

## **Article 2- Basic Definitions and Interpretations**

**Section 16-2.1. Word Interpretation.** For the purpose of this Chapter, certain words shall be interpreted as follows:

- a) words in the present tense include the future tense.
- b) words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- c) word "person" includes a firm, association, corporation, trust, and company as well as an individual.
- d) the word "structure" shall include words, "plot," "parcel," or "tract."
- e) the word "lot" shall include the words "plot," "parcel," or "tract."
- f) the word "shall" is always mandatory and not merely directory.
- g) the word "will" is always mandatory and not merely directory.
- h) the words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied".

**Section 16-2.2. General Definitions.** Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Chapter. Terms not herein defined shall have the meanings customarily assigned to them. Definitions relating to regulations associated with adult establishments, flood damage prevention, and watershed protection may be found in Section 16-2.3, 16-2.4 and 16-2.5, respectively.

**Accessory Use.** (See Section 16-10.6)

**Acute Care.** Short-term medical treatment, usually in a hospital, for patients having an acute illness or injury or recovering from surgery.

**Administrative Decision.** Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter.

**Administrative Hearing.** A proceeding to gather facts needed to make an administrative decision.

**Administrator.** The Planning Director for the Town of Blowing Rock or such other person that the Town Manager shall designate to administer the provisions of this chapter. Unless clearly indicated to the contrary the term shall apply to the administrator or designee.

**Adult Day Care.** Adult day care offers support, services, and supervision to older, frail, or disabled adults who have difficulty taking care of themselves at home but wish to maintain their independence. Services may include an individual plan of care, skilled nursing care and health education, rehabilitation services, personal care and supervision, social services, recreational therapy, meals, and transportation.

**Alternative Tower Structure.** Man-made trees, clock towers, bell steeples, light poles and other similar mounting structures that camouflage or conceal the presence of antennas or towers.

**Antenna.** Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes, and satellite dishes, and omnidirectional antennas, such as whips, but not including satellite earth stations. Antenna colors shall be light gray or other blending color as determined by the Administrator.

**Assisted Living Unit.** A unit occupied by an individual or individuals who are unable to live independently. The unit is part of a facility that provides indoor, conveniently located, shared food preparation service and major dining areas, and common recreation, social, and service facilities for the exclusive use of all residents.

**Beacon.** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same property as the light source. Also, any light with one or more beams that rotate or move.

**Bed and Breakfast.** A use meeting the following specifications:

- a) it consists of a single-family dwelling unit together with the rental of one or more, but not to exceed six (6), dwelling rooms on a daily or weekly basis to tourists, vacationers, or similar transients;
- b) meals, if provided are limited to the breakfast meal; and
- c) where the bed and breakfast operation is conducted primarily by persons who reside within the dwelling unit, with the assistance of not more than the equivalent of one full-time employee.

**Bedroom.** A fully enclosed interior room as shown on the building plan for the structure having, as a minimum, a doorway, window and closet.

**Boarding House.** A residential use consisting of at least one dwelling unit together with one or more rooms that are rented out or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. Notwithstanding the foregoing, the renting out of one or two rooms within a single-family residence may be regarded as an accessory use – see Section 16-20.13. A rooming house or boarding house is distinguished from a tourist home in that the former is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.

**Building.** A structure used or intended for supporting or sheltering any use or occupancy.

**Building, Accessory.** A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use.

**Building Footprint.** A building footprint is the outline of the total area of a lot or site that is surrounded by the exterior walls of a building or portion of a building and extended to include the area under all decks and porches, exclusive of courtyards. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the

roof and extended to include the area under all decks and porches. The footprint shall not include the area under an appendage such as an awning.

**Building Frontage.** The length of an outside building wall parallel to and visible from a public or private street right-of-way.

**Building Height.** The vertical distance measured from (1) the finished ground elevation that is adjacent to the main or primary entrance into said building or structure; to (2) the highest point of said building or structure. Similarly, the *eave height* of a building shall be the vertical distance measured from (1) the finished ground elevation that is adjacent to the main or primary entrance into said building; to (2) the lowest point of the eave above said entrance. (For building height for Town Center and Central Business – refer to Section 16-12.6. Please see Appendix B.)

**Building Marker.** Any sign indicating the name of a building or date and incidental information about its construction, often cut into a masonry surface or made of bronze or other permanent material.

**Building, Principal.** The primary building on a lot or a building that houses a principal use.

**Caliper.** A nursery stock tree measured 6" above the ground or root ball.

**Carry-out Restaurant.** A place where meals or food products are prepared and served, to be eaten primarily off-premises.

**Child Care Home.** A home for not more than nine orphaned, abandoned, dependent, abused, or neglected children, together with not more than two adults who supervise such children, all of whom live together as a single housekeeping unit.

**Child Care Institution.** An institutional facility housing more than nine orphaned, abandoned, dependent, abused, or neglected children.

**Circulation Area.** That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

**Collocation.** Locating wireless communications equipment from more than one provider on a single site.

**Combination Use.** A use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permissible Uses, Section 16-10.1. (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. See Section 16-10.6. In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.)

