

**ARTICLE 15.**

**DEFINITIONS**

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## ARTICLE 15.

### DEFINITIONS

#### Sec. 18-811. General.

Except as specifically defined herein, all words used in this chapter shall have their customary dictionary definitions. Certain words or terms used herein are defined as follows:

- (a) Words used in the present tense include the future tense and the future tense includes the present tense. Words used in the singular number include the plural number and the plural number includes the singular number.
- (b) The words "shall" and "will" are mandatory and not discretionary.
- (c) The words "may" and "should" are permissive.
- (d) The word "lot" includes the words "plot," "parcel," or "tract."
- (e) The word "used" or "occupied" as applied to any land or building shall be construed to imply that said land or building is in actual use or occupancy and shall be construed to include the words "intended," "arranged" or "designed" to be used or occupied.
- (f) The word "map" or "zoning map" shall mean the official zoning map of the city of Wilmington, North Carolina.
- (g) The word "ordinance" or "regulation" shall mean this Chapter, including any amendment. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.
- (h) The word "street" includes the word "alley," "road," "cul-de-sac," "highway" or "thoroughfare," whether designated as public or private.
- (i) The word "includes" shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (j) And, or: Where a regulation involves two (2) or more items, conditions, provisions or events connected by the conjunction "and," "or" or "and/or," the conjunction shall be interpreted as follows:
  - (1) And indicates that all the connected items, conditions, provisions or events shall apply.
  - (2) Or indicates that the connected items, conditions, provisions or events shall apply.
  - (3) And/or indicates that the connected items, conditions, provisions or events may

apply singly or in combination as is appropriate.

## **Sec. 18-812. Definitions.**

For the purpose of this chapter, certain terms are hereby defined as follows:

*Accessory apartment, attached:* a self-contained dwelling unit incorporated within an existing structure for only one family.

*Accessory apartment, detached:* A detached accessory or subordinate building to an existing single-family dwelling, containing living facilities for only one family.

*Accessory building:* Structures which are located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

*Accessory use:* A use of land or building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

*Adaptive use or re-use:* A renovation process that adapts buildings for new uses while retaining their overall massing, scale and character.

*Addition (to an existing building):* An extension or increase in the floor area or height of a building or structure. For flood plain management regulation purposes, additions to existing buildings shall comply with the requirements for new construction, unless the addition, renovation or reconstruction is to any building that was constructed prior to the initial flood insurance study for that area, and the addition, renovation or reconstruction does not equal fifty (50) percent of the present market value of the structure. Where a fire wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

*Adult bookstore:* An establishment having as a substantial and significant portion of its stock in trade, books, magazines and other periodicals, or motion picture films which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specific anatomical areas, as defined in this Chapter, or any establishment trading in such books, magazines or other periodicals or motion picture films which limits its customers to persons over eighteen (18) years of age.

*Adult cabaret:* A commercial enterprise open to the general public without fee or by payment of a "cover charge" or "membership fee," providing personal services such as bartenders or waiters/waitresses or entertainment by paid employees, customers or unpaid participants which involve exposure completely, or less than completely or opaquely covered, of (1) human genitals, pubic region, (2) buttock, or (3) female breasts below a point immediately above the top of the

areola.

*Adult establishment:* An adult bookstore, adult motion picture theater, adult cabaret, or a massage business as defined in this Chapter.

*Adult motion picture theater:* An enclosed building used for presenting motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this Chapter, for observation by patrons therein, or an establishment used for presentation of such motion pictures which limits its customers to persons over eighteen (18) years of age.

*Agricultural land:* Agricultural land, forestland or horticultural land as defined in G.S. 105-277.2.

*Alley:* A strip of land owned publicly or privately, set aside primarily for vehicular service access to the rear or side of property otherwise fronting on a street of a higher classification.

*Alter or alteration:* Any change or modification in construction or occupancy. For purposes related to the sign regulations, alteration refers to any change or modification to an existing sign, but shall not include routine maintenance, painting or change of copy of an existing sign.

*Amusement and recreation services, indoor:* An establishment providing completely enclosed recreation activities. Accessory uses may include the preparation and serving of food or the sale of equipment related to the enclosed uses. Representative uses include arcades with coin operated amusement devices and related amusements. This definition does not include bowling alleys, pool halls or roller skating facilities.

*Animal and plant natural areas of special significance:* Any area that has been identified as a “significant natural heritage area,” or an occurrence of a special habitat or species declared by the NC Natural Heritage Program to require protection, or an Audubon identified “Important Bird Area” (IBA).

*Appeal:* A request for review of any decision which enforces or interprets this Code.

*Applicant:* An owner or developer of a site who executes the forms required for obtaining approvals on permits pursuant to this chapter.

*Archaeological resources:* Any material remains of past human life or activities which are of archaeological interest and are at least 100 years old and the physical site, location or context in which they are found.

*Architectural detail:* An architectural detail is any projection, relief, change of material, window or door opening on any building.

*Area of shallow flooding:* A designated AO zone on a community's flood insurance rate

map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

*Area of special flood hazard:* Land in the city subject to a one (1) percent or greater chance of flooding in any given year, also known as the 100-year floodplain, as determined pursuant to article 13.

*Artificial obstruction:* Any obstruction to flow of water in a stream that is not a natural obstruction, including any that, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of the stream. The term "artificial obstruction" does not include any of the following:

- (a) An electric generation, distribution, or transmission facility.
- (b) A gas pipeline or gas transmission or distribution facility, including a compressor station or related facility.
- (c) A water treatment or distribution facility, including a pump station.
- (d) A wastewater collection or treatment facility, including a lift station.
- (e) Processing equipment used in connection with a mining operation.

*Assembly hall:* A meeting place at which the public or membership groups are assembled regularly or occasionally, including but not limited to fine arts theaters, auditoriums, dance halls, and similar places of assembly. Internal offices are considered a supporting use.

*Assisted living residence:* Establishments licensed pursuant to N.C.G.S. Chapter 131D primarily engaged in the provision of residential, social, and personal care for the elderly who have some limits on their ability for self-care, but where medical care is not a major element of the services provided at the facility. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. 131E.

*Authorized registered professional:* A professional engineer, professional land surveyor, landscape architect or other professional registered, licensed or certified pursuant to the North Carolina General Statutes and authorized by law to prepare the plans and specifications and provide the certifications required by the various provisions of this Chapter.

*Automobile care center:* Three (3) or more automotive care uses planned and constructed as a single unit, where the following uses and activities associated with each would be permitted:

- (a) Auto parts and supply store;
- (b) Muffler shop;

- (c) Transmission shop;
- (d) Tune-up shop;
- (e) Lubrication shop;
- (f) Auto trim and detail shop;
- (g) Tire store with service (including alignment);
- (h) Brake shop.

Automobile care center uses do not include major mechanical and body work, straightening of body parts, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in facilities of this type. An automobile care center is not a garage for the general repair of automobiles, or a body shop, but includes automotive trim shops.

*Automotive services:* A business primarily engaged in furnishing non-repair work on automobiles, including diagnostic centers, inspection services, car washes, and detailing. Automotive service uses do not include major mechanical and body work, straightening of body parts, painting or undercoating, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normal found in facilities of this type.

*Automobile repair shop:* A business primarily engaged in major automobile mechanical and body work, straightening of body parts, painting and undercoating, and other general repair such as fuel service or exhaust system repair.

*Awning:* A separate rigid or flexible structure stretched over a frame which projects from the wall of a building, and of a type which may be retracted, folded, or collapsed against the adjacent building wall. Awning materials include canvas, canvas-like synthetic materials, and metal materials.

*Banking:* Financial institutions including banks, credit agencies other than banks, and savings and loan associations.

*Base flood:* The flood having a one (1) percent chance of being equaled or exceeded in any given year, also known as the 100-year flood.

*Base flood elevation:* A determination as published in the flood insurance study of the water surface elevations of the base flood. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.

*Basement:* That lowest level or story which has its floor subgraded on all sides.

*Bed and breakfast:* A type of, but a use separate from, that of home occupations. Bed and breakfasts are a form of guest lodging in which bedrooms are rented and breakfast is served. The term is intended to describe the offerings of temporary lodging in a private home having architectural and historic interest, rather than the provision of food service or the offering of facilities for long-term occupancy. The only functions permitted are the renting of guest rooms and serving of breakfasts.

*Bikeway:* A new right-of-way or portion of an existing right-of-way restricted for the exclusive use by bicycles, with the exception of areas designated for motorized vehicles and pedestrian cross-flow.

*Block:* A parcel of land which is bounded by streets, highways and/or railroad rights-of-way, parks or open space, undeveloped land, watercourses or bodies of water, channels or a combination thereof.

*BMP or Structural BMP:* A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Structural BMP includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Structural BMP" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this ordinance.

*Breakaway wall:* A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system and has a design-safe loading resistance of not less than ten (10) and not more than twenty (20) pounds per square foot or more than twenty (20) pounds per square foot and is certified by a licensed architect or registered professional engineer.

*Building:* See structure.

*Building base:* The lower levels of a building that do not collectively exceed four (4) stories or fifty (50) feet, whichever is less, and are distinguished architecturally from the upper floors of the building.

*Building inspector:* The New Hanover County Inspections Director or designee.

*Building line:* The line, established by law, beyond which a building shall not extend, except as specifically provided by law.

*Bulk storage and handling facilities:* Warehouses, domes, silos, tanks, loadout towers, loading docks and other structures required for the storage and conveyance of bulk products.

*Business services:* Establishments or places of business engaged in the sale, rental, or repair of office equipment, supplies, and materials, or the provision of services used by office, professional, and service establishments. Typical uses include office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, as well as temporary labor services.

*Caliper:* A measurement of the diameter of a tree trunk. Such measurement shall be taken according to the following standards:

- (a) New nursery (to be installed) and non-regulated (existing on-site) trees--Trees up to and including four (4) inches in diameter shall be measured six (6) inches above ground level. For trees above four (4) inches in diameter, the caliper measurement shall be taken twelve (12) inches above ground level.
- (b) Regulated (on-site) trees--The caliper of regulated trees shall be measured four and one-half (4 1/2) feet above ground level.

*CAMA: (Coastal Area Management Act)* refers to the North Carolina State Law that was first enacted in 1974 and any of its subsequent amendments.

*Canopy:* A permanent attached roof structure projecting from and supported by a building, when such covered structure extends beyond the building, building line or property line. For the purpose of these regulations, a canopy shall be considered an extension of the wall to which it is attached. The term canopy shall include bank teller canopy and service station island canopy.

