markups of district regulations |
| 7/2/2026 | §156.056 | Planning Board Review | n/a | n/a | n/a | reworked language relating to height exceptions for WTS, wind turbines, etc. | | direction from 6/2026 meeting. See 7/2/2026 staff report and ordinance markup/clean version |

Agenda Item 4a Attachment b.

GENERAL PROVISIONS

§ 156.001 AUTHORITY FOR ENACTMENT AND PURPOSES OF CHAPTER.

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

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

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

§ 156.002 DEFINITIONS.

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

"A" 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.

**Commented [SC2R1]:** Consensus was reached during June 2026 meeting that this revise definition was appropriate

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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;

Agenda Item 4a 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 [SC3]:** Should this be nested under A Weighting Scale?

**Commented [SC4R3]:** Relocated/nested under A Weighting scale definition per direction of PB 5/13/2026

**Commented [SC5]:** As a matter or 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 re-quire further participation by a player-operated amusement device.

**Commented [SC6R5]:** I also left out pay to play

**Commented [SC7R5]:** PB agreed this definition was acceptable 5/13/2026

**Commented [SC8]:** The topic of a bar has recently come up and staff will want to discuss at the July 2026 meeting.

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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

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**Commented [SC9]:** We can look at what DCEHD considers a "bedroom"

**Commented [SC10R9]:** DCEHD regulations included

**Commented [SC11R9]:** It was decided no action was necessary here.

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

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

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

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

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

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 [SC12]:** This definition does not account for side setbacks.

**Commented [SC13R12]:** Created a new definition for Setback - see April 2026 staff report

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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.~~

Commented [SC15]: It was mentioned at the retreat that we should use dba?

Commented [SC16R15]: See proposed replacement in the staff report

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

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

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

DEVELOPER. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

DEVELOPMENT.

(1) Any of the following:

(a) ~~(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 [SC17]:** 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 [SC18R17]:** There was consensus that this would be appropriate.

**Commented [SC19R17]:** See 4/1 staff memo for compilation of these items.

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 [SC20]:** How is solely for seasonal vacation purpose confirmed? Staff will see if we can find any history on this definition.

**Commented [SC21R20]:** There was no indication that this should be changed during the March meeting.

**Commented [SC22R20]:** PB agreed 5/13/2026 that this sentence could be removed.

**Commented [SC23]:** Dwelling Unit appears in the original 2002 adoption of our zoning ordinance in a modified fashion.

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**Commented [SC24]:** 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 [SC25]:** This is the section that speaks to Eating Establishments in more detail.

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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,

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 t~~T~~hat 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 [SC26]:** 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 [SC27R26]:** See 4/1/2026 staff memo for alternative option

**Commented [SC28R26]:** 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

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.

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**Commented [SC29]:** This section has been reviewed multiple times in the past few years but are we missing anything?

**Commented [SC30R29]:** 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 [SC31R29]:** Staff reworked definition based on 5/13/2026 PB discussion

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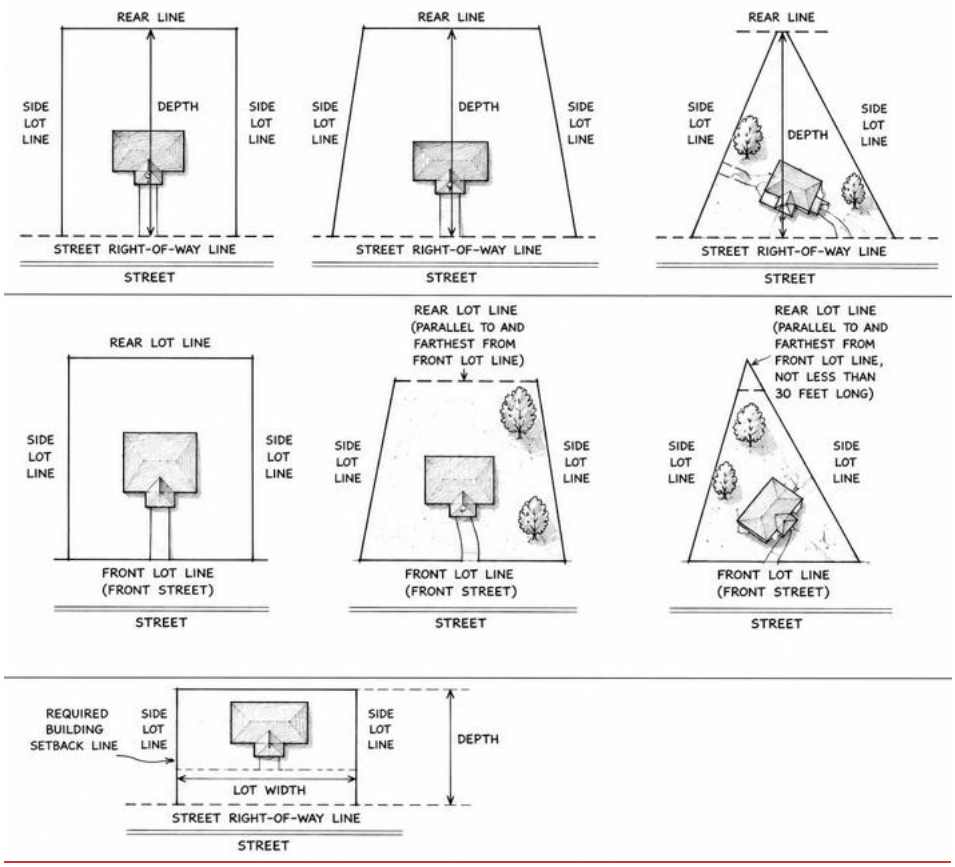


LOT OF RECORD. A lot, which is part of a subdivision recorded in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

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.

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

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

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

MINOR HOME OCCUPATION.

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

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

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

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

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

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

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

(3) The exterior siding consists of wood, hardboard or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;

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

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

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

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

NON-CONFORMING USE.

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

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

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

NUDE MODEL STUDIO. Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. There is excepted from this definition any studio which is part of a school for artists who are regularly enrolled in a course of instruction in the arts, and in which the use of nude models involves less than 10% of the course hours.

NUDITY or STATE OF NUDITY. The appearance of a human bare buttock, anus, male genitals, female genitals or female breast without a fully opaque complete-covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

OFFICE.

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

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

OPEN SPACE. An unoccupied, 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.

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

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Agenda Item 4a Attachment b.

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

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

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

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

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

**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

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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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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.

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(2) SIGN AREA.

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

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

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

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

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

(5) SIGN, 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.

(6~~5~~) SIGN, CANOPY. Any sign which is painted or printed on or attached flat against a canopy or awning.

(7~~6~~) SIGN, ELECTRONIC MESSAGE BOARD. A sign, or portion of a sign that displays electronically generated text, images, graphics, or video whereby the message is formed using a panel or matrix consisting of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. ELECTRONIC MESSAGE BOARD SIGNS include, but are not limited to, signs also known as electronic reader boards, electronic message center signs, tri-panel message systems, and commercial electronic-variable message signs (CEVMS).

(8~~7~~) SIGN FACE. The area of a sign used for visual communication.

(9~~8~~) SIGN, FLASHING. An illuminated sign of direct or indirect lighting on which the artificial light flashes on and off in regular or irregular sequences.

(10~~9~~) SIGN, FREESTANDING. A sign supported by 1 or more poles or braces set firmly in the ground or in a foundation and not attached to a building.

(11~~0~~) SIGN, GOVERNMENT. A sign or notice erected and maintained by the town, county, state or Federal government.

(12~~1~~) SIGN, HANGING. A sign suspended from braces, beams or other supports which may be either freestanding or building-mounted.

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Agenda Item 4a Attachment b.

(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 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.

(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.

(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.

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(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.

(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.

Agenda Item 4a Attachment b.

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

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

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

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

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

STREET.

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

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

(a) Is at least 30 feet in width;

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

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

STRUCTURE. Anything constructed or erected, the use of which requires 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.

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**Commented [SC41]:** Note all of the various items considered a structure under the definition of yard. Should we add additional language here?