**Conditional Zoning.** A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

**Convenience Store.** A one story, retail store containing less than 2000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract and depends upon a large volume of "stop and go" traffic. Illustrative examples are "Fast Fare", "7-11" and "Pantry" chains.

**Day Care Center.** Any child-care arrangement that provides day care on a regular basis for more than four hours per day for more than five children of pre-school age.

**Deck.** A flat, floored, roofless area adjoining a building supported on at least two opposing sides by an adjoining structure and/or posts, piers, or other independent supports.

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

**Development.** Unless the context clearly indicates otherwise, the term means any of the following:

- a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b) The excavation, grading, filling, clearing, or alteration of land.
- c) The subdivision of land as defined in NCGS 160D-802.
- d) The initiation or substantial change in the use of land or the intensity of use of land.

**Development Approval.** An administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, building permits, and plat approvals.

**Development Regulation.** A zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, stormwater control regulation, wireless telecommunication facility regulation, minimum housing code, State Building Code, or any other regulation adopted pursuant to NCGS 160D, or a local act or charter that regulates land use or development.

**Diameter at Breast Height (dbh).** The diameter of an existing tree measured 4.5 feet above grade.

**Dimensional Nonconformity.** A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

**Disposal.** As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid

waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

**Driveway.** That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area. Driveways may serve as access from streets or private roads for single-family residences and may serve as access between parking areas.

**Duplex.** A two-family residence other than a two-family conversion.

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

**Dwelling Unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Effective Date of This Chapter.** References to the effective date of this chapter shall be deemed to mean the effective date of any amendments to this chapter if the amendment, rather than this chapter as originally adopted, creates a nonconforming situation.

**Evidentiary Hearing.** A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under NCGS 160D.

**Extraterritorial Jurisdiction.** That portion of the town's planning jurisdiction that lies outside the corporate limits of the town.

**Family.** One or more persons living together as a single housekeeping unit.

**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 foot. As used in this chapter, the term refers to that area designated as a floodway on the "Flood Boundary and Floodway Map" prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the inspections department.

**Gross Floor Area.** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

**Guyed Tower.** A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

**Habitable Floor.** Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or any combination thereof. A floor used only for storage is not a habitable floor.

**Halfway House.** A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness [as defined in NCGS 35-17(30)], or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

**Handicapped or Infirm Home.** A residence within a single dwelling unit for at least six but not more than nine persons who are physically or mentally handicapped or infirm, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

**Handicapped or Infirm Institution.** An institutional facility housing and providing care or assistance for more than nine persons who are physically or mentally handicapped or infirm. Persons residing in such homes, including the aged or disabled, principally need residential care rather than medical treatment.

**High Volume Traffic Generation.** All uses in the 2.000 classification other than low volume generation uses.

**Historic Tree.** A healthy tree with a dbh (diameter at breast height of 30") or greater.

**Home Health Care.** Services provided to individuals who are restricted in their ability to leave home without assistance, due to illness or injury. Services may include, but are not necessarily limited to, skilled nursing, physical therapy, occupational therapy, speech therapy, personal hygiene, meal preparation, light housekeeping, etc.

**Home Occupation.** A commercial activity that:

- a) is conducted by a person on the same lot (in a residential district) where such person resides, and
- b) is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use (see Section 16-10.6) but that can be conducted without any significantly adverse impact on the surrounding neighborhood. Without limiting the generality of the foregoing, a use may usually not be regarded as having an insignificantly adverse impact on the surrounding neighborhood if:
  - 1) goods, stock in trade, or other commodities are displayed;
  - 2) any on-premises retail sales occur; more than one person not a resident on the premises is employed in connection with the purported home occupation; or
  - 3) it creates objectionable noise, fumes, odor, dust or electrical interference; or
  - 4) more than twenty-five percent of the total gross floor area of residential buildings plus other buildings housing the purported home occupation, or more than 300 square feet of gross floor area (whichever is less), is used for home occupation purposes.

**Hotels and Motels.** A building or group of buildings wherein temporary lodging is provided on a regular basis to persons who seek to rent rooms or dwelling units on a day-to-day basis, except that the following are excluded from this definition:

- a) tourist homes;
- b) bed and breakfast establishments;
- c) single-family and two-family residences, regardless of the basis on which they are rented;
- d) multi-family residences, unless at least ten percent of the dwelling units within a multi-family development are regularly rented or offered for rent on a day -to-day basis.

**Independent Living Unit.** A unit providing a residential environment for ambulatory or disabled individuals at least fifty-five years of age who do not require health and support services located on the site, such as medical and nursing care, central dining, and transportation services. Each unit is a self-contained dwelling unit that is physically accessible to older or disabled persons.

**Intermediate Care.** Intermediate care is health-related care, outside of a conventional hospital, that is provided by supervised licensed personnel and does not require hospital or skilled nursing care on a regular basis. It provides the opportunity to care for patients who do not need the facilities of high technology hospitals but are not capable of being cared for in their own homes without extensive support. It includes help with activities of daily living, including meals, dressing, personal hygiene, feeding, and medications.