*Certificate of Appropriateness:* A permit issued by the Historic Preservation Commission, and signed by the chairman and secretary of the commission stating that the exterior architectural or visual features of a structure and improved landscape or natural features are consistent with the historic character or characteristics of a Historic District or a Historic District-Overlay in which the structure, improved landscape or natural feature is proposed to be altered, restored, reconstructed, constructed, moved or demolished or otherwise changed. In the application and review process for a certificate of appropriateness, the following definitions shall apply:

- (a) *Drawings:* Elevation renderings of any proposed new construction, reconstruction, alteration or restoration to any existing structure, improved landscape and/or natural feature. Elevation renderings shall depict proportions, width and dimensions as a harmonious part of a whole.
- (b) *Plot plan:* A graphic rendering of affected property showing location and interrelationship between structures, rights-of-way and property lines.

*Character:* Any letter of the alphabet or any numeral.

*Chemical storage facility:* A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

*City Attorney:* The City Attorney or any Assistant City Attorney for the City of Wilmington.

*City Manager:* The City Manager of the City of Wilmington or the City Manager's designee.

*Clearcutting:* large scale, indiscriminate removal of trees, shrubs, and undergrowth with the intention of preparing real property for non-agricultural purposes.

*Clearing:* Any activity which removes vegetative ground cover.

*Coastal barrier resources system:* Undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act of 1990, and any subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as otherwise protected areas.

*Coastal high hazard area:* A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources, as designated on a flood insurance rate map.

*Code enforcement officer:* The city appointed official responsible for the enforcement of certain City codes to ensure compliance with the provisions of this code and any other assigned codes or local laws.

*Commercial parking lot:* A parcel of land or portion thereof which is used as a commercial enterprise for the parking or storage of motor vehicles, which is not accessory to any other use on the same lot, and which contains parking space rented to the general public or reserved for individuals by the hour, day, week, or month. This definition shall not include storage of vehicles awaiting repair, pending insurance or legal action, awaiting demolition, or vehicles stored for stripping parts.

*Commercial vehicle:* A vehicle owned or used by a business, corporation, association, partnership, or the sole proprietorship of any entity conducting business for a commercial purpose.

*Common open space:* A parcel or parcels of land or an area of water or a combination of both land and water within the boundaries of a development, which is designated and intended for the leisure and recreational use of the residents of the development, not including streets or off-street parking areas. Common open space shall be substantially free of structures, but may contain such improvements as are in the plan as finally approved and are appropriate for the benefit of residents of the development.

*Communication facility:* Includes cellular antennas, wireless communication towers, radio and TV stations, cellular phone facilities, and associated equipment.

*Community boating facility:* A private nonprofit boating facility including a dock, pier, and/or launching ramp on property which has water frontage, the use of which is intended to serve five (5) or more residential lots or units. The right to use such facility must be conferred by an easement appurtenant to the residential lot it is intended to serve. No commercial activities of any kind, including commercial letting of slips to parties who are not residents of the waterfront subdivision, shall be allowed within the confines of the facility.

*Community center:* A facility operated by a nonprofit organization that provides educational recreational, or community services to the surrounding communities or the city at large. Examples of such facilities include the YMCA, YWCA, Northside Resource Center, and Boys and Girls Clubs.

*Concealed, stealth or camouflaged communication tower:* A concealed, stealth or camouflaged communication tower is a tower designed to blend in with its surroundings including, but not limited to, antennae located in a structure such as within a church steeple, bell tower or attached to a water tower; or a unipole or “slick-stick” with the antennas and attachments hidden within a single pole. Monopoles designed to resemble a tree or flag pole will not be considered a stealth communication tower.

*Construction trailer:* A temporary accommodation for offices and building material storage on a construction site. Construction trailers shall not include dumpsters, portable storage containers, or shipping containers.

*Consulting services:* Services provided by a professional for a fee, which may include limited accessory retail uses, including but not limited to interior designers, architects, engineers, and individual music, art, fitness, or dance instruction.

*Contiguous property:* All parcels or tracts of land under single ownership which continuously abut or adjoin each other.

*Contractor, general or special trade:* A room or group of rooms used for conducting business affairs for a business engaged in building trades or building craft that does not use any exterior storage area.

*Contractor's storage yard:* Any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

*Convenience food store:* A structure in which food stuffs, beverages, pharmaceuticals, small household supplies and small personal items are retailed. Commonly a neighborhood grocery-type of store selling personal goods and wares that typically can be hand-carried from the premises by the buyer.

*Conversions:* A conversion is the change of a building from one (1) district use or occupancy to another district use or occupancy, including conversion is the modification of an

existing residential structure to increase its density by one (1) or more housing units.

*Corner lot:* A lot abutting upon two (2) or more streets at their intersection.

*Coverage:* An area determined in square footage.

*Cultural arts center:* Any institution, organization, foundation, or establishment that provides services for the display, performance or enjoyment of heritage, history, or the arts. These uses may include, but are not limited to, museums, art galleries, performance art venues, and interpretive sites.

*Curb:* A structural element at the edge of an existing or proposed street or other way, generally at a higher elevation than the adjacent edge of roadway, installed to deter vehicles and water from leaving the roadway, to otherwise control drainage, to delineate the edge of existing or future roadways or driveways, to present a more finished appearance to the street, to assist in the orderly development of the roadside and to contribute to the stability and structural integrity of the pavement.

*Day care, adult:* An establishment licensed pursuant to G.S. Chapter 131D, Article 1, and engaged in the provision of group care and supervision of adults in a place other than their permanent residence that does not include overnight accommodations. Adult day care center does not include group day facility.

*Day care, child:* A facility licensed pursuant to N.C.G.S. Chapter 110, Article 7 that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit for three (3) or more preschool-age children or nine (9) or more school-age children.

*Design Storms:*

*One (1)-year, twenty-four (24)-hour storm:* The surface runoff resulting from a twenty-four (24)-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in twelve (12) months and with a duration of twenty-four (24) hours.

*Two (2)-year frequency storm:* A storm of an intensity expected to occur on the average, once in two (2) years, and of a duration equal to the time of concentration for the watershed of interest.

*Ten (10)-year frequency storm:* The storm of an intensity expected to occur on the average, once in ten (10) years, and of a duration equal to the time of concentration for the watershed of interest.

*Twenty-five (25)-year frequency storm:* The storm of an intensity expected to occur on the average, once in twenty-five (25) years, and of a duration equal to the time of concentration for the watershed of interest.

*Developer:* A person undertaking any or all of the activities of a development as defined

by this chapter.

*Development:* The division of a parcel of land into two (2) or more parcels; the construction, reconstruction conversion, structural alteration, relocation or enlargement of any structure; any mining, drilling, excavation, clearing of roadways or building sites, landfill or land disturbance and any use or extension of the use of land. This definition excludes normal earth working associated with crop farming or landscaping of an individual single-family residential lot. The term "development" includes all of the activities listed in the definition of "development" in 15A NCAC 2H.1002, which definition is hereby incorporated by this reference, and any of the following activities: a) Change in use. b) Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil of a site. c) Building, installing, enlarging, replacing or substantially restoring a structure (including footing and slab), impervious surface, or central water system and including the long-term storage of materials. d) Erection of a permanent sign. e) Any activity increasing the need for parking. f) Construction, elimination or alteration of a driveway onto a public street.

*Development, major:* Development consisting of:

- (a) Any structure or combination of structures on a tract of two (2) acres or more, or
- (b) Structures, including multi-family, having a total gross aggregate floor area of ten thousand (10,000) square feet. This definition shall not apply to detached single and two-family housing units and uses customarily accessory thereto.

*Development, minor:* Development consisting of a structure or combination of structures constructed on tracts less than two (2) acres in size and having a total gross aggregate floor area between five hundred (500) square feet and ten thousand (10,000) square feet.

*Diameter at breast height (DBH):* A measurement of the diameter of a tree trunk taken four-and-one-half (4 ½) feet above the ground level.

*Dish antenna:* Any accessory structure which shall be one (1), or any combination of the following:

- (a) Antenna or dish antenna whose purpose is to receive communications of other signals from orbiting satellites and/or other extraterrestrial sources;
- (b) A low noise amplifier which is situated at the focal point of the receiving component and whose purpose is to magnify or transfer signals.

*Domesticated animal:* An animal of a species customarily bred and raised to live in the habitat of humans and dependent upon them for food and shelter, except that livestock shall not be deemed domesticated animals.

*Dormitory, private:* A type of residential accommodation which is characterized by a direct or indirect association with a particular educational, religious or corporate institution and by

full-time, on-premises management. Dormitories may contain restroom and cooking facilities within the individual units of accommodation (apartment format) and/or within common areas outside the individual units of accommodation (boarding house format). A unit of accommodation may therefore be an apartment or a suite containing up to six (6) separate sleeping quarters (apartment format), or it may be each separate sleeping quarters (boarding house format). A private dormitory is not a housing unit, in that it permits the sharing of an individual residential structure or unit by more than three (3) persons unrelated by blood or marriage.

*Double frontage lot:* A continuous (through) lot accessible from both streets upon which it fronts. Corner lots fronting on three (3) streets are included.

*Drive-up window or facility:* A device designed to permit access to services by persons from automobiles.

*Driveway, private:* The area outside a street intended to serve as ingress and/or egress for vehicular traffic between the street property line and an off-street parking area outside the street. Street connections in new subdivisions shall be included in determining the allowable number of driveways.

*Driveway, public:* The area between the roadbed of a public street and other property, designed for, or installed, serving as ingress and/or egress for vehicular traffic between such roadbeds or traveled portion of the street and an off-street parking area or private driveway. Street connections in new subdivisions shall be included in determining the allowable number of driveways.

*Elderly household:* A household in which the persons residing therein are at least sixty-two (62) years of age.

*Electronic gaming establishment.* All businesses, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the distribution is determined by games played or are predetermined. This term includes, but is not limited to internet cafes, internet sweepstakes, video sweepstakes or cybercafés. This does not include any lottery approved by the State of North Carolina or any game or process prohibited by North Carolina General Statutes Sections 14-304 through 14-309.

*Elevated building:* A non-basement building which has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

*Encroachment:* For floodplain management purposes the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

*Erosion and sediment control measures:* A system of structural and vegetative measures that minimize soil erosion and off-site sedimentation. The term, where appropriate, shall include

stormwater management measures.

*Erosion:* The process by which the ground surface is worn by the action of wind, water, ice or gravity.

*Essential site improvements:* Any construction or reconstruction of the site development features required by any local, state or federal regulations, ordinances or laws, such as underground drainage, off-street parking (not to exceed the midpoint between the minimum and maximum parking standards), driveways, retention areas or similar improvements required for the intended use of the site, which cannot be accommodated on the site without removal of the protected trees.

*Excavation:* Any act, or the conditions resulting there from, by which soil, earth, sand, gravel, rock or similar material is cut into, dug, quarried, uncovered, removed, displaced or relocated.

*Existing manufactured home park or manufactured home subdivision:* A manufactured home park or manufactured home subdivision, as defined herein, for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, final site grading or the pouring of concrete pads, and the construction of streets) has been completed before the effective date of this chapter.