**Commented [SC42R41]:** See revised proposal in 4/1 staff memo

**Commented [SC43R41]:** Added "or above" to be consistent with definition of lot coverage as well.

**Commented [SC44R41]:** My 5/13/2026 notes suggested adding paver or wood in from of patios but I am not sure that is needed.

Agenda Item 4a Attachment b.

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

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

TRAILER. Any of the following.

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

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

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

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

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

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

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

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**Commented [SC45]:** Additional language options?

**Commented [SC46R45]:** This was discussed but I did not have any clarity on what the Board wanted to do with this definition if any.

**Commented [SC47R45]:** PB decided to leave this as is at the 4/8/2026 meeting.

buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

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

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

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

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

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

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

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**Commented [SC48]:** The regulatory piece of this definition will be pulled into district regulations and other sections of the code.

**Commented [SC49R48]:** 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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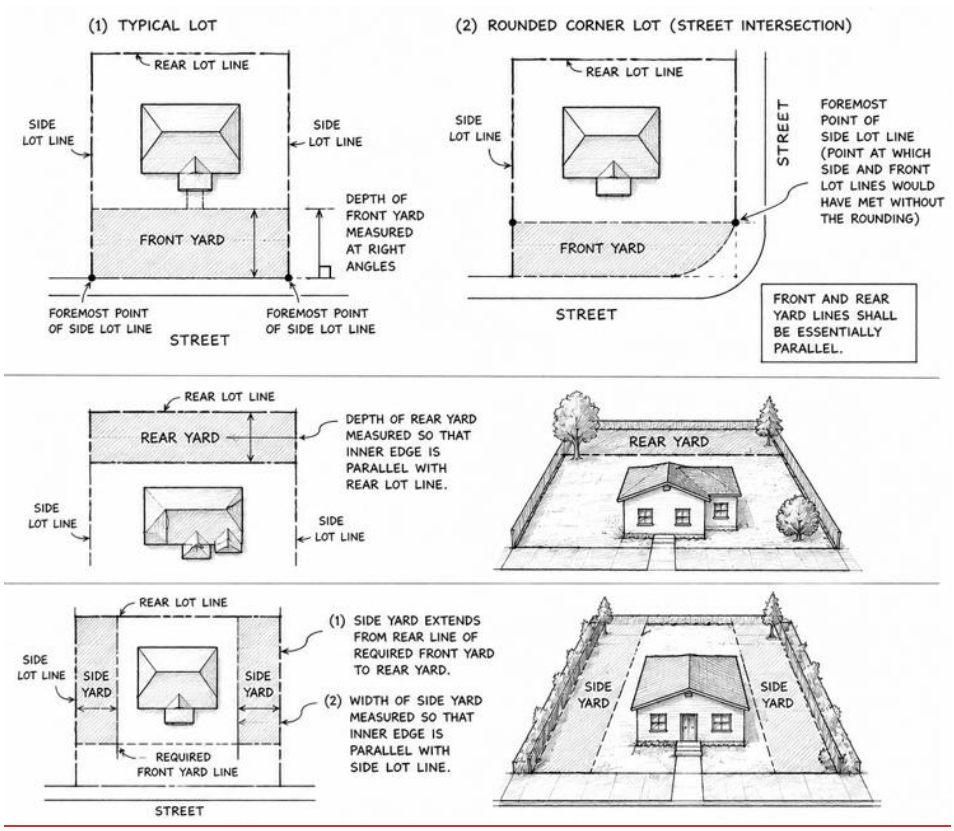
of the minimum width required by district regulations, with its inner edge parallel with the rear lot line.

YARD, SIDE.

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

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




ZONING MAP AMENDMENT OR REZONING. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (1) the initial application of zoning when land is added to the territorial jurisdiction of the town that has previously adopted zoning regulations; and (2) the application of an overlay zoning district or a conditional zoning district. The term does not include (1) the initial adoption of a zoning map by the town; (2) the repeal of a zoning

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

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

§ 156.003 INTERPRETATION OF CHAPTER; CONFLICTING PROVISIONS.

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

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

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

(1) Consistency with the stated intent of the zoning district;

(2) Consistency with the adopted vision statement and Comprehensive & Land Use Plan;

(3) Density of development (number of units, square footage, etc.);

(4) Intensity of use;

(5) Type of activity associated with the use;

(6) Number of customers and length of stay;

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(7) Generation of pedestrian and vehicular traffic;

(8) Potential impacts such as noise, light, odor, etc.; and

(9) Public safety.

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

§ 156.004 TERRITORIAL APPLICABILITY OF CHAPTER.

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

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

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

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

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

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

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

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

No building or other structure shall be erected or altered:

(A) To exceed the height or bulk limitations as set forth in this chapter;

(B) To accommodate or house a greater number of families than permitted by this chapter;

(C) To occupy a greater percentage of lot area than permitted by this chapter; or

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(D) To have narrower or smaller rear yards, front yards, side yards or other open spaces than required in this chapter, or in any other manner contrary to the provisions of this chapter.

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

§ 156.007 COMBINATION OF REQUIRED SPACES.

No part of a yard or other open space, or off-street parking or loading space, required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building, except as otherwise provided in this chapter (e.g. group development projects or village commercial development option).

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

§ 156.008 REDUCTION OF YARDS OR LOTS BELOW MINIMUM REQUIREMENTS.

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

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

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

§ 156.009 ONE PRINCIPAL BUILDING PER LOT.

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

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

§ 156.010 LOT ACCESS REQUIREMENTS.

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

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

(B) Does not have a cart road, land or other access to a public street or highway, which access is described in an instrument recorded in the office of the County Register of Deeds

prior to adoption of this section or described and sworn to or affirmed by affidavits presented to the Zoning Administrator setting forth the fact that the same existed prior to adoption of this section.

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

§ 156.011 VISION CLEARANCE AT INTERSECTIONS.

(A) On a corner lot which abuts a state-maintained right-of-way in any district, no planting, structure, fence, wall or other obstruction to vision more than 3 feet in height shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on street lines, each of which is 25 feet distance from the point of intersection.

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

(Ord. 04-21, passed 10-6-2004, § 11)

§ 156.012 YARD REQUIREMENTS.

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

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**Commented [SC50]:** Do we need to add any additional language like sheds, decks, patios?

**Commented [SC51R50]:** REFER to new definition of structure

**Commented [SC52R50]:** 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?

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, 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.

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 courts, private piers and docks, private boathouses, sheds, gazebos, pergolas, and detached garages.

ADMINISTRATIVE DECISION. Decisions made in the implementation, administration, or enforcement of development regulations that, involve the determination of facts and the application of objective standards set forth in this chapter. These are sometimes referred to as ministerial decisions or administrative determinations.

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

ADULT ARCADE. Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to 1 or more persons per machine at any 1 time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

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

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

(1) Persons who appear in a state of nudity or semi-nudity;

(2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;

(3) Films, motion pictures, video cassettes, slides, digital assets or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

(4) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

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

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

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

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

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

ADULT MEDIA CENTER.

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

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

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

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

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

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

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

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

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

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

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

ADULT THEATER. A theater, concert hall, auditorium or similar commercial establishment that for at least 10% of its business hours in any day, features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

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

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

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.

BED AND BREAKFAST HOME.

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

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

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

BEDROOM EQUIVALENT.

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

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

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

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

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

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

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

(1) In cases where the regulatory flood protection elevation (as defined in Chapter 150) is higher than the average finished grade in AE, AO, or X flood zones, the height measurement shall begin at the top of the slab at grade for enclosures, or from the top of the lowest floor above the regulatory flood protection elevation when no portion of the structure is located

at grade, whichever is applicable, provided that the top of the lowest floor does not exceed 2 feet above the regulatory flood protection elevation.

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

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

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

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.

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

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

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

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

CHILD CARE HOME, SMALL.

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

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

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

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

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

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

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

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

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

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

DEVELOPER. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

DEVELOPMENT.

(1) Any of the following:

(a) Any man-made change to improved or unimproved real estate
(b) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
(c) The excavation, dredging, filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake or canal.
(d) The construction or enlargement of a structure.
(e) The subdivision of land as defined in G.S. § 160D-802.

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

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

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. § 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.