**Intermediate Care Home.** A facility maintained for the purpose of providing accommodations for not more than seven occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

**Intermediate Care Institution.** An institutional facility maintained for the purpose of providing accommodations for more than seven persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

**Itinerant Merchant.** A person, other than a merchant with an established retail store in the town, who transports an inventory of goods to a building, vacant lot, or other location in the town and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

**Kennel.** A commercial operation that:

- a) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian); and/or
- b) engages in the breeding of animals for sale.

**Lattice Tower.** A guyed or self-supporting, open, steel frame structure, with three or more sides, that is used to support telecommunications equipment.

**Legislative Decision.** The adoption, amendment, or repeal of a regulation under NCGS 160D.

**Legislative Hearing.** A hearing to solicit public comment on a proposed legislative decision.

**Loading and Unloading Area.** That portion of the vehicle accommodation area used to satisfy the requirements of Section 16-20.13.

**Lot.** A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

**Lot Area.** The total area circumscribed by the boundaries of a lot, except that:

- a) when the legal instrument creating a lot shows the boundary of the lot extending to the center of a public street right-of-way or into a public street right-of-way, then the lot boundary for the purposes of computing the lot area shall be the street right-of-way line, or a line running parallel to and thirty feet from the center of the traveled portion of the street if the right-of-way line cannot be determined; and
- b) in a residential district, when a private road that serves more than three dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

**Low Volume Traffic Generation.** Uses such as furniture stores, carpet stores, major appliance stores, etc. that sell items that are large and bulky, that need a relatively large amount of storage or display area for each unit offered for sale, and that therefore generate less customer traffic per square foot of floor space than stores selling smaller items.

**Major Mountain Ridge.** A ridge with an elevation higher than 3,000 feet above mean sea level and an elevation of 500 feet or more above the elevation of an adjacent valley floor.

**Mobile Home.** Any structure that:

- a) consists of a single unit completely assembled at the factory, or of two (double-wide) or three (triple-wide) principal components totally assembled at the factory and joined together at the site;
- b) is designed so that the total structure (or in the case of double-wide or triple-wide, each component thereof) can be transported on its own chassis;
- c) is over 32 feet in length and over 8 feet in width;
- d) is designed to be used as a dwelling and provides complete, independent living facilities for one family including permanent provisions for living, sleeping, eating, cooking, and sanitation;
- e) is actually being used or held ready for use as a dwelling;
- f) is not constructed in accordance with the standards set forth in the North Carolina State Building Code.

**Manufactured Home.** A dwelling constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction as defined in NCGS 143-145(7).

**Mobile Home Park.** A multi-family residential use consisting of two or more detached mobile homes located on one lot.

**Modular Home.** A single-family residence constructed in accordance with the standards set forth in the North Carolina Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a mobile home (except that the modular home meets the North Carolina Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site and comply with the design standards set forth in NCGS 143-139.1.

**Monopole Tower.** A communication tower consisting of a single pole, constructed without guy wires and ground anchors.

**Multifamily Conversion.** A multi-family residence containing not more than four dwelling units resulting from the conversion of a single building containing at least 2000 square feet of gross floor area that was in existence on the effective date of this Chapter and that was originally designed, constructed and occupied as a single-family residence.

**Nature Blending Colors.** Those colors approved and on file in the Planning and Inspections Office as being appropriate for the mountain resort setting of Blowing Rock.

**News rack.** Any individual self-service or coin-operated box, container, storage unit or other dispenser, installed, used or maintained for the display, distribution or sale of any written or printed material, including but not limited to, newspapers, news periodicals, magazines, books, pictures, photographs, advertising circulars, and records (hereinafter collectively referred to as "news rack material").

**News rack, Modular.** A grouping of several news rack containers, that have the appearance of one unified news rack of the same color, style, and design, generally provided by a modular news rack distributor.

**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, any existing lot or structure or use of an existing lot or structure does not conform to one 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) a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations; or
- b) because the relationship between existing buildings and the land (in such matters as density and set-back requirements) is not in conformity with this chapter; or
- c) because land or buildings are used for purposes made unlawful by this chapter.

**Nonconforming Use.** A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in

which the property is located. (For example, a commercial office building 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 operating a retail clothing store in a residentially zoned area is a nonconforming use.)

**Nursing Care Home.** A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than nine persons.

**Nursing Care Institution.** An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine persons.

**Outdoor Dining.** Outdoor dining facilities that are associated with and in the immediate vicinity of a restaurant, cafe, or other permitted establishment that serves food or drinks for on-site consumption.

**Overlay District.** A zoning district, as established in Section 16-9.3, which is applied only in conjunction with an underlying, general use zoning district and which may grant additional use or development requirements upon the underlying zoning district. The effect is for both the overlay district and the underlying zoning district to control the use and development of a lot. In the event of a conflict between the regulations of the overlay district and the underlying zoning district, the regulations of the overlay district shall prevail, regardless of whether they are stricter or less strict than the regulations of the underlying district.

**Parapet.** The extension of a false front or a false wall above the roofline.

**Parking Area Aisles.** A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

**Parking Space.** A portion of the vehicle accommodation area set aside for the parking of one vehicle.

**Patio.** A hard-surfaced recreation area that adjoins a building and is often adapted for dining.

**Planning jurisdiction.** The geographic area defined in Section 16-3 within the town limits as well as the area beyond the city limits within which the town may undertake planning and apply the development regulations authorized by NCGS 160D.