*Expansion of site:* The addition of new building(s), structures, parking lot(s), or any other new impervious surface to a site. Construction of any new impervious surface on an area previously impervious which does not meet the definition of redevelopment as defined in this section shall be considered as expansion.

*Expansion to an existing manufactured home park or subdivision:* The preparation of the additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

*Exterior architectural feature:* The architectural style, general design and general arrangements of the exterior of a building or other structures including the kind, texture and color of the building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features.

*Facade:* The face or faces of a building oriented in a common direction, or within a forty-five (45) degree angle of the same direction, including wall, roof and parapet faces.

*Facility:* Shall mean a stormwater management facility, and shall include all land, materials, and appurtenances used in construction and operation of said facility. Facilities include, but are not necessarily limited to, retention ponds, detention ponds, open and closed systems, etc.

*Family:* One (1) or more persons related by blood, adoption or marriage, living and cooking together as a single housekeeping unit in a dwelling unit. For purposes of this Chapter a

number of persons not exceeding two (2) separate from and in addition to the persons related by blood, adoption or marriage, may live and cook together as a single housekeeping unit in a dwelling unit although they are not all related by blood, adoption or marriage and shall be deemed to constitute a family.

*Family care home:* A home licensed pursuant to G.S. Chapter 131D, Article 1, or G.S. Chapter 122C, Article 2, with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) permanent resident disabled or elderly persons. If exempted or excluded from state licensure under these state statutes, then not a family care home except for adult care homes licensed under G.S. Chapter 131D, Article 1 and excluded from licensure under G.S. Chapter 122C, Article 2.

*Family child care home:* A home or facility, licensed pursuant to G.S. Chapter 110, Article 7, wherein at least two (2) but not more than eight (8) children less than thirteen (13) years of age receive care away from their own home by persons other than their own parents, legal guardians, or relatives within the fourth degree of kinship, on a regular basis more than once per week for more than four (4) hours per day. The facility must operate twelve (12) hours per day or less. All children other than the children of the operator must be counted. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment are not included, provided there is no paid staff. Family child care homes shall be considered a home occupation. The operator of the home must reside on the premises. The home must meet applicable requirements of the North Carolina State Building Code. Family child care homes are permitted by right in all residential districts.

*Farmers market:* An establishment primarily engaged in the retail sale of solely fresh fruits and fresh vegetables. Such uses are typically found in public or municipal markets.

*Federal Emergency Management Agency (FEMA):* The federal agency by that name.

*Fenestration:* The arrangement, proportioning, and design of openings, mainly windows and doors, on a building facade.

*Fill:* Any act, or the conditions resulting therefrom, by which soil, earth, sand, gravel, rock or any similar material is deposited, placed, pushed, pulled or transported.

*Flood:* A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.

*Flood boundary and floodway map:* The official map issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map.

*Flood hazard area:* The area designated by the City as an area where development must be regulated to prevent damage from flooding. The flood hazard area must include and may exceed

the base flood plain.

*Flood hazard boundary map (FHBM):* An official map of the City, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as zone A.

*Flood insurance:* The insurance coverage provided under the National Flood Insurance Program.

*Flood insurance rate map (FIRM):* An official map of the city on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

*Flood insurance study:* An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations, flood insurance risk zones, and other flood data issued by the Federal Emergency Management Agency. The flood insurance study report includes flood insurance rate maps and flood boundary and floodway maps.

*Floodplain development permit:* Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

*Floodplain management violation:* Failure of a structure or other development to be fully compliant with the city's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 18-646 and section 18-659 of this chapter is presumed to be in violation until such time as that documentation is provided.

*Flood plain manager:* The city officer designated by the City Manager to be responsible for administering and implementing the Flood Plain Management Regulations.

*Flood plain or flood prone area:* Any land susceptible to being inundated by water from any source.

*Flood plain:* Any land susceptible to being inundated by water from any source.

*Floodproofing:* Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

*Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

*Flood zone:* A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

*Floor:* Any top surface of an enclosed area in a building, including basement, such as the top of a slab in concrete slab construction or the top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

*Forested area(s):* A forest is defined as any area on a site with greater than or equal to one hundred (100) trees per acre.

*Foundation plantings:* Required planted area between the curb line of a parking facility or drive isle and the building's facade.

*Fraternity or sorority house:* A building occupied by and maintained exclusively for college or university students who are affiliated with a social, honorary or professional organization which is so recognized by the college or other institution of higher education.

*Freeboard:* For floodplain management purposes the height added to the base flood elevation to account for watershed development as well as limitations of the engineering methodologies for the determination of flood elevations. The freeboard plus the base flood elevation establishes the regulatory flood protection elevation.

*Fuel pump island:* Any device or group of devices used for dispensing motor fuel or similar petroleum products to the general public.

*Functionally dependent facility:* A facility which cannot be used for its intended purpose unless it is in close proximity to water, such as a docking or port facility necessary for the loading or unloading of cargo or passengers, ship building, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

*Future conditions flood:* The flood having one (1) percent chance of being equaled or exceeded in any given year based on future conditions hydrology.

*Future conditions flood elevation:* A determination of the water surface elevations of the one (1) percent annual chance flood based on future conditions hydrology as published in the Flood Insurance Study. This elevation, when combined with the freeboard, establishes the “regulatory flood protection elevation” in future conditions flood hazard areas.

*Future conditions flood hazard area:* the land area that would be inundated by the one percent (1%) annual chance flood based on future conditions hydrology as determined in Article 13 of this ordinance.

*Future conditions hydrology:* the flood discharges associated with projected land-use conditions based on the City of Wilmington’s officially adopted zoning ordinance and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway such as bridge and culvert construction, fill, and excavation. Future conditions flood discharges are published in the Flood Insurance Study.

*Garage, private:* A building or space used as an accessory to or a part of a principal building permitted in any residential district, and providing for the storage of motor vehicles and in which no business, occupation or service for profit is conducted.

*Garage, public:* Any building or premises, except those described as a private garage, used for the storage or care of motor vehicles, or where any such vehicles are equipped for operation, repaired or kept for hire or sale.

*Government uses outside of public rights-of-way, excluding offices:* Fire stations, police stations and similar facilities.

*Grading:* Any act causing disturbance of the earth. This shall include but not be limited to any excavating, filling, stockpiling of earth materials, grubbing, root mat or topsoil disturbance, or any combination of such.

*Gross vehicle weight rating (GVWR):* The maximum allowable weight of a fully loaded vehicle, as determined by the vehicle's manufacturer.

*Group day facility:* Establishments primarily engaged in the provision of care, shelter, or supervision of persons that does not include overnight accommodations. A group day facility is only permitted in a residential district as an accessory use to a religious institution and excludes child day care, family child care home and adult day care.

*Group home residential:* Establishments primarily engaged in the provision of care or supervision of persons that includes overnight accommodations. This definition does not include: dormitories; fraternity and sorority houses; associations or organizations, civic, social and fraternal; hospitals; motels and hotels; nursing homes; schools; guest lodging; group home supportive small; group home supportive medium; group home supportive large; and any other similar uses that provide overnight accommodations.

*Group home supportive large:* A dwelling unit in which up to twelve (12) special needs persons as defined in this section reside except that if a resident supervisor is provided, then the number of special needs persons permitted to reside therein is reduced by the number of resident supervisors residing therein.

*Group home supportive, medium:* A dwelling unit in which up to eight (8) special needs persons as defined in this section reside except that if a resident supervisor is provided, then the number of special needs persons permitted to reside therein is reduced by the number of resident supervisors residing therein.

*Group home supportive, small:* A dwelling unit in which up to three (3) special needs persons as defined in this section reside with a family.

*Guest lodging:* A premises in which rooms are rented, with or without board, on a fee basis to permanent or transient guests; provided all accessory services, such as dining rooms, shall be available to such guests only and not open to the general public.

*Handicapped persons:* A person with a temporary or permanent physical, emotional or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and light impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. 122-58.2(1)b.

*Hardscaped areas:* Areas paved with or constructed with high-traffic-tolerant paver units, including but not limited to brick, decorative concrete, or stone such as slate or granite.

*Hazardous waste management facility:* A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

*Height of building:* The vertical distance measured from the average undisturbed grade at the foundation to the highest finished roof surface in the case of a flat roof, or in the case of a pitched roof, to a point halfway between the highest peak and the highest eave.

*Highest adjacent grade:* The highest natural unaltered elevation of ground surface next to the proposed walls of the structure before construction begins.

*Historic area:* That area as designated by the City of Wilmington and which is delineated upon a map adopted in September, 1975 by the City Council and on file at the City of Wilmington Planning Department.

*Historic landmark:* A property which is deemed and found by the historic preservation commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association, and which has been designated in compliance with G.S. 160A-400.6.

*Historic mixed use building:* a building that was constructed for nonresidential or mixed use purposes and be fifty (50) years old or older and considered eligible for National Register of Historic Places listing, or a building that was constructed for nonresidential or mixed use purposes and is located within the boundaries of the National Register District and considered a contributing resource (see Sec. 18-278).

*Historic structure:* Any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

or

- (c) individually listed on a state inventory of historic places; or
- (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of the Interior.

*Home occupation:* An occupation for gain or support customarily conducted on the premises by a person or family occupying the premises for use as a principal residence.

*Homeowners' association:* An incorporated, nonprofit organization established by a developer or an association of property owners whose membership shall consist of individual property owners within a subdivision and operating under recorded legal agreements.

*Hotel/Motel:* A building providing sleeping accommodations commonly available on a daily basis for pay to transient or permanent guests or tenants, in six (6) or more rooms. Dining rooms, restaurants or cafes, if existing, shall be conducted in the same building or buildings in connection therewith. For parking table purposes only, the following uses have been grouped according to their residential parking requirements; residential hotels, bed & breakfast. These uses will continue their respective classifications as prescribed within the zoning district regulations.

*Housing types:*

- (a) *Single-family detached:* A structure other than a mobile home containing one (1) housing unit only.
- (b) *Multiple-family:* A structure containing five (5) or more housing units, none of which are available for rental periods of less than one (1) month.
- (c) *Duplex:* A structure containing two (2) housing units only.
- (d) *Triplex:* A structure containing three (3) housing units only.
- (e) *Quadraplex:* A structure containing four (4) housing units only.
- (f) *Zero lot line housing unit:* A single family detached housing unit placed on a lot such that a windowless wall is placed on one (1) side property line and the footage required for two (2) side yards is placed on the other side property line as the total side yard requirement for the lot.
- (g) *Low income/elderly:* Housing provided solely for the residential use of one (1) or both of the following group of persons.
  - (1) *Low income families:* Families (as defined herein) whose income is below eighty (80) percent of the Wilmington area median family income as

determined by the U.S. Department of Housing and Urban Development.

(2) *Elderly persons:* Persons who are sixty-two (62) years of age or older.