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

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

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

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

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

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

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

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

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

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

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

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

HOTEL (also applicable to MOTEL). A commercial establishment that contains multiple guest rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals and/or other services, and which has common facilities for reservations, cleaning services, combined utilities and on-site management and reception. This definition shall not preclude the use of trade names such as “Holiday Inn,” “Travelodge” or similar trade names. The application of the definition shall apply to the nature of the structure and not its trade name).

IMPERVIOUS SURFACE. Any material that 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 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 otherwise provided herein:

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

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

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

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

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

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

(7) Driveways and parking areas consisting of alternative materials that are entirely pervious, including pervious pavers and similar surfaces, shall not be included in the calculation of LOT COVERAGE. An N.C. licensed engineer must prepare a design and

specifications certifying that such materials are 100% pervious for a 10-year, 2-hour storm event. Prior to the issuance of a certificate of completion, the licensed engineer must certify that the proposed improvements have been constructed in accordance with the project design and specifications. The engineer must also submit a maintenance plan for the pervious surface materials to maintain perviousness over time. It is the responsibility of the property owner to record the design specifications, maintenance plan, and certification of the owner's responsibility for maintenance at the Dare County Register of Deeds Office and maintain the pervious materials consistent with the recorded maintenance plan.

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

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

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

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

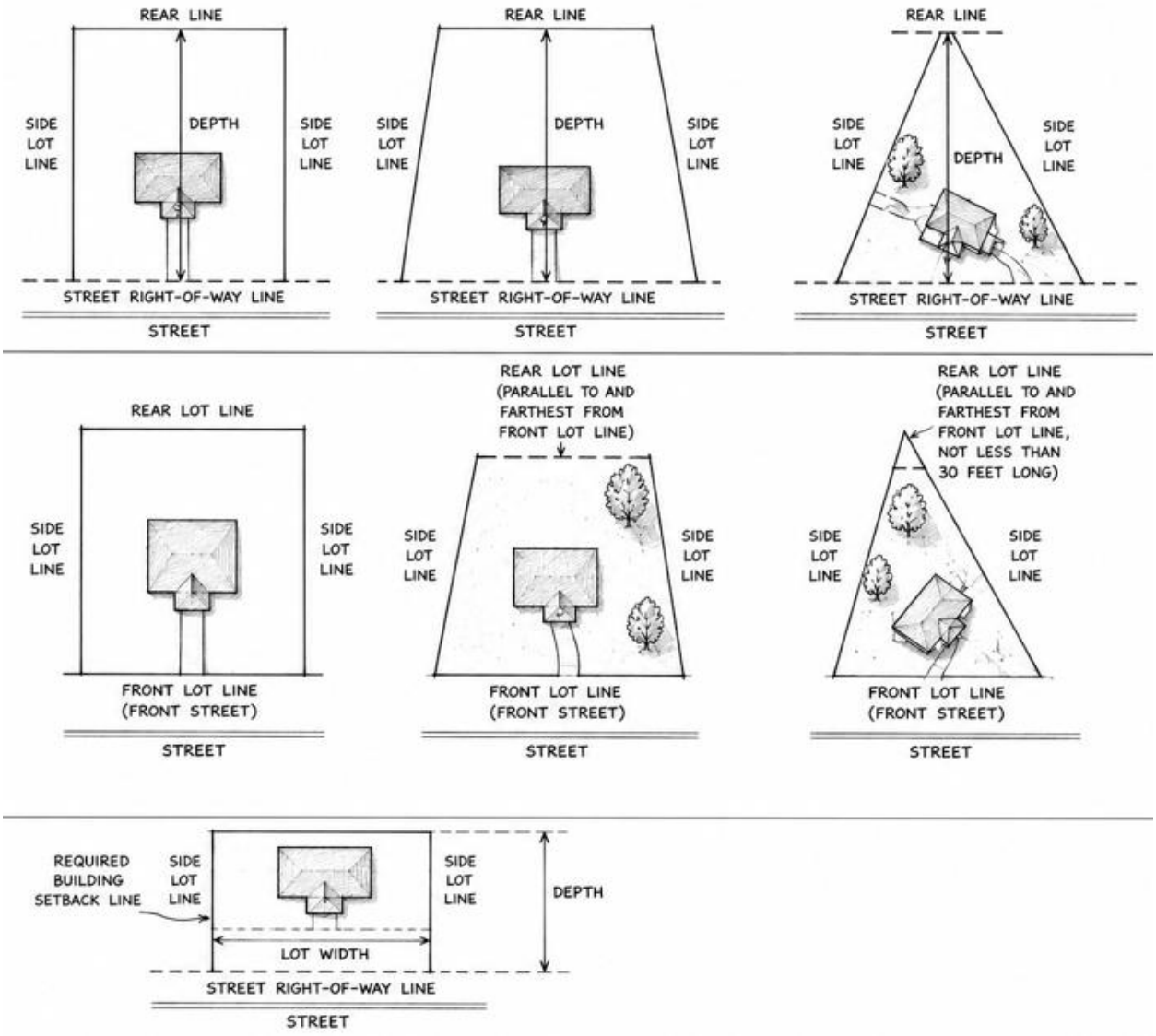
LOT LINES. The line bounding a lot, as follows.

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

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

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

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




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

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

MAJOR HOME OCCUPATION.

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

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

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

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

MINOR HOME OCCUPATION.

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

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

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

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

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

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

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

(3) The exterior siding consists of wood, hardboard or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;

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

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

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

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

NON-CONFORMING USE.

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

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

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

NUDE MODEL STUDIO. Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. There is excepted from this definition any studio which is part of a school for artists who are regularly enrolled in a course of instruction in the arts, and in which the use of nude models involves less than 10% of the course hours.

NUDITY or STATE OF NUDITY. The appearance of a human bare buttock, anus, male genitals, female genitals or female breast without a fully opaque complete-covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

OFFICE.

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

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

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

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

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

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

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

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

QUASI-JUDICIAL DECISION. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when

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

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.

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.

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.

(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.

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

(7) 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).

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

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

(10) 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.

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

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

(13) 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.

(14) 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 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.

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

(17) 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.

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

(20) 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.

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

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

(23) 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.

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

(25) 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.

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

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

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

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

in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A SITE PLAN may also be approved as part of a conditional zoning decision.

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

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

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

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

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

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

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

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

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

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

STREET.

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

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

(a) Is at least 30 feet in width;

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

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

STRUCTURE. Anything constructed or erected, the use of which requires 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.

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 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, unoccupied and unobstructed by an improvement or a structure or portion of a structure.

YARD, FRONT.