**Planned Unit Development.** A development constructed on a tract of at least five (5) acres under single ownership, planned and developed as an integral unit, and consisting of a combination of principal uses that could not be combined in any district other than a planned unit development district.

**Porch.** A covered area adjoining an entrance to a building and usually having a separate roof.

**Public Water Supply System.** Any water supply system furnishing potable water to ten or more dwelling units or businesses or any combination thereof. (See NCGS 130A-311.)

**Quasi-judicial Decision.** A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations.

**Receive-Only Earth Station.** An antenna and attendant processing equipment for reception of electronic signals from satellites.

**Residence, Multi-Family.** A residential use consisting of two dwelling units located in separate buildings on the same lot or three or more dwelling units located in one or more buildings on the same lot.

**Residence, Single-Family.** A residential use consisting of a building containing one dwelling unit on a single lot.

**Residence, Single-Family with Accessory Apartment.** A residential use having the external appearance of a single-family residence, but in which there is located a second dwelling unit that comprises not more than twenty-five percent of the gross floor area of the building nor more than a total of 750 square feet.

**Residence, Two-Family.** A residential use consisting of two dwelling units within a single building on a single lot other than a single-family residence with accessory apartment. Two dwelling units that are connected only by structural components designed to form a passageway (e.g., a covered walkway) rather than a place of occupancy (e.g., porch or garage) shall not be regarded as a two-family residence.

**Restaurant.** A place where meals or food products are prepared, served, and eaten.

**Road.** All private ways used to provide motor vehicle access to (i) three or more lots or (ii) two or more distinct areas or buildings in unsubdivided developments.

**Roof Line.** The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

**Rooming House.** (See Boarding House)

**Setback.** The distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.

**Shared Driveway.** A driveway shared between two single-family zoning lots. See Section 16-20.6.

**Shopping Center.** A building or group of buildings, either connected or free-standing, under unified ownership of land parcels, that is designed and has been approved by the Town Council as a shopping center with common parking, pedestrian movement, ingress, and egress, and is used or is intended to be used primarily for the retail sale of goods and services to the public.

**Short-Term Rental.** The rental, lease, or offer to make available, any attached or detached residential dwelling unit, or portion thereof, by way of a rental agreement, lease, license, or any other means, (whether oral or written) for compensation or consideration, for a duration that is less than 28 consecutive days.

**Sign.** Any object, device, display, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, to call attention to, to announce or identify the purpose of any person, place, or entity, or to communicate information of any kind to the public. Any flag, streamer, pole, or architectural device shall be construed a sign when it is intended to draw attention to or announce or identify an enterprise.

**Sign, Area.** The surface area of a sign shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will enclose the writing, graphic, emblem, or other display on the face of the sign. The sign area shall include any material or color that is an essential part of the background of the display or that is used to differentiate the sign from the wall, structure, or backdrop against which the sign is placed. The sign area shall not include any supporting framework, bracing, decorative fencing, or wall that otherwise meets the zoning and building regulations and is clearly incidental to the display itself.

**Sign, Abandoned.** A sign, other than a billboard, that advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted. A sign that advertises a business, enterprise, or other activity that is closed for the off-season, not to exceed 270 consecutive days, shall not be considered an abandoned sign.

**Sign, Animated.** Any sign that uses movement, change of lighting, or other means to depict action or create a special effect.

**Sign, Awning or Canopy.** Any sign that is a part of or attached to an awning, canopy, or other structural protective covering above a door, entrance, window, or walkway.

**Sign, Backlighting or Backlit.** Illumination of a sign in which lights are placed within or behind raised opaque letters, thereby casting light upon the background of the letters rather than through the letters.

**Sign, Banner.** A sign made of fabric or any non-rigid material with no enclosing framework. National, state, or municipal flags shall not be considered banners.

**Sign, Billboard.** An off-premises sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

**Sign, Commercial Message.** Any sign, wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

**Sign, Flag.** Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols.

**Sign, Freestanding.** A sign that is attached to, erected on, or supported by a structure (such as a pole, column, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. If the message is removed from a structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign. Freestanding signs, as used in this Chapter, shall include the following:

- a) **Ground-mounted Sign.** A freestanding sign, supported by a contiguous structural base or planter box that is permanently affixed to the ground, shall be considered a ground-mounted sign.
- b) **Column Sign.** A sign supported by one or more columns or poles or other similar support.

**Sign, Height.** The distance between the average grade of the land beneath the sign and the top of the highest attached component of the sign.

**Sign, Illegal.** A sign that did not meet the applicable sign restrictions and regulations at the time that it was erected, does not meet the current sign restrictions and regulations, and does not qualify as a nonconforming sign.

**Sign, Informational.** Any sign that serves solely to provide direction or information to persons using the property, such as entrance/exit, parking, or telephone, and that does not include business names, brand names, or information regarding product lines.

**Sign, Internally Illuminated.** A sign where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that:

- a) are filled with neon or some other gas that glows when an electric current pass through it; and
- b) are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally illuminated signs.