*Housing unit (dwelling unit):* One (1) or more rooms together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly or longer basis, and physically separated from any other housing unit which may be in the same structure, and containing independent cooking and sleeping facilities for not more than one (1) family.

*Impervious:* Any surface which in whole or in part, restricts or prevents the natural absorption of water into the ground. Impervious surface areas shall include but are not limited to concrete, asphalt, compacted crushed stone and gravel surfaces or other paving material, unless specifically engineered to allow penetration of water through the paved medium and infiltrate into the ground, and all areas covered by the footprint of buildings or structures including roofs, unslatted decks, driveways, patios, retaining walls, sidewalks, parking areas, tennis courts, streets. Impervious does not include a wooden slatted deck, the water area of a swimming pool, 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.

*Imperviousness:* The degree to which a site is impervious.

*Improved landscape:* Gardens, parks, parking lots or any other proposed outside improvements including any planned vegetation, public street furniture, masonry walls, fences, light fixtures, steps and pavements or other appurtenant features.

*Industrial:* For parking table purposes only, the following uses have been grouped according to their parking requirements; airport services; chimney and furnace cleaning; coal transfer facilities; contractors; exterminating services; commercial fishing; fuel and ice dealers; garbage collection; gas companies; janitor services; junkyard-scrap processing; locksmith; manufacturing; printing, commercial except screen printing on glass, plastic, metal and engraving and plate printing, railroad facilities, sanitation services. These uses will continue their respective classifications as prescribed within the zoning district regulations.

*Junk yard:* An establishment for storing, keeping, buying or selling of junk. "Junk" shall be defined as old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber or discarded, dismantled or wrecked automobiles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.

*kennel, commercial boarders and breeders:* A facility established to house, board on a long or short term basis, breed, handle, train, or otherwise keep or care for domesticated animals belonging to the owner or occupant of the property, customers, patrons, or others, or lost or strayed animals, for compensation or as a humanitarian gesture.

*kennel, private:* A facility where five (5) or more domesticated animals over four (4)

months of age are maintained by the owner or occupant of the property for the owner's personal enjoyment, hobby or sport, whether or not for compensation.

*Land disturbing activity:* Any earth movement and land use changes which may result in soil erosion or the movement of sediments into waters or onto other lands, including, but not limited to, tilling, clearing, grading, excavating, stripping, filling and related activities, and the covering of land surfaces with any structure or impermeable material.

*Large-scale retail developments:* Retail developments containing forty thousand (40,000) square feet or greater gross floor area. Large scale retail includes single occupant developments and multi-occupant developments constructed as a single building on one (1) or more parcels. These regulations are applicable to new development and shall not apply to redevelopment, expansions of existing developments or developments in the Central Business or Historic Districts.

*Larger common plan of development or sale:* Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

*Levee:* A man-made structure; usually an earthen embankment designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

*Loading space, off-street:* Space for bulk pickups and deliveries, scaled to delivery vehicles and accessible to such vehicles at all times even when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

*Loadout tower:* The structure, hoppers, scales, equipment, and appurtenances used to provide legal weighing and conveyance of bulk products into railcars or trucks.

*Logo:* A business symbol or trademark.

*Lot:* A lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, except alleys, and may consist of:

- (a) A single lot of record;
- (b) A portion of a lot of record;
- (c) A combination of: complete lots of record; complete lots of record and portions of lots of record; or portions of lots of record;

- (d) A parcel of land described by metes and bounds;

provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Chapter.

*Lot coverage:* That portion of a lot occupied by a structure, either at ground level or the equivalent thereto when a structure is elevated on pilings.

*Lot depth:* The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

*Lot frontage:* That portion of a lot abutting a street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "yards" in this section. No lot shall front on an alley. Properties within the 1945 Corporate Limits that do not contain access on a street of a higher classification that front on a city accepted, named alley shall be deemed to have frontage. Such alleys function as local streets, have several lots fronting the alley, and are generally through streets. Examples include Polvogt, Macumber, and Love Alleys.

*Lot line:* A line dividing one (1) lot from another, or from a street or other public space.

*Lot of record:* A lot which is a part of a subdivision recorded in the office of the New Hanover County register of deeds, or a lot or parcel described by metes and bounds, the description of which has been recorded in the office of the New Hanover County register of deeds.

*Lot types:*

- (a) *Corner lot:* A lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.
- (b) *Interior lot:* A lot other than a corner lot with only one (1) frontage on a street.
- (c) *Through lot:* A lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

*Lot width:* The distance between the side lot lines as measured at the rear of the required front yard, except for lots on the turning circle of cul-de-sacs which shall be at least eighty (80) percent of the required lot width and maintain an average lot width between the front and rear property lines of at least the minimum lot width for the zoning district in which the lots are located. The width between side lot lines at the foremost points (where they intersect with the street line) shall be at least eighty (80) percent of the required lot width, except on lots on the turning circle of cul-de-sacs.

*Lowest adjacent grade:* means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building. For floodplain management Zones A and AO the natural grade elevation prior to construction is used.

*Lowest floor:* The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure useable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the Flood Plain Management Regulations.

*Maintenance:* The cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

*Manual:* The City of Wilmington Technical Standards and Specifications Manual.

*Manufactured housing and travel trailer park:* Any site or tract of land of single ownership, upon which either manufactured housing or travel trailer spaces are provided in accordance with the requirements set forth in the Mobile Home and Travel Trailer Park Ordinance of New Hanover County to the extent said requirements are not in conflict with any provisions or requirements of the City Code.

*Manufactured housing, doublewide:* Manufactured housing built and transported on two (2) or more separate chassis, designed to be joined into one (1) integral unit that measures at least twenty-four (24) feet by forty (40) feet; has a gabled roof; is permanently affixed to a continuous permanent masonry foundation unpierced except for required ventilation and access; has all its wheels, axles, transportation lights and towing apparatus removed.

*Manufactured housing or home:* A movable or portable dwelling over thirty-two (32) feet in length and over eight (8) feet wide, constructed to be towed on its own chassis and designed to be used with or without a permanent foundation for year-round occupancy, which includes one (1) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or of two (2) or more units separately towable but designed to be joined into one (1) integral unit, and not complying with the North Carolina State Uniform Residential Building Code. The term "manufactured housing or home" does not include a "travel trailer" as defined herein.

*Marinas:* Any publicly or privately owned dock, basin, or wet storage facility constructed to accommodate more than ten (10) boats and providing any of the following services: permanent or transient docking spaces, dry storage fueling facilities, haul out facilities, or repair services. Excluded from this definition are boat ramp facilities allowing access only, temporary docking that includes none of the previous listed services, and community boating facilities with ten (10) or fewer slips.

*Massage business:* Any business licensed under Article IV of Chapter 4 of the City Code.

*Mean sea level:* The average height of the sea for all stages of the tide; mean sea level is a

reference for establishing various elevations within the flood plain and is synonymous with National Geodetic Vertical Datum (NGVD). For purposes of the National Flood Insurance Program, the NGVD used as a reference for establishing varying elevations within the floodplain, to which base flood elevations shown on a flood insurance rate map are referenced.

*Meeting and events center:* A facility in which space and ancillary services, which may include food services, are furnished to groups holding functions including, but not limited to, meetings, weddings, and receptions. Food may be prepared on site, but food service shall not be provided to members of the general public who are not members of a group holding a function at which the food service is provided.

*Mixed use buildings:* Buildings that combine residential uses and limited nonresidential uses in the same structure.

*More intensive use:* A use that will have a greater impact on the surrounding area than the previous use, including activities which generate more traffic, require more employees or service deliveries, or utilize more square footage than the previous use existing on the site.

*Motel:* See hotel.

*National Geodetic Vertical Datum (NGVD):* As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plains.

*National Register Historic District:* The area shown on that map of the National Register Historic District adopted by the City Council on September 9, 1975, and as amended from time to time. A copy of such map is on file with the City Clerk.

*Natural feature:* Any outside landscape feature on the site such as trees, shrubs, or rock formations.

*Natural ground surface:* The ground surface in its original state before any land disturbing activity.

*Natural obstruction:* Any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located in an area of special flood hazard by a nonhuman cause.

*Natural or naturalized pond:* Any pond, whether formed by natural forces or anthropogenic that has been declared by a federal or state agency to be jurisdictional waters or waters of the state.

*New construction:* Any single family subdivision including houses constructed in such subdivision prior to the recording of a final subdivision plat, multifamily or nonresidential structure, parking lot or motor vehicle or manufactured housing sales lot for which a building permit or construction permit is issued or upon which construction actually begins on or after the effective date of this chapter. For flood plain management regulations purposes, new construction means structures for which the "start of construction" commenced on or after the effective date of

such regulations.

*New manufactured home park or subdivision:* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after the effective date of this chapter.

*Nightclub:* An establishment primarily engaged in the sale of alcoholic beverages for consumption on the premises including bars, pubs, or taverns, which does not qualify as a restaurant or eating establishment pursuant to G.S. Chapter 18B.

*Nonconforming building or structure (dimensional nonconformity):* A nonconforming situation that occurs when the height, size, or minimum floor space of a building or the relationship between an existing building and the required yard setback does not conform to the regulations applicable to the district in which the property is located.

*Nonconforming lot:* A lot existing on the effective date of this Chapter or any amendment hereto that cannot meet the minimum area or lot width requirements of the district in which the lot is located.

*Nonconforming project:* Any structure, development or undertaking that is incomplete on the effective date of this Chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

*Nonconforming situation:* A situation that occurs when, on the effective date of this Chapter or any amendment hereto, an existing lot or structure, or lawful use of an existing lot or structure does not conform to one (1) or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because a structure does not satisfy maximum height or minimum floor-space limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this Chapter, or because land or buildings are used for purposes made unlawful by this Chapter or any amendment hereto.

*Nonconforming use:* Any building or land lawfully occupied by a use on the effective date of this Chapter or amendment hereto which does not conform after the passage of this Chapter or amendment with the use requirements of the district in which it is situated. (For example, a commercial retail use in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residential zoned area is a nonconforming use.)

*Non-encroachment area:* For floodplain management purposes the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the flood insurance study report.

*Normal high water (NHW):* The ordinary extent of high tide based on site conditions such as presence and location of vegetation, which has its distribution influenced by tidal action, and the location of the apparent high tide line.

*Nursing home:* Establishments licensed pursuant to N.C.G.S. Chapter 131E, Article 6 primarily engaged in providing some nursing and health related personal care, but not continuous nursing services. A nursing home provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. These establishments have at least one (1) shift with a licensed or registered nurse to provide routine health care and observation. Included are rest homes, convalescent homes, and other institutions where health care is a major element.

*Office, medical:* A building used exclusively by physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises. For zoning district and the parking table purposes, the following uses have been grouped according to parking requirements: chiropractors; dentists and dental laboratories; optometrists and ophthalmologists; physicians and surgeons; psychiatrists and psychologists; health services including doctors' offices, clinics and supportive laboratories.