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

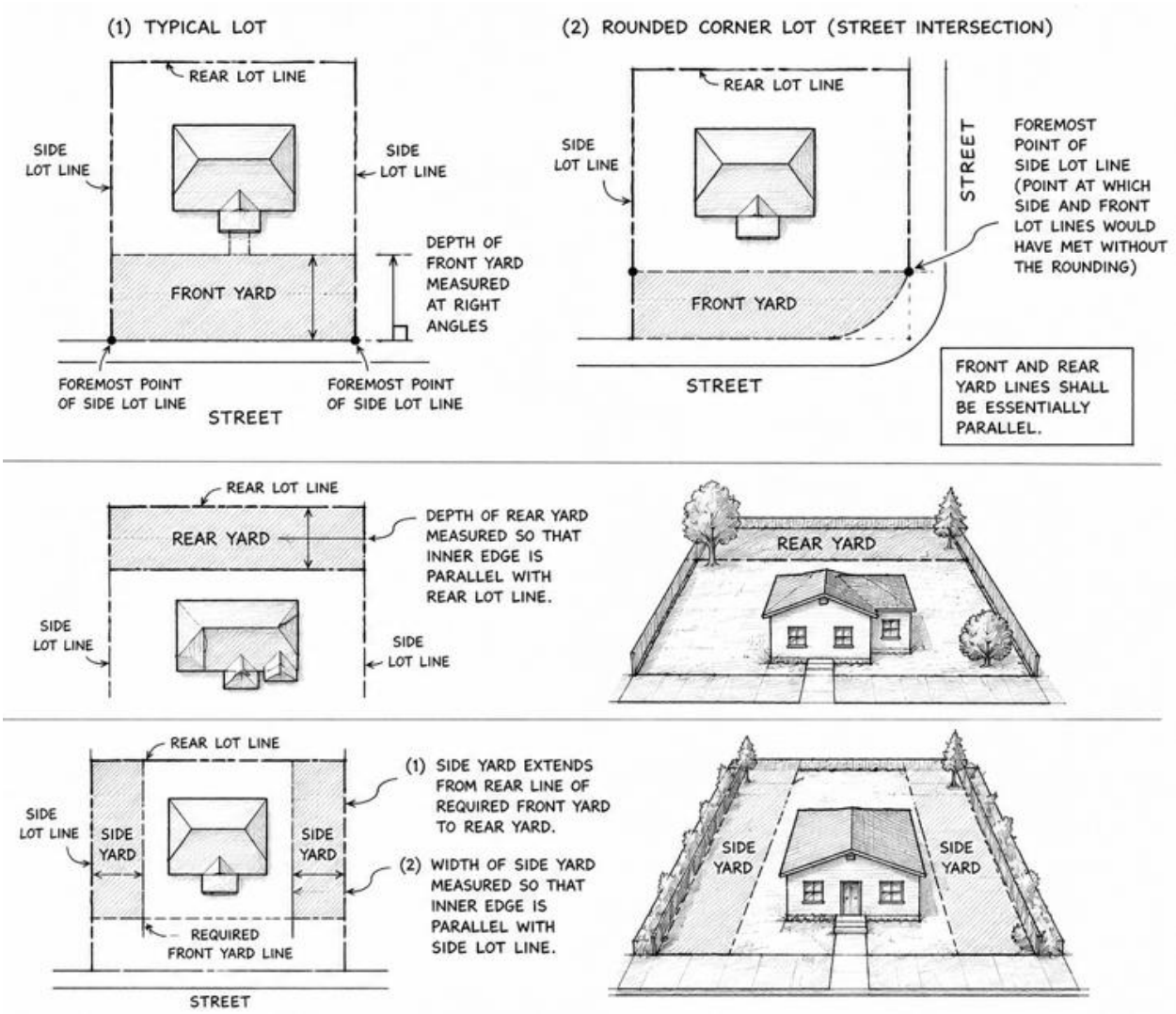
(2) The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without the rounding. FRONT and rear yard lines shall be essentially parallel.

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

YARD, SIDE.

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

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




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

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

Ord. 12-06, passed 10-3-2012; Am. Ord. 12-08, passed 11-7-2012; Am. Ord. 14-02, passed 6-4-2014; Am. Ord. 15-07, passed 6-3-2015; Am. Ord. 16-01, passed 1-6-2016; Am. Ord. 16-04, passed 7-6-2016; Am. Ord. 16-07, passed 11-2-2016; Am. Ord. 17-04, passed 6-7-2017; Am. Ord. 17-05, passed 7-5-2017; Am. Ord. 17-07, passed 8-2-2017; Am. Ord. 17-11, passed 10-4-2017; Am. Ord. 19-07, passed 12-4- 2019; Am. Ord. 20-02, passed 5-20-2020; Am. Ord. 21-01, passed 6-2-2021; Am. Ord. 22-05, passed 8-3-2022; Am. Ord. 23-01, passed 5-3-2023; Am. Ord. 23-08, passed 8-2-2023; Am. Ord. 23-14, passed 12-6-2023; Am. Ord. 24-04, passed 1-8-2025)

§ 156.003 INTERPRETATION OF CHAPTER; CONFLICTING PROVISIONS.

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

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

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

(1) Consistency with the stated intent of the zoning district;

(2) Consistency with the adopted vision statement and Comprehensive & Land Use Plan;

(3) Density of development (number of units, square footage, etc.);

(4) Intensity of use;

(5) Type of activity associated with the use;

(6) Number of customers and length of stay;

(7) Generation of pedestrian and vehicular traffic;

(8) Potential impacts such as noise, light, odor, etc.; and

(9) Public safety.

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

§ 156.004 TERRITORIAL APPLICABILITY OF CHAPTER.

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

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

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

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

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

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

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

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

No building or other structure shall be erected or altered:

(A) To exceed the height or bulk limitations as set forth in this chapter;

(B) To accommodate or house a greater number of families than permitted by this chapter;

(C) To occupy a greater percentage of lot area than permitted by this chapter; or

(D) To have narrower or smaller rear yards, front yards, side yards or other open spaces than required in this chapter, or in any other manner contrary to the provisions of this chapter.

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

§ 156.007 COMBINATION OF REQUIRED SPACES.

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

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

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

§ 156.008 REDUCTION OF YARDS OR LOTS BELOW MINIMUM REQUIREMENTS.

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

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

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

§ 156.009 ONE PRINCIPAL BUILDING PER LOT.

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

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

§ 156.010 LOT ACCESS REQUIREMENTS.

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

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

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

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

§ 156.011 VISION CLEARANCE AT INTERSECTIONS.

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

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

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

(Ord. 04-21, passed 10-6-2004, § 11)

§ 156.012 YARD REQUIREMENTS.

Unless otherwise provided in this chapter, no principal structure or principal use, structure or other accessory buildings or structures shall be located within the setback, 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)

Agenda Item 4 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

(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.

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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~~

~~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.

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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.

(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;

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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 §§ 156.15~~0~~5 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;

(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;

(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);

(11) Resident business;

(12) Plant nurseries and greenhouses;

(13) Fine craft and folk art production; and

(14) Duplexes, subject to the dimensional requirements of the R-2 zoning district for residential uses.

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

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

(2) Public and private utility facilities;

(3) Boat-launching and rental facilities;

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

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

(6) Post offices;

(7) Churches and religious institutions;

(8) Rental property management and maintenance offices;

(9) Transit stops;

(10) Agricultural buildings;

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**Commented [SC9]:** Is this too restrictive given our current housing crisis?

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

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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 § 156.059 ~~provided that the following requirements are met~~:

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

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

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

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

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

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

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

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

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

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

(11) Plant nurseries and greenhouses; and

(12) Fine craft and folk art production.

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

(1) Public and private utility facilities;

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

(3) Hotel resort;

(4) Theaters;

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

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

(7) 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.

**Commented [SC13R11]:** Changed this section to 156.059 since we will have that open.

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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:

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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;

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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;

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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 [SC14]: Too restrictive?

(9) Plant nurseries and greenhouses; and

(10) Fine craft and folk art production.

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

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

(2) Public and private utility facilities;

(3) Boat-launching and rental facilities;

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

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

(6) Resident businesses;

(7) 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 ini § 156.002 and subject to the authorization provisions of § 156.057;

~~:~~

~~(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.~~

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**Commented [SC16R15]:** PB concurred 5/13/2026

**Commented [SC17]:** Should this have a separate section similar to child care homes?

**Commented [SC18R17]:** 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.

DISTRICT REGULATIONS

## § 156.025 ZONING DISTRICTS ESTABLISHED; OFFICIAL ZONING MAP.

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

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

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

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

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

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

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

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

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

§ 156.026 INTERPRETATION OF DISTRICT BOUNDARIES.

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

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

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

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

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

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

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

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

§ 156.027 CLASSIFICATION OF ADDED TERRITORY.

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

(Ord. 04-22, passed 11-3-2004, § 14)

§ 156.028 SCHEDULE OF DISTRICT REGULATIONS ADOPTED; AMENDMENTS GENERALLY.

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

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

(Ord. 04-22, passed 11-3-2004, § 15)

§ 156.029 C-PR CONSERVATION PUBLIC RECREATION CONVENTIONAL DISTRICT.

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

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

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

(1) Conservation and open space areas;

(2) Passive recreation facilities such as bike trails, picnic areas, bird watching facilities and hiking trails;

(3) Public parks and playgrounds, parking areas, and pedestrian or vehicular beach access;

(4) United States government uses and facilities;

(5) Town uses and facilities;

(6) Plant nurseries and greenhouses; and

(7) Fine craft and folk art production.

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

(1) Fire stations, schools, facilities for water supply, sewerage and police protection, but not including any materials or equipment yard;

(2) Public clubs, including boat launching areas, golf courses, tennis courts, picnic areas, beach clubs and concessions integral thereto; provided, that there is no open commercial activity;

(3) Private clubs, including boat launching areas, tennis courts, community centers, libraries, picnic areas, beach clubs and concessions integral to them;

(4) Transit stops;

(5) Agricultural buildings;

(6) Commercial animal production;

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

(8) Livestock shelters and stables.