**Sign, Nonconforming.** A sign that, on the effective date of this chapter, does not conform to one or more of the regulations set forth in this chapter, particularly Article 17- Signs.

**Sign, Pennant.** Any lightweight plastic, fabric, or other material, whether containing a message of any kind, suspended from a rope, wire, or string, usually in series, and designed to move in the wind.

**Sign Permit.** A permit issued by the land use administrator that authorizes the recipient to erect, move, enlarge, or substantially alter a sign.

**Sign, Political.** A sign that announces the candidacy of a person or slate of persons running for elective office, or a political party, or an issue.

**Sign, Portable.** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported. Includes, but is not limited to, signs designed to be transported by means of wheels, runners, castors, trailers, or other mobile devices; signs converted to A-frames or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is regularly and customarily used in the normal day-to-day operations of the business.

**Sign, Maintenance.** For the purposes of this Chapter, 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.

**Sign, Major Renovation.** Work to restore or repair a structure estimated to cost more than twenty-five percent of the appraised valuation of that structure.

**Sign, Message Board.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a message board sign for purposes of this Chapter.

**Sign, Off-Premises.** A sign that communicates a commercial message about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists, or is conducted, sold, offered, maintained, or provided at a location other than the premises where the sign is located.

**Sign, On-Premises.** A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, enterprise, or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.

**Sign, Projecting.** Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall. A projecting sign is affixed to the building or wall so that it is perpendicular to such building or wall.

**Sign, Roof.** Any sign erected, constructed, or maintained upon or over the roof of a building, or extending above the highest wall of the building, and having its principal support on the roof or walls of the building.

**Sign, Streamer.** A long, narrow, ribbon-shaped flag or pennant.

**Sign, Structure.** Any structure that is built to support, supports, or has supported a sign.

**Sign, Subdivision.** A sign identifying a recognized subdivision, condominium complex, or residential development.

**Sign, Temporary.** A Temporary Sign shall be defined as one which is designed and installed in a manner that makes it easily removable from its location of installation.

**Sign, Wall.** Any sign attached to or erected against or within the wall of a building or structure, having the exposed face of the sign in a plane parallel to the plane of such wall.

**Sign, Window.** Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, sale, or service, that is placed inside a window, or upon the windowpanes or glass, and is visible from the exterior of the window. For the purposes of this Chapter a sign that rests against a window, a sign that is separated from the window by a bumper pad, or a sign that is placed within two inches of the window through the use of a hanging device, shall be considered a "window sign".

**Sign, Value.** The value for tax purposes of any sign so listed. If tax value is not available, the value shall mean the original cost of the sign. In the absence of information as to original cost submitted by the sign owner, the administrator shall estimate original cost based upon the best information reasonably available.

**Significant Tree.** A healthy tree with a DBH (diameter at breast height of 18") or greater.

**Silviculture.** The art and science of sustainably growing and harvesting trees to meet needs.

**Skilled Nursing Care.** Skilled care is professionally supervised nursing care and related medical and other health services for persons who are assessed as needing 24-hour nursing care that can only be met in a long-term care facility on an inpatient basis.

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

**Special Events.** Circuses, fairs, carnivals, festivals, or other types of special events that:

- a) run for longer than one day, but not longer than two weeks;
- b) are intended to or likely to attract substantial crowds; and
- c) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

**Street.** A public Town street or a street with respect to which an offer of dedication has been made and accepted by the Town.

**Street, Arterial.** A major street in the town's street system that serves as an avenue for the circulation of traffic onto, out, or around the town and carries high volumes of traffic.

**Street, Collector.** A street whose principal function is to carry traffic between minor, local, and sub-collector streets and arterial streets, but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than one hundred dwelling units and is designed to be used or is used to carry more than eight hundred trips per day.

**Street, Cul-de-sac.** A street that terminates in a vehicular turn-around.

**Street, Local.** A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten, but not more than twenty-five, dwelling units and is expected to or does handle between seventy-five and two hundred trips per day.

**Street, Marginal Access.** A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

**Street, Minor.** A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine dwelling units and is expected to or does handle up to seventy-five trips per day.

**Street, Sub-collector.** A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least twenty-six, but not more than one hundred, dwelling units and is expected to or does handle between two hundred and eight hundred trips per day.

**Structure.** Anything constructed or erected.

**Subdivision.** The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, whether immediate or future, and including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this chapter applicable strictly to subdivisions:

- a) 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 minimum standards set forth in this chapter; or
- b) the division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved; or
- c) the public acquisition by purchase of strips of land for widening or opening streets; or
- d) the division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in this chapter; or
- e) the division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the NC General Statutes.

**Subdivision, Architecturally Integrated.** A subdivision in which all of the principal buildings are constructed in accordance with a master plan approved in conjunction with the permit that authorizes the development. All of the uses within such a development must be permissible within the district where this use is located.