*Office, professional:* Professional, business or government offices including: accounting, auditing and bookkeeping services; advertising agencies; architectural, engineering, planning, and surveying services; attorneys; counseling services; court reporting services; data processing and computer services; detective agencies, insurance agencies, title insurance companies, real estate offices, [commercial] post offices, but not including bulk mailing distribution centers and similar services; educational, scientific, and research organizations; employment, stenographic, secretarial, and word processing services; government offices including agency and administrative office facilities; management, public relations, and consulting services. Does not include medical offices or offices that are incidental and accessory to another business or sales activity that is the principal use. Incidental offices that are customarily accessory to another use are allowed as part of an approved principal use.

*Official maps or plans:* Any map, plans or policies officially adopted by the City Council of the City of Wilmington.

*Off-site facility:* With respect to any particular property, shall mean a stormwater management facility serving said property but not located on said property.

*On-site facility:* With respect to any particular property, shall mean a stormwater management facility serving the subject property and located thereon.

*Overhead canopy:* Any structures placed over, around or near a fuel pump island or drive-up bank teller facility and intended to provide lighting and/or protection from the elements for fuel pump island or drive-up bank teller facility users.

*Owner:* Any owner of a legal or equitable interest in real property and the legal representatives of such owner. Owner shall include a person holding a valid and recorded option to purchase real property with respect to which he seeks to establish a vested right under this chapter.

*Parapet:* That portion of a building wall that extends above the roof line.

*Parking facility:* Any area, open or enclosed, structural or natural, for the storage of a vehicle or vehicles. All components of a parking area are included in this definition, including drive isles, parking spaces and landscaping islands. A parking lot is a sub-classification of a parking facility and is defined as follows:

*Parking lot:* An open area, outside of the public right-of-way, for the storage of a vehicle or vehicles. The term "parking area" shall be included in this definition.

*Parking space, off-street:* An area meeting the city of Wilmington Technical Standards for size, access, and maneuverability and designed to accommodate the temporary parking of a vehicle.

*Perimeter landscape strip:* A planted strip of land having a minimum width of ten (10) feet adjacent to and encircling a parking facility.

*Permit:* Either a stormwater discharge, building, sign, erosion and sedimentation control, or subdivision development construction or other development permit, as may be appropriate within the context of the specific provision of this Chapter.

*Permittee:* Any person to whom a permit is issued pursuant to this chapter.

*Person:* Any individual, corporation, limited liability company, partnership, joint venture, agency, unincorporated association, municipal corporation, county, state, or federal agency or any combination thereof.

*Personal property:* Property owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

*Personal services:* Establishment or places of business engaged in the provision of personal grooming services including barber shops, beauty salons, and tanning salons.

*Plans, construction:* Plans and profile sheets in sufficient detail to indicate the construction of all the improvements associated with the property to be developed or subdivided prepared by a professional engineer or land surveyor licensed to practice within North Carolina.

*Planting strip or area:* A ground surface free of concrete, asphalt, stone, gravel, brick or other paving material, aside from walkways, which is required or used for landscaping purposes.

*Plat:* A map or plan which delineates:

- (a) A tract or parcel of land which is to be, or which has been, subdivided;
- (b) A tract or parcel of land to be officially dedicated for public or private use;
- (c) A right-of-way for street or utility purposes to be dedicated for public or private use; or
- (d) Any combination thereof.

The word "plat" shall include the terms "map," "plot," "plan," "plat," "replat" or "replot."

*Plat, final:* A plat prepared in accordance with the requirements of this Chapter and G.S. 47-30, in a form suitable for recording, with necessary affidavits, dedications and with complete bearings and dimensions of all lines defining lots, streets, public and private areas and other dimensions of land required by this Chapter. The final plat shall be approved and recorded prior to the sale of land within a subdivision as defined herein.

*Plat, preliminary:* A plat prepared in accordance with the requirements of this Chapter, drawn to scale, which delineates a proposed subdivision in sufficient detail including, but not limited to, street rights-of-way and lot layout. The preliminary plat precedes the final plat preparation.

*Post-flood insurance rate map:* Construction or other development which started on or after the effective date of the initial flood insurance rate map for the area.

*Pre-development state:* A site in its natural condition prior to any development activity.

*Pre-flood insurance rate map:* Construction or other development which started before the effective date of the initial flood insurance rate map for the area.

*Premises:* Any lot or unplatted tract, or any combination of lots or unplatted tracts held under single ownership or devoted to the same use, or with respect to which there is substantial identity of ownership or use.

*Primary conservation area.* The following areas:

- (a) All wetlands, natural lakes, ponds, rivers, creeks or marshes;
- (b) All areas of class IV soils as defined in "A Classification of Soils in New Hanover County for Septic Tank Suitability";
- (c) Areas within the 100-year floodplain and floodways
- (d) Protected species habitat;

- (e) A forty (40) foot buffer shall be established around all water bodies and wetlands; and
- (f) All specimen tree clusters as defined in this chapter.

*Primary nursery areas:* Areas defined as primary nursery areas (PNAs) by the NC DENR Division of Marine Fisheries.

*Principal building or structure:* A building or structure containing the principal use of the lot, including any land area necessitated by the character of the principal use (e.g., outside storage) for its complete operation, excluding off-street parking.

*Principal residence:* The residence a person: 1) uses as his/her voting address; 2) uses as the address on his/her drivers license; and 3) occupies for at least one hundred eighty-three (183) days during a calendar year.

*Principal use:* The primary purpose or function that a lot serves or is intended to serve according to its zoning classification.

*Private access easement:* A private easement providing access to a maximum of four (4) residential units and constructed to meet the minimum standards of design established in the City of Wilmington Technical Standards and Specifications Manual.

*Private facility:* Any stormwater management facility not owned and operated by the city or state of North Carolina.

*Private parking lot:* A parking area for the exclusive use of the owners, tenants, lessees, or occupants of the lot on which the parking area is located or their customers, employees, or whomever else they permit to use the parking area.

*Property-restricted real estate sales office:* An office established for the purpose of selling, renting, leasing, or otherwise marketing property only within the specific residential subdivision or development in which it is located, provided that the subdivision is governed by a common or unified property owners association.

*Proprietor:* A business owner who is involved in on-site, day-to-day management and/or supervision of a business.

*Public facility:* Any stormwater management facility owned and operated by the City or State of North Carolina.

*Public parking lot:* An open area, excluding a street or other public way, used for the parking of automobiles and available to the public, with or without payment of a fee.

*Public space:* Any place designed for public gathering, interaction, or relaxation that may

include grassy lawns, parks, playgrounds, plazas, courtyards, squares, or gardens that are aesthetically and functionally integrated into the design of surrounding development. These spaces may include appurtenances such as benches, fountains, sculptures, or other type of artwork as focal points. Public space may be within private property, but is permanently open to and legally accessible by the public without physical or perceived barriers.

*Public transportation system:* A planned transportation service provided to the public on a regular and continuing basis which is comprised of planned routing, designated transfer points and passenger loading/unloading areas.

*Recreation facility, neighborhood:* An indoor or outdoor facility intended solely for use by residents and invited guests of the community or neighborhood in which it is located and that is maintained by a homeowners' association or similar group. This includes neighborhood swimming pools, tennis courts, club houses, and playgrounds, but does not include country clubs or other organizations that permit memberships to persons living outside the community or neighborhood.

*Recreation facility, private:* An indoor or outdoor facility that is restricted to use by members and their invited guests, including country, golf, and tennis clubs. This also includes privately owned athletic fields and stadiums.

*Recreational vehicles:* Any vehicle or equipment designed or equipped to be used for living or sleeping and/or recreational purposes including motorized homes, boats and other watercraft, camping trailers, and travel trailers (a wheeled vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes; including but not limited to structures mounted on auto or truck bodies that are commonly referred to as campers).

*Redevelopment:* The substantial modification of existing developed areas, not to include interior remodeling or interior modifications which do not include substantial structural modifications to the facility. When fifty (50) percent of the site is being redeveloped, the entire site shall be considered as being redeveloped.

*Reference level:* The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance. For structures within special flood hazard areas designated as Zone A1-A30, AE, A, A99 or AO, the reference level is the top of the lowest floor or bottom of lowest attendant utility including ductwork, whichever is lower. For structures within special flood hazard areas designated as zones VE or V1-V30, the reference level is the bottom of the lowest horizontal structural member of the lowest floor or bottom of lowest attendant utility including ductwork, whichever is lower.

*Register of deeds:* The register of deeds for New Hanover County, North Carolina.

*Regulated tree:* The subsurface roots, crown and trunk of:

- (a) Any self-supporting woody perennial plant such as a large shade or pine tree,

which usually has one (1) main stem or trunk, and has a measured caliper as follows:

- (1) A hardwood tree--Eight (8) inches, such as oak, maple, etc.
  - (2) A pine tree--Twelve (12) inches, such as long leaf pine
- (b) Any small flowering tree, such as dogwood, with a measured caliper of at least four (4) inches.
  - (c) Any tree having several stems or trunks, such as crepe myrtle, and at least one (1) defined stem or trunk with a measured caliper of at least two (2) inches.

*Regulatory flood protection elevation:* The elevation in relation to mean sea level, to which the reference level of all structures and other development located within special flood hazard areas must be protected. Where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. Where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

*Religious institution:* A church, mosque, synagogue, temple or other place of religious worship, including any accessory use or structure, such as an office or dwelling located on the same lot.

*Remove (including removing and removal):* The cutting down of any live or dead tree and all other acts which cause the death or destruction of any trees.

*Repetitive loss:* Flood-related damages sustained by a structure on two (2) separate occasions during any ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred.

*Replat:* A final plat drawn for the purpose of lot consolidations and rearrangements, which conforms with the definition of a "subdivision" in this section.

*Residential hotel:* A building or group of buildings providing lodging for persons, with or without meals, and intended and used for the accommodation of transient lodgers in suites designed in such a fashion that reflects the intended use for transient lodgers and not for permanent residential accommodation. Suites may have one (1) or more rooms in addition to bathrooms, water closet compartment, laundry, pantry, foyer, communicating corridor, closets or any dining alcove. Kitchen area separate from the living or sleeping areas shall be provided and cooking may be done only in the kitchen area. The definition of residential hotels shall not include housing units as defined in this section, but may include services ordinarily provided by hotels, such as maid, desk and laundry service.