(D) Dimensional requirements:

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

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

(3) Minimum front yard: 50 feet;

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

(5) Minimum rear yard: 50 feet;

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

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

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

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

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

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

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

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

(2) accessory buildings and uses;

(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 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 and subject to the authorization provisions of § 156.057;

(6) Places of Worship, including fellowship halls, sanctuaries, parsonages, schools, parking areas and offices;

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

(8) Transit stops;

(9) Agricultural buildings;

(10) Commercial animal production;

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

(12) Livestock shelters and stables.

(D) Dimensional requirements.

(1) Minimum lot size:

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

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

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

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

(3) Minimum front yard: 25 feet.

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

(5) Minimum rear yard: 25 feet.

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

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

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

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

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

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

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

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

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

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

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

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

(7) Height limitation: 35 feet.

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

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

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

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

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

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

(2) accessory buildings and uses;

(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;

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

(6) Places of Worship, including fellowship halls, sanctuaries, parsonages, schools, parking areas and offices;

(7) Transit stops;

(8) Agricultural buildings;

(9) Commercial animal production;

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

(11) Livestock shelters and stables.

(D) Dimensional requirements.

(1) Minimum lot size:

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

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

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

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

(3) Minimum front yard: 25 feet.

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

(5) Minimum rear yard: 20 feet.

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

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

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

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

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

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

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

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

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

(h) The stormwater management plan must clearly delineate water sheds or drainage areas within the subject property. This should include a roof plan depicting roof runoff and the method to collect or direct the volume from each portion of the roof area towards the

stormwater management system. In some situations, the plan may require a detailed topographic survey and a detailed grading plan.

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

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

(7) Height limitation: 52 feet.

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

## § 156.032 R-2 MEDIUM DENSITY RESIDENTIAL CONVENTIONAL DISTRICT.

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

(A) Intent.

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

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

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

(1) Detached single-family dwellings;

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

(3) accessory buildings and uses;

(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 §§ 156.155 et seq.:

(1) Churches and cemeteries;

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

(3) Major home occupations;

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

(5) Public and private utility facilities;

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

(7) Public or private parks and playgrounds;

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

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

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

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

(12) Transit stops;

(13) Agricultural buildings;

(14) Commercial animal production;

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

(16) Livestock shelters and stables.

(D) Dimensional requirements.

(1) Minimum lot size:

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

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

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

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

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

(3) Minimum front yard: 25 feet.

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

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

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

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

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

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

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

1. Landscaped swales;
2. Infiltration basins;
3. Bioretention or rain gardens;
4. Rainwater harvesting to include cisterns and/or rain barrels;
5. Subsurface drainage systems;

6. Other methods approved by the Zoning Administrator.

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

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

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

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

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

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

(7) Height limitation: 35 feet.

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

## § 156.033 C-1 NEIGHBORHOOD COMMERCIAL CONVENTIONAL DISTRICT.

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

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

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

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

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

(1) Retail sales;

(2) General and medical offices;

(3) Personal service establishments;

(4) Town-owned or leased facilities;

(5) Small child care centers as defined in § 156.002;

(6) Medium child care centers as defined in § 156.002;

(7) Large child care centers as defined in § 156.002;

(8) Minor home occupations;

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

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

(11) Resident business;

(12) Plant nurseries and greenhouses;

(13) Fine craft and folk art production; and

(14) Duplexes, subject to the dimensional requirements of the R-2 zoning district for residential uses.

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

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

(2) Public and private utility facilities;

(3) Boat-launching and rental facilities;

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

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

(6) Post offices;

(7) Churches and religious institutions;

(8) Rental property management and maintenance offices;

(9) Transit stops;

(10) Agricultural buildings;

(11) Commercial animal production;

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

(13) Livestock shelters and stables; and

(14) Microbreweries/microdistilleries.

(D) Dimensional requirements.

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

(2) Minimum front yard: 15 feet.

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

(4) Minimum rear yard: 20 feet.

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

(6) Height limitation: 35 feet.

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

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

## § 156.034 C-2 GENERAL COMMERCIAL CONVENTIONAL DISTRICT.

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

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

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

(1) General and medical offices;

(2) Retail establishments;

(3) Personal service establishments;

(4) Small child care centers as defined in § 156.002 above;

(5) Medium child care centers as defined in § 156.002 above;

(6) Large child care centers as defined in § 156.002 above;

(7) Public and private schools;

(8) Town-owned or leased facilities; and

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

(10) Electronic gaming operations, as defined in § 156.002, are permitted as an accessory use to any retail or eating establishment use subject to the authorization provisions of § 156.059:

(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 and religious institutions;

(8) Rental property management and maintenance offices;

(9) Transit stops;

(10) Agricultural buildings;

(11) Commercial animal production;

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

(13) Livestock shelters and stables; and

(14) Microbreweries/microdistilleries.

(D) Dimensional requirements.

(1) Minimum lot size:

(a) Commercial lots shall be of sufficient size to meet requirements of the Dare County Health Department, to provide adequate siting for structures and to provide parking, loading and maneuvering space for vehicles as required by §§ 156.090 through 156.096 below; and

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

(2) Minimum front yard: 15 feet.

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

(4) Minimum rear yard: 20 feet.

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

(6) Height limitation: 35 feet.

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

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

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

§ 156.035 S-1 SPECIAL CONVENTIONAL DISTRICT.

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

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

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

(D) Dimensional requirements.

(1) Minimum lot size; residential lots:

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

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

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

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

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

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

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

(4) Minimum front yard: 25 feet.

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

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

(7) Height limitation: 52 feet.

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

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

(a) Multi-family structures:

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

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

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

(b) Hotels, motels, and similar structures:

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

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

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

(10) Group developments:

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

(b) Minimum rear yard: 20 feet.

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

(d) Height limitation: 52 feet.

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

(11) Commercial lots:

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

(b) Minimum front yard: 15 feet;

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

(d) Minimum rear yard: 20 feet;

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

(f) Height limitation: 52 feet.

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

§ 156.036 V-C VILLAGE COMMERCIAL CONVENTIONAL DISTRICT.

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

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

(1) General and medical offices;

(2) Retail establishments;

(3) Personal service establishments;

(4) Public and private schools;

(5) Town-owned or leased facilities;

(6) Minor home occupations;

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

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

(9) Plant nurseries and greenhouses; and

(10) Fine craft and folk art production.

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

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

(2) Public and private utility facilities;

(3) Boat-launching and rental facilities;

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

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

(6) Resident businesses;

(7) Places of Worship including fellowship halls, sanctuaries, parsonages, schools, parking areas, offices, and columbaria structures, subject to the authorization provisions of § 156.057:

(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;

(11) Post offices;

(12) Transit stops;

(13) Agricultural buildings;

(14) Commercial animal production;

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

(16) Livestock shelters and stables; and

(17) Microbreweries/microdistilleries.

(D) Dimensional requirements.

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

(2) Minimum front yard: 15 feet.

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

(4) Minimum rear yard: 20 feet.

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

(6) Height limitation: 35 feet.

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

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

## § 156.037 OCEAN AND SOUND OVERLAY DISTRICT.

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

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

encourages property owners to use natural design and materials when considering shoreline stabilization projects.

(C) Permitted uses.

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

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

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

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

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

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

(a) Sills;

(b) Groins;

(c) Riprap;

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

(D) Prohibited activities.

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

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

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

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

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

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

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

§ 156.038 RESERVED.

§ 156.039 RESERVED.

# Planning Board & Council Prohibited Use Table

Planning Board 1-13-2016 Minutes Prohibited Use Table Revisions:

- Created the S-1 Column and applied a "P" for permitted uses under all of those other uses. Permitted uses would be proposed and reviewed on an individual basis.