**Subdivision, Major.** Any subdivision other than a minor subdivision.

**Subdivision, Minor.** A subdivision that does not involve any of the following:

- a) the creation of more than a total of three lots;
- b) the creation, dedication, or extension of any new street or road, whether public or private;
- c) the extension of a public water or sanitary sewer system other than laterals to individual lots; or
- d) the installation of drainage improvements that would require an easement across one or more lots to serve other lots. In stating that a minor subdivision does not involve the "creation, dedication, or extension of any new street or road", it means that adequate access to such lots is provided by an approved existing street (public or private) without the need for additions or improvements to existing street rights-of-way or easements.

**System Height.** With regard to a wind energy system, the tower height plus the blade length.

**Telecommunication Tower or Tower.** A monopole, guyed, or self-supporting tower, constructed as a free-standing structure or in association with a building, other permanent structure, or equipment, that contains one or more antennas intended to transmit or receive television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication. This definition shall not include any structures erected solely for a non-commercial individual use such as residential television antennas, satellite dishes, and ham radio antennas.

**Temporary Emergency, Construction, or Repair Residence.** A residence (which may be a mobile home) that is:

- a) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster; or
- b) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed; or
- c) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site.

**Tower Height.** The vertical distance measured from ground to the upper most point of the tower, not including the antenna(s). With regard to a wind energy system, the height above grade of the fixed portion of the tower, excluding the wind turbine itself.

**Town.** The Town of Blowing Rock, North Carolina.

**Town Council.** The Blowing Rock Board of Commissioners.

**Town Manager.** Chief Administrative Officer for the Town of Blowing Rock.

**Townhouse.** A unit in a non-vertically attached, multi-unit complex where the owner of the unit owns in severalty both the unit (including the entire physical structure) and the land on which the unit rests. The common areas are owned by the unit owners' association.

**Townhouse development.** A development of a zoning lot that consists of two (2) or more attached dwelling units or buildings and appurtenances, each of which is located on its own individual lot, plus land developed and designated for the common use and benefit of the occupants of the townhouse lots, provided an entity is designated to be legally responsible for maintenance and control of the common land areas. The individual lots within a townhouse development shall not be required to meet the building setback requirements, minimum lot sizes, or minimum lot widths as specified in Article 12, provided the overall zoning lot containing the townhouse development meets such standards.

**Tract.** (see definition for Lot). The term tract is used interchangeably with the term lot, particularly in the context of subdivisions, where one "tract" is subdivided into several "lots."

**Transfer of Ownership or Control.** Includes any of the following:

- a) the sale, lease, or sublease of the business; or
- b) the transfer of securities that constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- c) the establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**Travel Trailer.** A structure that is:

- a) intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle); and
- b) is designed for temporary use as sleeping quarters, but that does not satisfy one or more of the definitional criteria of a mobile home.

**Tree-topping.** The severe cutting back of limbs to stubs larger than 2 inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

**Turbine.** The parts of the wind energy system including the blades, generator and tail.

**Two-Family Conversion.** A two-family residence resulting from the conversion of a single building containing at least 2000 square feet of gross floor area that was in existence on the effective date of this Chapter and that was originally designed, constructed and occupied as a single-family residence.

**Unified Development.** Development covering more than one tract, parcel, or lot, which has common ownership and is interrelated.

**Use.** The activity or function that actually takes place or is intended to take place on a lot.

**Use, Principal.** A use listed in the Table of Permissible Uses.

**Utility Facilities.** Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, corporation, or any entity defined as a public utility for any purpose by Section 62-3 of the North Carolina General Statutes and

used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Excepted from this definition are utility lines and supporting structures listed in Section 16-10.7.c.

**Utility Facilities, Neighborhood.** Utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facilities are proposed to be located.

**Utility Facilities, Community or Regional.** All utility facilities other than neighborhood facilities.

**Variance.** A grant of permission by the board of adjustment that authorizes the recipient to do that which, according to the strict letter of this Chapter, he/she could not otherwise legally do.

**Vegetative Canopy.** Trees that create a roof-like layer of spreading branches.

**Vehicle Accommodation Area.** That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

**Visible.** Capable of being seen without visual aid by a person of normal visual acuity.

**Viewshed.** Those lands seen from a specific location that form a visual composition with foreground, middle ground, and background areas.

**Wholesale Sales.** On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

**Wind Energy System.** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics.

**Wind Energy System, Small.** A wind energy conversion system limited to generation of not more than 20 kW consisting of a wind turbine, a tower, and associated control or conversion electronics.

**Wind Energy Tower.** With regard to a wind energy system, the structure on which the wind system is mounted.

**Zoning Administrator/Officer.** (See Administrator)

**Zoning Permit.** A permit issued by the administrator that authorizes the recipient to make use of property in accordance with the requirements of this chapter.

**Section 16-2.3. Adult Establishment Definitions.** Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in Article 19. Such definitions shall not necessarily apply if this term is used elsewhere in this Chapter.

**Adult Arcade.** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, anywhere the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

**Adult Bookstore, Adult Novelty Store, or Adult Video Store.** A commercial establishment that:

- a) receives a majority of its gross income during any calendar month from the sale or rental of publications, novelties, or devices that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; or
- b) has as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications, novelties, or devices that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

**Adult Business Establishment.** Any business or enterprise that has, as one of its principal business purposes or as a significant portion of its business, an emphasis on matter and conduct depicting, describing or related to specified anatomical areas and specified sexual activities. This definition includes, but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult mini motion picture theater, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center. This term may be used interchangeably with adult establishment or sexually oriented business.