*Restaurant:* An establishment primarily engaged in the sale of foods, frozen desserts, or beverages to a customer in a ready-to-consume state, and whose design and principal method of

operation determines its classification as follows:

- (a) *Standard:* (a) Customers are provided with an individual menu and served by an employee at the same table or counter at which their food and/or beverages are consumed; or (b) a cafeteria-type of operation where foods and/or beverages generally are consumed within the restaurant.
- (b) *Carry-out:* (a) Foods and/or beverages are usually served in edible containers or in paper, plastic or other disposable containers by an employee at a standing counter or drive-in window; and (b) consumption is normally off the premises, but may be allowed within a motor vehicle parking on the premises, or at other facilities on the premises outside the principal building.
- (c) *Fast-food:* Same as "carry-out," includes allowing consumption within the principal building.

*Retail sales establishment:* Establishments engaged in the sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those uses specifically listed in this chapter.

*Retirement center and life care community:* A development that allows residents to age in place with flexible accommodations designed to meet health and housing needs as they change over time. These communities may include personal services, nursing care, and recreation amenities all collocated to enable seniors to remain within the community as they age.

*Riverine:* Relating to a river including tributaries, stream, or brook.

*Roof line:* The top of the main roof structure silhouette but not to include cupolas, parapets, pylons, projections, or other minor raised portions of the roof.

*SA Waters:* Surface waters that are used for shell fishing or marketing purposes, waters considered High Quality Waters where stormwater controls are required under CAMA and no domestic discharges are permitted.

*Sales office, off-premises (branch):* In addition to maintaining inventories of goods; physically assembling, sorting, and grading goods in large lots; breaking bulk; delivery; and various types of promotion, such as advertising, a wholesaler or distributor may establish offices and other supportive areas for the use of personnel primarily employed for off-premises sales and other administrative or managerial needs. On-premises retail sales as the principal use, is not included in this classification. Off-street parking for this portion of the building shall be calculated independently of any other use of the same structure.

*Schools, college and university:* A post-secondary institution for higher learning that grants associate or bachelor degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees. This may also include community colleges that grant associate or bachelor degrees or certificates of completion in business or technical fields.

*Schools, primary and secondary:* A public, private, or parochial school offering instruction at the elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the state.

*Schools, trade, correspondence, and vocational:* A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum (e.g., beauty school, modeling school).

*Scrap processor:* An establishment or place of business in a fixed location utilizing machinery and equipment for processing and manufacturing iron, steel or nonferrous metallic scrap iron into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for sale of remelting purposes.

*Screening buffer:* A permanent physical barrier, as required in this Chapter consisting of living or nonliving materials or a combination thereof for the separation of uses according to the requirements outlined in each district or special use.

*Sediment:* Soils transported or deposited by the action of erosion or artificial means.

*Sediment control permit:* The sediment control permit issued by New Hanover County or the State of North Carolina authorizing land disturbing activities in accordance with applicable ordinances, laws and regulations.

*Service station:* Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. Uses permitted at a service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. A service station is not a repair garage, body shop, or a trim shop.

*Shipping container:* A standardized, reusable shipping container used in the transportation of freight and capable of being mounted and moved on a rail car, or mounted on a chassis for movement by truck trailer or loaded on a ship.

*Shopping center:* Three (3) or more commercial establishments, containing twenty-five thousand (25,000) square feet of gross floor area, planned and constructed as a single unit with off-street parking and loading facilities provided on the property. Shopping centers are related in location, size and type of uses to the trade area which they serve and are considered as such at the owner's discretion. This definition includes malls, commercial plazas and community shopping areas.

*Sign:* Any structure, part thereof, or device attached thereto or painted or represented thereon or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, trademark or other representation used as or

in the nature of an announcement. A sign may also consist of sources of illumination, unmarked pennants or banners, streamers, or any other devices or materials which are displayed to draw attention to a charitable, residential, institutional, commercial, or industrial establishment of activity.

- (a) *Abandoned sign.* A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.
- (b) *Above roof sign.* A sign which is displayed above the roof line.
- (c) *Animated sign.* Any electronic message board/panel that displays a moving message, lights, symbol, or scene, or change of lighting to depict action or to create a special effort or scene. Animated signs may also be characterized by displays moving across, or within the message board or panel, or around the perimeter of the sign frame.
- (d) *Attached sign.* Any sign attached to, applied on, or supported by any part of a building (such as a wall, roof, window, overhang, canopy, awning, arcade or marquee) which encloses or covers usable space.
- (e) *Awning sign or canopy sign.* A sign attached or applied to a canopy, awning or other roof-like structure.
- (f) *Banner:* A suspended sign made of a flexible material such as canvas, sailcloth, plastic or waterproof paper.
- (g) *Changeable copy sign.* Any sign that is capable of displaying words, symbols, figures, or images that can be electronically or manually changed by remote or automatic means without regard to the method of attachment. An electronic changeable copy sign alternating displays more frequently than the time regulated in Article 12, Sign Regulations shall be considered an animated or flashing sign.
- (h) *Construction sign.* A sign identifying a contractor or contractors work on a development under construction, or materials being used in a development under construction.
- (i) *Detached sign.* A sign supported by one (1) or more upright poles, columns or braces permanently anchored or secured in or upon the ground surface and not attached to any building or structure; or any sign, whether it is on a trailer, wheels or otherwise, which is not permanently anchored or permanently attached to the ground or building.
- (j) *Directional sign (on premises).* A sign or guide to direct pedestrian or vehicular traffic on the premises on which it is located and bears no other identification or advertising matter. Examples include "in," "out," "entrance," and "exit."

- (k) *Double-faced sign.* A sign with two (2) faces.
- (l) *Electric sign.* Any sign containing electric wiring. This does not include signs illuminated by an external source of light.
- (m) *Flags:* Refers to devices generally made of flexible materials such as cloth, paper or plastic, and displayed on a flagpole.
- (n) *Flashing sign.* An illuminated sign of direct or indirect lighting on which the artificial light flashes on and off in regular or irregular sequences.
- (o) *Freestanding sign.* A sign permanently supported upon the ground by poles or braces and not attached to any building.
  - (1) *Auxiliary:* A freestanding sign allowed for a property having in excess of one hundred (100) linear feet of road frontage that may contain up to fifty (50) percent of the allowable area of primary freestanding sign or twenty (20) square feet, whichever is greater.
  - (2) *Primary:* The main freestanding sign allowed for a parcel of property.
- (p) *Government sign.* Any temporary or permanent sign erected and maintained by the city, county, state, or federal government for traffic direction or for designation of or direction to any school, hospital, historical site, or public service, property, or facility.
- (q) *Illegal sign.* A sign which does not meet the requirements of this Chapter and which has not received nonconforming status.
- (r) *Illuminated sign.* A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.
- (s) *Incidental sign.* A single face or double face non-illuminated professional or announcement sign attached wholly to a building, window or door containing information relative to emergencies, store hours, credit cards honored and other similar accessory information.
- (t) *Integral sign.* Names of buildings, dates of erection, monumental citations, tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the building.
- (u) *Kinetic sign:* A wall mounted computer-programmable lighting system that displays changing and moving colors.

- (v) *Marquee sign.* See "awning sign" or "canopy sign."
- (w) *Menu board:* A permanently mounted structure displaying the bill of fare of a restaurant.
- (x) *Monument sign:* A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles. The base of the sign structure is on the ground or a maximum of 12 inches above the adjacent grade. The width of the top of the sign structure can be no more than 120 percent of the width of the base.
- (y) *Multi-unit sign.* A freestanding sign which contains three (3) or more identification signs for a multi-occupancy premises, such as a shopping center.
- (z) *Neon sign:* Any sign with characters made of exposed neon tubing. This definition does not include illuminated signs whose interior source of light is made of neon tubing or signs that are backlighted with neon tubing.
- (aa) *Nonconforming sign.* Any sign which was lawfully erected in compliance with applicable Code provisions and maintained prior to the effective date of the ordinance adopting this Chapter, and which fails to conform to all applicable standards and restrictions of this Chapter.
- (bb) *Off-premises sign.* A sign that directs attention to a business, commodity, service, establishment, or other activity conducted, sold, or offered at a location other than the premises on which the sign is erected.
- (cc) *On-premises sign.* A sign that directs attention to a business, commodity, service, establishment, or other activity conducted, sold, or offered on the premises on which the sign is erected.
- (dd) *Outdoor advertising sign.* A poster panel or painted bulletin off-premises sign, commonly referred to as a billboard.
- (ee) *Pennant:* A tapered or dove-tailed banner or flag
- (ff) *Political sign.* A sign that advertises a candidate or issue to be voted upon a definite election day.
- (gg) *Portable or movable sign.* A sign that is not permanently attached to the ground, a structure, or a building and that can easily be moved from one (1) location to another and used for a temporary purpose.
- (hh) *Projecting sign.* A sign end-mounted or otherwise attached to an exterior wall of a building or structure, and which projects out from the wall.

- (ii) *Protective sign.* A sign less than one hundred (100) square inches in area and with letters less than four (4) inches in height, which is commonly associated with safeguarding the permitted uses of the occupancy. Examples include "bad dog," "no trespassing," and "no solicitors."
- (jj) *Public interest sign.* A sign that displays information pertinent to the safety or legal responsibilities of the general public such as warning and no trespassing.
- (kk) *Revolving sign.* A sign which revolves three hundred sixty (360) degrees.
- (ll) *Roof sign.* A sign erected or maintained in whole or in part upon or over the roof or parapet of a building. For the purposes of determining whether a sign is a roof sign in the instance of several roof levels, the line of the particular roof or parapet belonging to the portion of the building on which the wall sign is located shall be the determining roof line.
- (mm) *Roof sign, integral.* Any sign erected or constructed as an integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches. Chimneys or other similar features are not an integral part of a normal roof structure. An integral roof sign shall be considered to be a wall sign and shall be subject to the regulations pertaining to wall signage.
- (nn) *Sandwich board:* A temporary "A"-frame or easel sign listing specials of the establishment.
- (oo) *Single face sign.* A sign, only one (1) side of which is visible.
- (pp) Reserved.
- (qq) *Subdivision or neighborhood identification sign.* A sign containing the name of the subdivision or neighborhood in which it is located.
- (rr) *Temporary sign:* A sign used on a short term basis to announce sales, new products, openings, or closeouts and other special events. Types of temporary signs include banners and posters.
- (ss) *Wall sign:* A sign which is attached flush against a wall or facade of a building and projects not more than eighteen (18) inches from the wall.
- (tt) *Way-finding sign:* A sign on which the message is exclusively limited to guiding the circulation of and providing direction for motorists or pedestrians within the site.
- (uu) *Wind device:* Any flag, banner, balloon, pennant, streamer or similar device that

moves freely in the wind. All wind devices are considered to be signs and are regulated and classified as attached or detached by the same regulations as other signs.

- (vv) *Window sign.* A sign attached onto the inside or outside of the window of a building.

*Sign, area of projecting and freestanding:* The area of a freestanding or projecting sign shall have only one (1) face (the largest one) of any double or multi-faced sign counted in calculating its area.