  Board had questions about:
  - Carriage Horse Stables
  - Check-Cashing Stores
  - Convalescent Facilities
  - Liquor Sales

  Changes:

  - Arenas to Arenas/Sport Complexes
  - Shooting Ranges to Outdoor Shooting Ranges
  - Motor Vehicle Storage to Outdoor Motor Vehicle Storage

  Uses Added to Prohibited Uses:

  - Nightclubs
  - Miniature Golf
  - Adult Entertainment
  - Outdoor Storage of Vehicles/Equipment
  - Gunsmithing

Planning Board Minutes Prohibited Use Table Edits 2-10-2016

Items Left on Prohibited List:

- Kennels

- Motor Washing Vehicle Establishments (Car Washes)
- Commercial Support Housing for Agriculture
- Smoke and Vapor Shops

Items Removed from Prohibited Uses:

- Gun, Firearm, and Ammunition sales
- Gunsmiths
- Power and Energy Facilities
- Animal Production or Crop Production Indoor and Outdoor changes to conditional use
- Commercial Nursery, changed to permitted use
- Support Housing for Agricultural Production

Changes:

- Struck “Outdoor” from shooting ranges so that all shooting ranges were prohibited.
- Warehouse Facilities changed to Warehouse and Storage
- Wind Energy Facilities renamed Wind Energy Facilities, Supplemental
- Separate Prohibited Category called Wind Energy Facilities, Commercial
- Aircraft Hangers changed to Commercial Aircraft Hangers for prohibited list.
- Beverage Manufacturing Bottling & Processing changed to Beverage Manufacturing Bottling & Processing (Except micro-breweries and micro-distilleries)
- Manufacturing, Processing, Assembly & Other Industrial Facilities to exclude Fine, Craft & Folk Art Production

- Stonecutting, Shaping, and Finishing Facilities to exclude Fine, Craft and Folk Art Production

Conditional Uses:

- Micro-breweries and Micro-distilleries
- Commercial Animal Production
- Agricultural Buildings
- Commercial Crop Production Indoor or Outdoor

Planning Board Minutes Prohibited Use Table Revisions 4-13-2016

Items Removed from Prohibited List:

- Staff Housing

Items Added:

- Post Offices added as a permitted use in the V-C District
- Bed and Breakfast Inns permitted in S-1 District
- Rental Property Management Offices added to C-1 and C-2 Commercial Districts
- Maintenance Offices added to C-1 and C-2 Commercial Districts
- Churches permitted use in C-2 General Commercial District

Items on Prohibited List:

- Nightclubs
- Smoke and Vapor Shops
- Outdoor Commercial Storage
- Entertainment and Recreational Facilities
- Public Transportation Terminals and Yards

Planning Board Minutes Prohibited Use Table Revisions from Council 05-11-16

Added Prohibited Use:

- The Village Commercial

Changes:

- Short-term rental terminology
- Conditional Use Permit for transit services

Discussed and confirmed the items from earlier meetings which all remained.

Town Council Minutes Prohibited Use Table 07-06-2016

- Approved the Prohibited Use Table

Additions/Propositions to Prohibited Use Table since 2016:

Additions:

- 2022: Ordinance 22-05 – Residential Duplexes
  - Added as permitted (P) use in C-1 Neighborhood Commercial District
  - Expanded residential development options
- 2023: Ordinance 23-10 – Stealth Antennas and Small Wireless Facilities
  - Made them permitted in most districts
  - Required Special Use Permit (SUP) in RS-1 and RS-2 Residential Districts

- Ordinance 09-03 Amendment to the Zoning Ordinance to include Town of Duck uses and facilities with the list of permitted uses in the C-PR Zoning District:
  - Town administrative facilities were listed as conditional use in C-PR zoning district
  - Should have been revised when Town Park was listed as C-PR in order to create new use classification for Town uses and facilities

Propositions:

1. **2024-2025: Proposed Text Amendment 24-06 Amusement Arcades**

- Amusement Arcades to the V-C Village Commercial District
- Proposed but never adopted

2. **Firearms – 2019**

- Discharge of Firearms, Explosives, or Arrows is illegal in the Town of Duck
- The Town Ordinance reads that the discharge of Firearms, Explosives, and Arrows is unlawful in the Town of Duck unless in self-defense of person or property or under authority from a Law Enforcement officer. Archery is allowed to be practiced on personal property if the arrows do not leave the personal property.
- Concealed Carrying handguns into Town buildings is illegal unless it is a law enforcement officer.

- There was a proposal to amend part of the Town's ordinance by eliminating a requirement that "firearms are prohibited in establishments conducting electronic gaming operations. The intent is to consolidate all measures and make amendments to bring the Town's standards into consistency with applicable State laws. This is proposed to be eliminated as NC General Statutes states that local governments cannot prohibit the possession of firearms on private property.
    1. It is declared by the General Assembly that the regulation of firearms is properly an issue of general, statewide concern, and that the entire field of regulation of firearms is preempted from regulation by local governments except as provided by this section
    2. Unless otherwise permitted by statute, no county or municipality, by ordinance, resolution, or other enactment, shall regulate in any manner the possession, ownership, storage, transfer, sale, purchase, licensing, taxation, manufacture, transportation, or registration of firearms, firearms ammunition, components of firearms, dealers in firearms, or dealers in handgun components or parts.
    3. A person adversely affected by any ordinance, rule, or regulation promulgated or caused to be enforced by any county or municipality in violation of this section may bring an action for declaratory and injunctive relief and for actual damages arising from the violation.
    4. To insure uniformity, no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any

department or agency thereof, may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun

5. A person adversely affected by any ordinance, rule, or regulation promulgated or caused to be enforced by any unit of local government in violation of this section may bring an action for declaratory and injunctive relief and for actual damages arising from the violation.

Agenda Item 4 Attachment g~~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);

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(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 areapatio, swimming pool or pool deck, sign or similar feature does not comply with the requirements applicable when construction of a building or structure or similar features noted above began, provided that:

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

(A) The Zoning Administrator determines that:

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

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

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

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

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

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

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(C) Upon the issuance of written approval of a reduction for a particular building, 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

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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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Agenda Item 4 Attachment g~~Agenda Item 5a.iii~~

§ 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

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

(B) Certain structures~~, including wind turbines, wireless telecommunications systems, and water towers,~~ are allowed to exceed maximum height limitations of the zoning district in which they are located, subject to the standards, limitations, and procedures as set forth in other applicable sections of this chapter, including but not limited to the following:~~:~~

(1) Dish Antennas subject to §156.132

(2) Solar Energy Facilities subject to § 156.139

(3) Wind Energy Facilities subject to § 156.13

(4) Wireless Telecommunication Systems subject to §156.058

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

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

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

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**Commented [SC9]:** We may want to clarify floor area

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

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

**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

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§ 156.050 WALLS AND FENCES.

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

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

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

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

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

(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;

(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 ,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 , 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, structure, driveway, parking area, sign or similar feature does not comply with the requirements applicable, provided that:

(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.

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

(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 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;

(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)

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

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

(B) Certain structures 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, including but not limited to the following:

(1) Dish Antennas subject to §156.132

(2) Solar Energy Facilities subject to § 156.139

(3) Wind Energy Facilities subject to § 156.13

(4) Wireless Telecommunication Systems subject to §156.058

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

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

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

**§ 156.057 SPECIAL USE PERMITS:**

**(1) Bed and Breakfast Homes**

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

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

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

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

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

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

(f) Parking: 1 space for each guest room available for rental plus the requirements of §§ 156.070 through 156.096 for single-family structures. These spaces should be individually designated for bed and breakfast guests and aligned so that the spaces are horizontally adjacent and will not necessitate vertical double spacing;

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

(h.) retail activities other than food and beverage sales incidental to the operation of the bed and breakfast home shall be allowed on the premises;

**(2) FORMULA BUSINESSES.**

(A) *Purpose.* The purpose of the standards in this section regulate the location and operation of formula business establishments in order to maintain the town's unique village character, the diversity and economic vitality of the community's commercial districts, and the quality of life of town residents. The town has determined that preserving unique architecture, signage, graphic and other design elements so that the town maintains a distinctive visual appearance and small-scale eclectic ambiance will promote the long-term viability of the community's businesses districts. The town has also determined that

preserving a balanced mix of local, regional, and national-based businesses and small and medium sized businesses will maintain and promote the long-term economic health of visitor-serving businesses and the community as a whole. It is therefore the intention of the town that any permitted formula business establishments shall create a unique visual appearance that reflect and/or complement the distinctive and unique character of the town, and that no establishment shall project a visual appearance that is homogenous with its establishments in other communities.