**Adult Cabaret.** A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- a) persons who appear in a state of nudity or semi-nudity; or
- b) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- c) films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**Adult Establishment.** (See Adult Business Establishment).

**Adult Live Entertainment.** Any performance of or involving the actual presence of real people that exhibits specified sexual activities or specified anatomical areas.

**Adult Live Entertainment Business.** Any establishment or business wherein adult live entertainment is shown for observation by patrons.

**Adult Mini Motion Picture Theater.** An enclosed building with viewing booths designed to hold patrons that is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**Adult Motel.** A hotel, motel or similar commercial establishment that:

- a) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- b) offers a sleeping room for rent for a period of time that is less than 10 hours; or
- c) allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than 10 hours.

**Adult Motion Picture Theater.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas. Adult motion picture theater does not include any adult mini motion picture theater as defined in this section.

**Adult Theater.** A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or semi-nudity, or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

**Employee.** A person who performs any service on the premises of an adult business establishment on a full-time, part-time or contract basis, regardless of whether the person is designated as an employee, independent contractor, agent, or otherwise, or whether said person is paid a salary, wage or other compensation by the operator of said business. Also included are all persons who participate for consideration or possibility of a prize in any contests, performances, or exhibitions sponsored by or allowed at a adult business establishment or occurring upon the premises of the adult business establishment. Employee does not include a person exclusively on the premises for the repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

**Escort.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**Escort Agency.** A person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**Erotic.** Any seductive, titillating, lustful, immodest, indecent, suggestive, passionate, or similar reference, act, service, or deed.

**Establish.** Includes any of the following:

- a) the opening or commencement of any adult business establishment as a new business; or
- b) the conversion of an existing business, whether or not an adult business, to any adult business establishment; or
- c) the additions of any adult business establishment to any other existing adult business establishment; or
- d) the relocation of any adult business establishment.

**Licensed Day Care Center.** A facility licensed by the State of North Carolina, regardless of whether it is situated within the Town, that provides care, training, education, custody, treatment, or supervision for children for less than 24 hours per day, where such children are not related by blood, marriage, or adoption to the owner or operator of the facility, regardless of whether the facility is operated for a profit or charges for the services it offers.

**Licensee.** A person in whose name a license to operate an adult business establishment has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in an adult business establishment.

**Massage.** The manipulation of body muscular tissue by rubbing, stroking, kneading, or tapping, whether by hand or mechanical device.

**Massage Business.** Any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors.

**Nude Model Studio.** Any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the State of North Carolina or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- a) that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
- b) where in order to participate in a class a student must enroll at least three days in advance of the class; and

- c) where no more than one nude or semi-nude model is on the premises at any one time.

**Nudity or State of Nudity.** The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state

**Person.** An individual, proprietorship, partnership, corporation, association, or other legal entity.

**Premises.** The real property upon which the adult business establishment is located, including all appurtenances thereto and buildings thereon. It shall include, but not be limited to, the adult business establishment, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to this Chapter.

**Publications.** Includes, but is not necessarily limited to, books, magazines, other periodicals, videotapes, compact discs, or other photographic, electronic, magnetic, digital, or other imaging medium.

**Semi-Nudity or in a Semi-Nude Condition.** The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

**Sexual Encounter Center.** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

**Sexually Oriented Business.** Any business or enterprise that has, as one of its principal business purposes or as a significant portion of its business, an emphasis on matter and conduct depicting, describing or related to specified anatomical areas and specified sexual activities. This definition includes, but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult mini motion picture theater, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center. This term may be used interchangeably with adult establishment or adult business.

**Sexually Oriented Devices.** Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

**Specified Anatomical Areas.** Less than completely and opaquely covered:

- a) human genitals, pubic region, or buttock; or
- b) female breast below a point immediately above the top of the areola. Also includes human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specified Criminal Activity.** Any of the following offenses:

- a) prostitution or promotion of prostitution;
- b) dissemination of obscenity;
- c) sale, distribution or display of harmful material to a minor;
- d) sexual performance by a child;
- e) possession or distribution of child pornography;
- f) public lewdness;
- g) indecent exposure;
- h) indecency with a child;
- i) engaging in organized criminal activity;
- j) sexual assault;
- k) molestation of a child;
- l) gambling;
- m) distribution of a controlled substance; or
- n) any similar offenses to those described above under the criminal or penal code of other states or countries, For which:
  - 1) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction whichever is the later date, if the conviction is of a misdemeanor offense;
  - 2) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
  - 3) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.
  - 4) the fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

**Specified Sexual Activities.** Includes any of the following:

- a) human genitals in a state of sexual stimulation or arousal; or
- b) acts of human masturbation, sexual intercourse or sodomy; or
- c) fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

**Section 16-2.4. Flood Plain Definitions.** Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in Article 16. Such terms shall not necessarily apply when these terms are used elsewhere in this Chapter.