- (a) The area of the sign shall be measured as follows if the sign is composed of one (1) or two (2) individual cabinets: The area around and enclosing the perimeter of each cabinet or module shall be summed and then totaled to determine total area. The perimeter of measurable area shall not include embellishments such as framing; decorative roofing, etc., provided that there is no written advertising copy on such embellishments. The area of the embellishments which is excluded from the measurable area of the sign shall be limited to ten (10) percent of the total area of the sign.
- (b) If the sign is composed of more than two (2) sign cabinets or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single, continuous geometric figure shall be the area of the sign. Other embellishments shall not be included in the area of measurement if they do not bear advertising copy, and do not represent more than ten (10) percent of the total area of the sign.

*Signband:* A horizontal band located above the first-story windows and below the second-story windows of a building that is designed to display signage.

*Sign clearance:* The smallest vertical distance between the grade of the adjacent street, sidewalk, or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.

*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 higher, and a level plane going through the nearest point of the improved public right-of-way at the ground-level curb line.

*Sign skirt:* A sign skirt is a decorative covering of the post(s) or pole(s) which supports a freestanding sign. The area of a sign skirt which is less than fifty (50) percent of the allowable area of the freestanding sign to which the sign skirt is attached shall not be counted toward the sign area requirements of this Chapter. No advertising copy shall be permitted on a sign skirt.

*Sign support:* Any pole, post, strut, cable or other structural fixture or framework necessary to hold and secure a sign.

*Significant tree:* Hardwood, long leaf pine, pocosin (pond) pine, black pine, and non-pine

conifer trees at least twenty-four (24) inches DBH, all other pines at least thirty-two (32) inches DBH, and dogwoods, magnolias, American hollies, and other flowering trees at least eight (8) inches DBH. *Significant tree cluster*: A tree cluster wherein one (1) or more of the trees is a significant tree, or a cluster with at least three (3) trees greater than six (6) inches DBH and their associated understory. [Additionally, a cluster determined to be significant by virtue of the size of the cluster, type of tree, location, health, or numbers.]

*Single-family residential use*: One (1) structure on one (1) parcel containing only one (1) housing unit.

*Site*: A lot or parcel of land, or combination of contiguous lots or parcels of land upon which grading or other land disturbing activity is to be performed.

*Site plan*: A development plan, drawn to scale, of a non-single-family residential, commercial, or industrial project indicating how the intended use of the property complies with applicable development regulations as set forth in this chapter.

*Site specific development plan*: A plan that has been submitted to the city by an owner, describing with reasonable specificity the type and intensity of use for a specific parcel or parcels of property. At a minimum, such plan must include the approximate boundaries of the site; approximate location on the site of proposed buildings, structures and other improvements; approximate dimensions, including height of the proposed buildings and structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. Included within this definition are plans submitted pursuant to the following specific provisions, and meeting the requirements specified therein: (1) site plan review, section 3-10; (2) preliminary subdivision plan, section 7-21; (3) special use permit, Chapter 3 Article IV; (4) conditional zoning district, Chapter 5 Article VII. Notwithstanding the foregoing, no document that fails to describe the type and intensity of use for a specified parcel or parcels with sufficient particularity to allow a determination to be made as to whether the proposed use meets current zoning standards shall constitute a site specific development plan.

*Soil*: Any earth, sand, gravel, rock or other similar material.

*Solid waste disposal facility*: Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

*Spas and health clubs*: For-profit business engaged in providing recreation or exercise facilities to patrons. This does not include non-profit establishments providing recreation facilities in addition to other programs such as the YMCA or YWCA (see *community center*).

*Special flood hazard area (SFHA)*: The land in the floodplain subject to a one (1) percent or greater chance of being flooded in any given year pertaining to the floodplain management section of this chapter. For purposes of this chapter, special flood hazard areas shall include all areas indicated to be in a future condition flood hazard area.

*Special needs persons:* Battered individuals, abused children, foster children, pregnant women and their children, runaway children, temporarily or permanently disabled mentally, emotionally or physically, individuals recovering from drug or alcohol abuse, and all other persons who possess a disability which is protected by either the provisions of the Americans with Disabilities Act of 1990, 42 USC 12101, the Fair Housing Act as amended, 42 USC 3601 et seq. or G.S. Chapter 168, Article 3, as they may be amended, but does not include any persons who currently use illegal drugs, persons who have been convicted of the manufacture or sale of illegal drugs or persons with or without disabilities who present a direct threat to the health, safety or property of others.

*Specified anatomical areas:* Less than completely and opaquely covered human genitals, pubic region; buttock; and female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities:* Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

*Specimen trees cluster:* A contiguous grouping of trees, which has been determined to be of value by the City Manager because the cluster:

- (a) is relatively mature and even-aged;
- (b) contains purity of species composition or species of a rare or unusual nature
- (c) is of historical significance
- (d) has exceptional aesthetic quality.

*Standards and specifications:* Standards and specifications set forth in this chapter, the City Technical Standards and Specifications Manual or any other applicable ordinance, law or regulation.

*Start of construction:* For flood plain management regulations purposes, (for other than new construction or substantial improvements under the Coastal Barrier Resources Act, P.L. 97-348) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory building, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of

construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

*Step-out zone:* An area along a sidewalk or other area adjacent to a street with parallel parking, which allows for the safe, unobstructed opening of vehicle doors and/or pedestrian access.

*Stepped back construction:* Construction of a multi-storied building where the upper floors have a footprint beginning from a point recessed a minimum of three (3) feet from the front facade of the level(s) below.

*Stormwater:* Any flow resulting from, and occurring during or following, any form of natural precipitation.

*Stormwater discharge permit:* The stormwater discharge permit issued by the city authorizing stormwater discharge activities in accordance with this Chapter and applicable ordinances and regulations.

*Stormwater management:* (1) For quantitative control, a system of vegetative and structural measures which control the increased volume and rate of surface runoff caused by manmade changes to the land and have the effect of maintaining the predevelopment patterns of flood magnitude and frequency, (2) for qualitative control, a system of vegetative, structural, and other measures which control or treat pollutants carried by surface runoff.

*Stormwater management plan:* A plan designed to minimize erosion, prevent off-site sedimentation and control stormwater, submitted as a prerequisite to obtaining a stormwater discharge permit.

*Stormwater system:* All manmade structures or natural features within the city of Wilmington that serve to provide for conveyance of runoff water resulting from natural storm events. Components of the stormwater system include but are not limited to swales, ditches, pipes, channels, creeks, ponds, weirs, culverts, manholes, inlet structures, and tidal gates.

*Story:* That portion of a building between the surface of any floor and the floor or roof above it. The following are considered stories:

- (a) Mezzanine, if it exceeds one-third (  $1/3$ ) of the total floor area of the story immediately below it;
- (b) Penthouse, if it exceeds one-third (  $1/3$ ) of the total area of the roof;
- (c) Basement, if subdivided and used for dwelling or business purposes.

*Stream:* Water course that collects surface runoff from an area of one (1) square mile or greater.

*Street:* The word "street" includes the words alley, road, cul-de-sac, highway and thoroughfare.

(a) *Street classifications.*

- (1) *Private street:* A right-of-way for vehicular traffic which is constructed to acceptable public street standards for the City of Wilmington set forth in the Technical Standards and Specifications Manual and dedicated to a select portion of the public. The responsibility for the maintenance of a private street shall be by an established owners association or other private property owner legal agreements. For commercial properties, this includes driveways connecting rights of way to private property.
- (2) *Public street:* A right-of-way for vehicular traffic dedicated and accepted by the North Carolina Department of Transportation or the city of Wilmington for public use.
- (3) *Major thoroughfare (arterial):* Major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.
- (4) *Minor thoroughfares (collectors):* Perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. They may supplement the major thoroughfare system by facilitating minor through traffic movement and may also serve abutting property.

(b) *Street types.*

(1) *Arterials:*

- a. *Freeway:* A divided highway for high volumes of through traffic, at relatively high speed, with full control of access and grade separations at intersections.
- b. *Expressway:* A divided street for high volumes of through traffic, with little or no access and at-grade intersections.
- c. *Other arterial streets:* Any street intended for or used by large volumes of through traffic.

(2) *Collector and local streets:*

- a. *Collector street:* A street which collects traffic from local streets and carries it to the arterial system. Collectors may supplement the arterial system by facilitating some through traffic volumes and may also serve abutting property.

- b. *Local street:* A street that serves primarily to provide direct access to abutting property. It offers the lowest level of mobility and through traffic is usually deliberately discouraged.
  - c. *Frontage road:* Streets that are parallel to and adjacent to major streets and highways and provide:
    - i. Service to the abutting property and adjacent areas;
    - ii. Control of access.
- (3) *Cul-de-sac:* A street designed to have one (1) end permanently closed; the closed end terminated by a vehicular turnaround.
- (4) *Alley:* A strip of land owned publicly or privately, set aside primarily for vehicular service access to the rear or side of property otherwise fronting on a street of higher classification.

*Street line:* The right-of-way boundary of a street.

*Street yard:* The area of a parcel immediately adjacent to a street right-of-way and reserved for planting.

*Structure:* Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structures include buildings, mobile homes, billboards, free-standing signs and other similar type uses. For purposes of the flood plain management regulations, a structure means, a walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other man-made facilities or infrastructures that are principally above ground, and does not include any of the following:

- (a) An electric generation, distribution, or transmission facility.
- (b) A gas pipeline or gas transmission or distribution facility, including a compressor station or related facility.
- (c) A water treatment or distribution facility, including a pump station.
- (d) A wastewater collection or treatment facility, including a lift station.
- (e) Processing equipment used in connection with a mining operation.

*Subdivision:*

- (a) All divisions of a tract or parcel of land into two (2) or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale or building development of any type, including both residential and nonresidential multiple

building site and multi-site projects, whether or not there is a division of the underlying land into separate parcels which is to be recorded in the Register of Deeds, and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the following will not be included within this definition nor be subject to the requirements of this Chapter:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the city as prescribed by this chapter;
  - (2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
  - (3) The public acquisition by purchase of strips of land for the widening or opening of streets; and
  - (4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the city as provided by this chapter.
- (b) Subdivisions, for the purpose of this Chapter, shall be categorized into two (2) separate classes, defined and described as follows:
- (1) *Major subdivision*: A subdivision of land, as defined herein, which exceeds the classification of "minor subdivision," and which shall conform to the procedures for approvals, the requirements and standards as specified in this Chapter, the city zoning ordinance and the Technical Standards and Specifications Manual and any appendices thereto.
  - (2) *Minor subdivision*: A subdivision of land, as defined herein, out of a tract in single ownership which:
    - a. Does not involve the dedication of rights-of-way or construction of new streets;
    - b. Does not involve construction alterations to existing streets except for alterations required solely as a condition of the issuance of a driveway permit pursuant to article 14 of this chapter;
    - c. Does not require the extension of any public utilities;
    - d. Does not create any public improvements, dedication of parks, open space or recreation land for public use, provided, however, if the

only public improvement required is the extension of sidewalks along existing streets, the subdivision shall be deemed to be a minor subdivision;

- e. Does not land-lock or otherwise impair convenient ingress and egress to or from the rear or side of the subject tract or any adjacent property;
- f. Does not fall within the corridors of any planned or proposed street as shown upon an adopted thoroughfare plan of the city;
- g. Does not violate any other local, state or federally adopted law, ordinance, regulation, plan or policy;
- h. Does not require approval of or permit from any other regulatory agency at any level of government (save and except a soil and erosion control permit, if required, to be issued by New Hanover County).