(B) *Applicability.*

(1) "Formula business" means a type of business activity, including retail, office and restaurants and food service, which:

(a) Is required to maintain a standardized (substantially the same) array of services and/or merchandise, name, trademark, logo, service mark, symbol, sign, decor, architecture, building or site layout, uniform, color scheme, menus, or similar standardized feature; and

(b) Is substantially the same as 12 or more such establishments, regardless of ownership or location.

(2) Formula businesses shall not include institutional uses such as banks, post offices, churches or government facilities nor shall it include franchise or multi-branch real estate offices, utility services, or gas stations.

(C) *Special use permit required.* A special use permit shall be required for any formula business establishment in the town.

(1) A formula business establishment may be allowed only with a special use permit;

(2) The expansion of any existing formula business establishment shall require a special use permit or amendment of a special use permit if it already has one; and

(3) A formula business establishment shall fully comply with all applicable regulations of the zoning ordinance, including required commercial design guidelines, unless otherwise herein modified.

(D) *Required findings for approval.* In addition to all of the findings required by § 156.155, Special Use Permits, all of the following findings must be made prior to the issuance of a special use permit for a formula business establishment:

(1) The formula business establishment will be compatible with existing surrounding uses, and has been designed and will be operated in a non-obtrusive manner to preserve the community's distinctive character and ambiance;

(2) The formula business establishment will not result in an over-concentration of formula business establishments in its immediate vicinity or the town as a whole;

(3) The formula business establishment will promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations;

(4) The formula business establishment will contribute to a diverse and appropriate blend of businesses in the community and preserve the sea coast town ambience reflective of the history and people of the community;

(5) The formula business establishment will be mutually beneficial to and would enhance the economic health of surrounding uses in the district;

(6) The formula business establishment will contribute to an appropriate balance of business sizes in the community;

(7) The proposed use, together with its design and improvement, is consistent with the unique character of the town, and would preserve the distinctive visual appearance and shopping and dining experience of the town for its residents and visitors; and

(8) The proposed intensity of uses on the site is appropriate given the uses permitted on the site and on adjoining sites including, but not limited to the following:

(a) Size not to exceed 3,000 square feet of gross floor area and must be in a building that is shared with at least 1 other business that is not a formula business of any type.

(b) Street-facing frontage of any individual formula business shall not exceed 50 linear feet.

(Ord. 07-04, passed 2-7-2007; Am. Ord. 09-05, passed 5-6-2009; Am. Ord. 09-07, passed 8-5-2009; Am. Ord. 17-04, passed 6-7-2017; Am. Ord. 21-01, passed 6-2-2021)

**(3) GROUP DEVELOPMENT PROJECTS.**

(A) *Generally*.

(1) Group development projects, consisting of 2 or more buildings devoted to a common or similar use and constructed on a single lot, may be permitted in specified districts established by this chapter; provided, that a mandatory pre-application conference is held between the Zoning Administrator and the developer prior to filing the required application for review and approval of the project by the Town Council. Review and approval shall be required for all group development projects.

(2) Adequate scaled site plans shall be submitted to allow for review of the size and location of all buildings, structures, streets, drives and parking spaces and their relationship to any open spaces and adjacent properties.

(3) Group housing development plans shall also be accompanied by a computation or schedule, expressed in acres or portions thereof, which indicates the area and percentage of the site devoted to:

(a) Gross area;

(b) Parking area;

(c) Net area;

(d) Building area; and

(e) Open space.

(B) *Design standards generally*. All group development projects shall comply with the following design standards:

(1) *Street access*. Any building established as a part of a group development project, which cannot properly be served by emergency or service vehicles from an abutting street, shall be made accessible to these vehicles by a paved driveway having a roadbed width of not less than 20 feet, exclusive of parking spaces.

(2) *Off-street parking and loading facilities*. Off-street parking and loading facilities established in connection with a group development project shall be of a design, location and arrangement as will not interfere with the efficient flow of traffic through the area and as will not interfere with the access of emergency or service vehicles.

(3) *Separation of buildings*. All buildings established as a part of a group development project shall be separated by not less than 20 feet, except in cases where a fire suppression system meeting all the requirements of NFPA 13 and the North Carolina State Building Code is installed in the proposed building. In no instance shall the minimum building separation be less than 10 feet, measured from outside wall to outside wall.

(4) *Setback requirements*. Unless otherwise provided by this chapter for a specific type of group development, each group development project shall comply with the front yard setback and the side and rear yard requirements established for the district in which it is located.

(5) *Prohibited uses*. In no case shall a use be permitted as a part of a group development project that is prohibited by this chapter in the district in which the project is to be located.

(C) *Design standards; group housing projects*. In addition to the other standards set forth in this section, a group housing project shall comply with the following requirements:

(1) *Setbacks*. All buildings established as a part of a group housing project shall be set back not less than 25 feet from any side or rear property line;

(2) *Location*. No dwelling structure established as a part of a housing project shall be situated on a lot so as to face the rear of another dwelling structure within the development or on adjoining property; and

(3) *Lot size*. A group housing project shall be permitted only on a lot or plot of ground having an area of not less than 1 acre.

(D) *Districts where allowed*.

(1) Group developments may be allowed in the following zoning districts: R-2, VC, C-1 and C-2.

(2) Only those uses listed as permitted and/or special uses in the applicable zoning district shall be considered for group developments.

(3) This language is not intended to allow any use as a group development that is not permitted by right in the applicable district.

(Ord. 04-23, passed 10-6-2004, § 29; Am. Ord. 11-07, passed 10-5-2011; Am. Ord. 21-01, passed 6-2-2021)

**(4) Places of Worship, including fellowship halls, sanctuaries, parsonages, schools, parking areas and offices.**

(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

**(5) Rental Properties Management/Maintenance Offices**

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

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

(c) Traffic/transportation.

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

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

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

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

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

**(6) Small Child Care Homes**

In zoning districts RS-1 and R-2, a small child care home as defined in § 156.002 above may be authorized by the Town Council by a special use permit. Upon determination by the Zoning Administrator that a special use permit is necessary, the town shall process the application and schedule an evidentiary public hearing by the Town Council in accordance with the procedures set forth in § 156.155 as well as the procedures set forth below.

(A) The applicant shall provide documentation that all supplementary permit, registration and/or license applications have been submitted to the appropriate review agencies at the time a special use permit is scheduled for review by the Town Council. Within 90 days of the date the Town Council authorized the special use permit, the applicant shall submit copies of all supplementary permits and/or licenses. Upon receipt of all necessary supplementary permits and/or licenses, the staff shall issue the special use permit. Failure to deliver those necessary supplementary permits and/or licenses within 90 days shall render the Town Council approval null and void.

(B) The applicant shall provide affidavits attesting to the applicant's occupancy of the proposed small child care home.

(C) The applicant shall submit a site plan depicting the proposed site and all associated improvements. The staff shall review the site plan for compliance with the regulatory guidelines of the zoning district where the small child care home is proposed.

(D) A special use permit for a small child care home shall not be authorized if another small child care home is in operation within a 500 foot radius of the applicant's proposed location.

(E) *Permit validity, expiration, renewal and discontinuance.*

(1) A special use permit shall be valid for a period not to exceed 24 months from the date of authorization.

(2) Ninety days prior to the expiration of the special use permit, the applicant shall request re-authorization of the special use permit.

(3) There shall be no limit on renewal requests. Each renewal request shall be considered by the Town Council and may be authorized or rejected at the discretion of the Council.

(4) If it is not the desire of the applicant to continue to operate the small child care home, those activities authorized by the special use permit shall be discontinued immediately.

(F) *Inspections, violations, revocation and reauthorization.*

(1) Zoning officials shall be allowed to inspect the small child care home periodically to check for compliance with all permit conditions and applicable zoning regulations.

(2) If the zoning official finds any violations, the applicant shall be notified in writing of the violations and be granted 30 days in which to correct the violations.