Each lot in the minor subdivision, as defined herein, shall abut an open, publicly dedicated and accepted street for a distance as prescribed by this chapter and shall meet or exceed the minimum area and dimensional requirements as specified herein. Each lot or parcel, subdivided and intended to be an addition to an existing lot or lots which front a publicly dedicated and accepted street, may be allowed under this definition. Such additions to an approved existing lot as described above may be allowed to be added to the side or rear of the existing lot.

*Substantial damage:* Damage or deterioration of any origin sustained by a structure during any one (1) year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Flood-related damage sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred. See definition of "substantial improvement."

*Substantial improvement:* Any repair, reconstruction, rehabilitation, addition, or other improvement to a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of this improvement. The "cost" of substantial improvement shall be determined by adding the cost of all repairs and reconstruction carried out in the five (5) year period immediately preceding the proposed repairs and reconstruction to the cost of the proposed repairs and reconstruction. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (1) any project of improvement of a structure to correct existing violations of state or local health, sanitary, or safety Code specifications which have been

identified by a local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) any alteration of an historic structure, provided that the alteration will not preclude the structures continued designation as an historic structure.

*Substantial progress:* For the purposes of determining whether sufficient progress has been made on the site of an approved site plan, one (1) or more of the following construction activities shall occur:

- (a) Obtaining and maintaining a valid erosion and sedimentation control permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days.
- (b) Installation and approval of on-site infrastructure or footing and/or floor slab; or
- (c) Obtaining and maintaining a valid building permit for the construction and approval of a building foundation.

*Substantially improved existing manufactured home park or subdivision:* Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

*Swimming pool:* An in-ground or above-ground pool for swimming. In-ground swimming pools shall not extend more than twelve (123) inches above any point of the surrounding finished grade, measured from the coping.

*Symbol:* Something that stands for, represents, or otherwise suggests something else by reason of relationship, association, convention or resemblance placed or erected for public view as a sign or as part of a sign.

*Technical standards and specifications manual:* A set of minimum required standards setting forth the details, specifications and instructions to be followed in planning, design and construction of public and private improvements in the city of Wilmington. The words "technical standards and specifications" may include the words "design standards," "improvement standards" and "construction standards."

*Telecommunication facility, unattended:* A windowless structure containing electronic telephone equipment that does not require regular employee attendance for operating.

*Temporary uses:* A limited use or uses of land, buildings or structures not intended to be of a permanent duration.

*Ten-year frequency storm:* The storm of an intensity expected to occur on the average, once in ten (10) years, and of a duration which will produce the peak rate of runoff for the watershed of interest.

*Tour service:* A service offering local sightseeing of similar tours for a short period of time

by foot or motor vehicle. Examples include walking, bus, boat, and carriage tours. This definition does not include bus or similar tours that involve overnight transport of passengers to or from other cities and towns.

*Towing, automobile or truck, incidental to automotive services:* Towing for the sole purpose of providing the towed vehicle with automotive services permitted on site. Such towing includes the temporary storage of vehicles on site provided they are screened in accordance with the screening requirements of this Chapter.

*Towing service, automobile or truck:* A commercial enterprise, business, or company established to tow or remove motor vehicles from one (1) location to another. A towing service may include the temporary storage of motor vehicles at its site provided that the storage area is screened in accordance with the screening requirements of this Chapter. Such services shall comply with all ordinances of the city.

*Townhouse:* A principal structure containing two (2) or more single family attached dwelling units with each unit on its own individual lot. All townhouse developments shall be subject to the multiple family dwelling provisions of this Chapter, with the following exceptions:

- (a) All townhouse developments shall comply with the multiple family density requirements of article 5 of this chapter; this standard can be met by individual lot area, by provision of common open space, or by a combination of lot area and common open space.
- (b) No unit shall be connected on more than two (2) sides by common walls.
- (c) All yard dimensional requirements shall apply to the property lines of the entire development. No individual unit shall be required to meet the yard dimensions.

*Trailer:* A wheeled vehicular portable structure designed to be used for business or personal purposes to carry equipment or cargo: including but not limited to horse trailers, motor vehicle trailers, and utility trailers (a container on wheels that is intended to be towed or hauled by a motorized vehicle used for the transport of products or equipment).

*Transportation equipment manufacturing:* Establishments engaged in manufacturing equipment for transportation of passengers or cargo by land, air, and water, including but not limited to automobiles, ships, boats, bicycles, and rail road equipment.

*Tree, canopy:* Any tree identified in the City of Wilmington Technical Standards and Specifications Manual “Approved Plant List” with a minimum spread of 30 feet or greater.

*Tree cluster:* Three (3) or more trees of minimum size two and one-half (2.5) inches DBH with overlapping drip line and their associated understory; however, native oaks need not have an overlapping drip line.

*Tree, Shade:* Any tree identified in the City of Wilmington Technical Standards and Specifications Manual “Approved Plant List” with a minimum spread of 20 feet or greater.

*Triangular sight distance:* The visually unobstructed triangular area of a street corner included in a triangle created by connecting the point formed by the intersection of curb lines or roadway edges if no curbs were present and the points forty-six (46) feet from said intersection measured along each curb line or roadway edge on any public or private street or on any such streets and railroads. Also a triangular area at the intersection of a street with a driveway determined by measuring a distance of twenty (20) feet along the side of said driveway at the property line and seventy (70) feet along the curb line of the street, or roadway edge if no curb is present.

*Understory tree:* Tree less than forty (40) feet at maturity capable of thriving in the lower light intensities found under the canopy of shade/canopy trees.

*Undeveloped land:* Land that does not meet the definition of developed land.

*Utility machine or vehicle:* Stationary or self-propelled equipment generally used for wood, chipping, towing, loading, lifting, moving or hauling landscaping, maintenance, or construction materials, including but not limited to loaders, compact excavators, wood chippers, utility vehicles, and trackhoes.

*Utility stations and plants outside public rights-of-way:* Sewage lift stations, pump stations, and similar uses that do not create excessive noise, odor, smoke, dust, and do not possess other objectionable characteristics that might be detrimental to surrounding neighbors or to other uses permitted in the district.

*University administrative uses:* Receptions, seminars and social gatherings in addition to university offices and temporary residences for university guests and visitors.

*Vehicular use area:* Any area designated for motor vehicle use including but not limited to storage, drop-off, parking lot, etc.

*Vegetated buffer:* An existing natural area, or an area planted as recommended in the "Reference Lists and Publications for Guidance in the Selection of Vegetated Buffer Plants", set forth in the city of Wilmington Technical Standards and Specifications Manual that preserves, protects, and restores water quality and estuarine resources. These buffers are an effort to provide the following functions: filter suspended solids, nutrients, bacteria, and other pollutants before entering surface waters; provide soil stabilization; provide shading to assist in temperature regulation of estuarine waters; provide wildlife habitat and aesthetic beauty.

*Veterinary services:* An establishment for the care and treatment of animals that are admitted for daytime and/or overnight stay in order to obtain veterinary treatment for routine checkups, illnesses, diseases, or injuries. Such facilities may be indoor only, or may have both indoor and outdoor facilities, depending on the [zoning district](#) in which they are located.

*Wall:* The exterior of the vertical face or facade of a building. For the purpose of

determining the allowable area of a wall sign for a multi-occupancy building, the wall shall be determined to be the portion of the vertical face or facade of the building which would be delineated by the imaginary extension of the interior walls, defining the unit of occupancy through to the exterior of the vertical face or facade.

*Way-finding sign:* See sign.

*Water course or drainage way:* Any natural or artificial water course, including, but not limited to: streams, rivers, creeks, ponds, lakes, ditches, channels, canals, conduits, culverts, drains, waterways, gullies, ravines, or washes in which waters flow in a definite direction or course, either continuously or intermittently; and including any area adjacent thereto which is subject to inundation by reason of overflow or flood water.

*Water surface elevation:* The height, in relation to mean sea level (existing grade in the case of floodplain management Zone AO), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

*Water transportation:* Waterborne transportation for the purposes of commuting, sight-seeing, dining, gambling, and other entertainment purpose

*Yard:* A required open space unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, provided however, that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard.

- (a) *Front yard:* Area between side lot lines across the front of a lot adjoining a street. Depth of a required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. 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 such rounding. Front and rear yard lines shall be parallel.
  - (1) *Through lots:* Front yards shall be provided on both frontages.
  - (2) *Corner lots:* A front yard of the required depth shall be provided in accordance with the district requirements for one (1) frontage designated by the owner at the time of the building permit issuance and the second yard shall conform to the side yard requirements as defined herein. In the case of corner lots with more than two (2) frontages, the third or more yards shall conform to the side yard requirements as defined herein.
- (b) *Rear yard:* Across the rear of the lot between the rearmost parts of side lot lines. Through lots have no rear yard, only front and side yards. Where an alley runs behind a lot and such alley serves only as an access alley and no lots have primary frontage on the alley, the lot shall not be considered a through lot.

(c) *Side yard:* Area extending from the rear line of the required front yard to the foremost lines of the rear yard. In absence of a clearly defined rear yard, as in the case of a through lot, any portion of the lot not designated as a front yard shall be a side yard.

(1) *Corner lots:* In residential districts, the minimum width of a side yard, abutting an intersecting street, shall be fifty (50) percent greater than the minimum side yard requirements of the district in which the lot is located. In nonresidential districts, the side yard requirements of corner lots shall be the same as the front yards requirements of the district in which the lot is located.

The side yard requirements for dwellings shall be waived where dwellings are erected above stores or shops not otherwise required to have side yards.

(d) *Special yard:* A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adequate to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the building inspector shall require a yard with minimum dimensions required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots with due regard to the orientation and location of structures and buildable areas thereon.

*Yard sale:* All general sales open to the public, conducted from or on a residential premises in any residential district for the purpose of disposing of personal property. The term "yard sale" shall include all such herein described sales, whether or not they are "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale.

(Ord. No. O-2006-2, § 5, 1-3-06; Ord. No. O-2006-26, § 3, 3-7-06; Ord. No. O-2007-1, § 3, 1-9-07; Ord. No. O-2007-2, § 2, 1-9-07; Ord. No. O-2007-63, § 2, 8-7-07)