(3) If after 30 days, the applicant does not correct cited violations, notice shall be affixed to the site or structure indicating the initiation of revocation procedures.

(4) Fifteen days after the revocation notice has been posted, the special use permit may be revoked.

(5) The special use permit may be reauthorized only after review and approval by the Town Council.

(Ord. 04-23, passed 10-6-2004, § 26; Am. Ord. 09-07, passed 8-5-2009; Am. Ord. 21-01, passed 6-2-2021)

**(7) VILLAGE COMMERCIAL DEVELOPMENT OPTION.**

The Town Council may, by special use permit, modify certain development standards to facilitate development that maintains and enhances the character of Duck Village.

(A) *Purpose.*

(1) The Village Commercial Development Option is intended to help implement the town's adopted vision and CAMA Comprehensive & Land Use Plan by allowing development or redevelopment of a size, scale and architectural character that complements Duck Village.

(2) The Village Commercial Development Option provides opportunities for custom site-specific development review to implement town policies encouraging shared access and

parking, limited vehicular access, bicycle and pedestrian accommodations, a mix of land uses, compatible building design, tree preservation, adequate stormwater management, and public infrastructure and amenities; thus reinforcing the Village Commercial District as an exceptional and distinctive place to live, work, shop, dine, and recreate.

(B) *Criteria.* The Town Council may approve modifications to the development standards contained in this chapter, subject to the following limitations:

(1) Minimum structure setbacks cannot be reduced by more than 50%.

(2) Maximum lot coverage may be increased by no more than 10% provided that stormwater 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 a 4.3 inch design storm. Interstitial soil storage can be included in the design storm calculation.

(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) with the exception of the design storm which shall be 4.3 inch rainfall event over a two hour period as noted above.

(c) Project designs shall utilize low-impact development principles and best management practices as the primary method for the treatment of stormwater.

(d) Stormwater plans must be prepared by a state licensed professional engineer. Prior to the issuance of a certificate of completion for the project, a state licensed professional engineer must certify that the proposed improvements have been constructed in accordance with the project design.

(3) Reduction in the amount of required parking for the site is limited to a maximum of five parking spaces or 20% of the minimum parking requirement for the site, whichever is greater. Additionally, the amount of reduction cannot exceed 50% of the minimum parking requirement.

(4) Landscape buffers against abutting residentially zoned or used properties cannot be reduced to less than five feet in width unless an opaque fence or wall is provided.

(5) Building size or height increases are not permitted.

(6) Proposed uses must be included on the list of permitted uses for the Village Commercial (V-C) zoning district.

(7) The requested modification cannot be used to remedy existing violations on a property.

(C) *General findings.* In order to grant approval of a special use under the Village Commercial Development Option, the Town Council must find that the applicant has provided substantial evidence that the development proposal complies with all the following general criteria:

(1) The development proposal is consistent with the town's adopted vision and Comprehensive & Land Use Plan; and

(2) The development proposal is consistent with the desired scale, character, and function of Duck Village; and

(3) The subject property, including the development proposal, contains many of the characteristics outlined in the guidelines listed in § 156.065(E); and

(4) The requested modification is the least necessary to accommodate the proposed development and meet the intent of the Village Commercial Development Option; and

(5) The requested modification will not negatively impact adjacent properties or the surrounding area.

(D) *Exemptions.* Due to their modest scale, the following types of projects are not required to comply with the guidelines listed in § 156.065(E) and Town Council does not have to make a finding as outlined in § 156.065(C)(3):

(1) *Change of use.* Change of use with no site improvements resulting in an increase of five parking spaces or fewer to the minimum number of parking spaces required.

(2) *Small development projects.* Proposed development not exceeding either of the criteria listed below:

(a) New construction or expansion of structures not exceeding 1,000 square feet or 10% of the existing structures on the property, whichever is lesser; or

(b) Site development or improvements not exceeding a footprint of 1,000 square feet or 5% of the lot size, whichever is lesser.

(E) *Guidelines.* During its review, Town Council will consider the following guidelines in determining if a Village Commercial Development Option proposal is consistent with the desired function and character of the Village Commercial District.

(1) *Mixed uses.* The property contains a mixture of complementary uses with special emphasis on the provision of long-term accessory dwelling units.

(2) *Building design.* Building design is consistent with the commercial design guidelines outlined in § 156.111.

(3) *Building location.* The preferred location of buildings and related site improvements includes orientation toward the street, dual orientation for soundfront properties abutting the boardwalk, preservation of significant site features, parking to the side or rear, and minimizing impacts on adjoining residential properties.

(4) *Lot coverage.* Minimizing lot coverage can include, but is not limited to, use of semi-pervious surfaces for parking and enhanced stormwater drainage such as that outlined in the state's stormwater best management practices.

(5) *Parking areas.* Parking is minimized in the front yard and enhanced landscaping is included in the parking area design.

(6) *Pedestrian-friendly.* The building location is in close proximity and has a connection of sufficient width to the public sidewalk and/or boardwalk.

(7) *Bicycle-friendly.* The site contains convenient connections to the public bike path. Bike racks and/or public bike equipment or amenities are provided for public use.

(8) *Inter-property connections.* Provides vehicular and/or pedestrian connections between properties.

(9) *Trees/vegetation.* Preserves significant trees and vegetation. The landscaping plan exceeds required planting requirements.

(10) *Historic preservation.* Preserves historic structures or other features.

(11) *Public amenities.* Amenities offered for public use and enjoyment, including but not limited to, water fountains, benches, artworks, and rain/sun shelters. Such features can be public owned or privately owned, but permanently available to the public.

(12) *Public infrastructure.* Provides desired public infrastructure improvements meeting a public need. Public infrastructure includes facilities essential to the function of the community, including but not limited to, sidewalks, fire hydrants, stormwater improvements, and equipment.

(F) *Submission requirements.* A complete special use application for the Village Commercial Development Option must include a site plan containing the following information:

(1) Building locations, building heights, number of dwelling units, proposed uses and gross square footage of all uses;

(2) Total area of the application property;

(3) Proposed setbacks from all property lines;

(4) Proposed methods and layout of landscaping and screening;

(5) Proposed methods of ingress, egress and internal circulation;

(6) Topographic contours and conceptual grading plan;

(7) Proposed improvements to adjacent rights-of-way;

(8) Proposed layout of parking area showing individual parking spaces and landscaping;

(9) Proposed on-site pedestrian walkways and other pedestrian/bicycle accommodations;

(10) Calculations for proposed lot coverage and required parking;

(11) Proposed development schedule outlining the phases of development, if applicable;

(12) Locations of existing and proposed easements and property lines;

(13) Location and description of any structure proposed to be moved or demolished;

(14) Conceptual architectural elevations depicting the proposed architectural design, materials, and dimensions of all elevations; and

(15) Other information deemed necessary for the Town Council to understand the details and design of the proposed project.

(G) *Site plan approval.*

(1) The Town Council may impose conditions as part of the approval of any Village Commercial Development Option application as deemed necessary in the public. Surety in a form acceptable to the Town Attorney may be required to ensure compliance with conditions imposed by the Town Council.

(2) Approval of the site plan accompanying the application for the Village Commercial Development Option will also constitute approval of the proposed development as to scale, heights, setbacks, parking, required public improvements, and other development standards specifically addressed.

(3) The Director of Community Development may permit minor deviations from the footprints of structures and improvements on the approved site plan, provided that the proposed deviations are in substantial accord with the conceptual development plan, will not result in increased square footage of development, and will not result in increased height of any structure.

(4) Unless otherwise granted during the approval process, a village commercial development option designation will expire 18 months following the date of approval by the Town Council unless construction of the proposed development has commenced. The Director of Community Development may grant a single 12-month extension provided that the applicant adequately demonstrates due diligence toward initiation of the development.

(Ord. 19-04, passed 12-4-2019; Am. Ord. 21-01, passed 6-2-2021)

**§ 156.059 Electronic Gaming Operations**

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

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

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

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

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

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

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

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

(h) Signage. Establishments conducting electronic gaming operations shall prominently post the rules of the electronic gaming operations on the interior of the establishment in a manner that is clearly visible to all patrons and customers. All exterior signs for electronic gaming operations shall meet the standards outlined in § 156.130.

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