**Accessory Structure (Appurtenant Structure).** A structure 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.

**Addition.** (to an existing building.) An extension or increase in the floor area or height of a building or structure.

**Appeal.** A request for a review of the Floodplain Administrator's interpretation of any provision of this Chapter.

**Area of Shallow Flooding.** A designated Zone AO 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.** see "Special Flood Hazard Area (SFHA)".

**Base Flood.** The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

**Base Flood Elevation (BFE).** A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

**Basement.** Any area of the building having its floor subgrade (below ground level) on all sides.

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

**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.

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

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

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

**Existing Manufactured Home Park or Manufactured Home 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 pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

**Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a) the overflow of inland or tidal waters; and/or
- b) the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Boundary and Floodway Map (FBFM).** An official map of a community, 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 (FIRM).

**Flood Hazard Boundary Map (FHBM).** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas 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 a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

**Flood Insurance Study (FIS).** An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

**Flood Prone Area.** see "Floodplain".

**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.

**Floodplain.** Any land area susceptible to being inundated by water from the base flood. As used in this chapter, the term refers to that area designated as subject to flooding from the base flood (one-hundred-year flood) on the "Flood Boundary and Floodway Map" prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the inspections department.

**Floodplain Administrator.** (see Administrator, Section 16-2.2)

**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.** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**Floodplain Management Regulations.** This Chapter and other zoning Chapters, subdivision regulations, building codes, health regulations, special purpose Chapters, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and 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 or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a) the overflow of inland or tidal waters; and/or
- b) the unusual and rapid accumulation or runoff of surface waters from any source.

**Freeboard.** The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the "Regulatory Flood Protection Elevation".

**Functionally Dependent Facility.** A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

**Hazardous Waste Management Facility.** As defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**Highest Adjacent Grade (HAG).** The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

**Historic Structure.** Any structure that is:

- a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- b) certified or preliminarily determined by the Secretary of 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;
- c) individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
- d) certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program".

**Lowest Adjacent Grade (LAG).** The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

**Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.

**Manufactured Home.** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market Value.** The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

**Mean Sea Level.** For purposes of this Chapter, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

**New Construction.** Structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

**Nonconforming Building or Use.** Any legally existing building or use which fails to comply with the provisions of the Chapter.

**Non-Encroachment Area.** 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.

**Post-FIRM.** Construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

**Pre-FIRM.** Construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.

**Principally Above Ground.** Fifty-one percent (51%) of the actual cash value of the structure is above ground.

**Public Safety” and/or “Nuisance.** Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Recreational Vehicle (RV).** A vehicle, which is:

- a) built on a single chassis;
- b) 400 square feet or less when measured at the largest horizontal projection;
- c) designed to be self-propelled or permanently towable by a light duty truck; and
- d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Reference Level.** The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

**Regulatory Flood Protection Elevation.** The “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus 1.0 feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least 2.0 feet above the highest adjacent grade.

**Remedy a Violation.** To bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Chapter or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**Riverine.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Salvage Yard.** Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

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

**Solid Waste Disposal Site.** As defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

**Special Flood Hazard Area (SFHA).** The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined Section 16-16.5 of this Chapter.

**Start of Construction.** Includes substantial improvement and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the 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 buildings, 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.

**Structure.** Anything constructed or erected; a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

**Substantial Damage.** Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- a) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**Variance.** A grant of relief from the requirements of this Chapter.

**Violation.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

**Water Surface Elevation (WSE).** The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**Watercourse.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**Section 16-2.5. Watershed Definitions.** Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in Article 14. Such terms shall not necessarily apply when these terms are used elsewhere in this Chapter.

**Animal Unit.** A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

**Best Management Practices (BMP).** A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

**Buffer within Watershed Area.** An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

**Built-upon area.** Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (for example, roads, parking lots, and paths), recreation areas (for example, tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.

**Cluster Development.** The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

**Composting Facility.** A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

**Composting Facility.** A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

**Critical Area.** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

**Discharging Landfill.** A landfill which discharges treated leachate, and which requires a National Pollution Discharge Elimination System (NPDES) permit.

**Existing Development.** Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this Chapter based on at least one of the following criteria:

- a) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- b) having an outstanding valid building permit as authorized by NCGS 160D-108(d)(1) or
- c) having an approved site specific or phased development plan as authorized by the NCGS 160D-108(d)(3).

**Existing Lot (Lot of Record).** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to September 14, 1993, the adoption of The Blowing Rock Watershed Protection Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior September 14, 1993, the adoption of The Blowing Rock Watershed Protection Ordinance.

**Hazardous Material.** Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

**Industrial Development.** Any non-residential development that requires an NFDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

**Nonconforming Lot.** A lot described by a plat or a deed that was recorded prior to the effective date of this Chapter (or its amendments) that does not meet the minimum lot size or other development requirements of this Chapter.

**Plat.** A map or plan of a parcel of land which is to be or has been subdivided.

**Protected Area.** The area adjoining and upstream of the critical area of WS-IV watershed. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

**Residential Development.** Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc., and customary home occupations.

**Toxic Substance.** Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction

or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

**Water Dependent Structure.** Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

**Watershed.** The entire land area contributing surface drainage to a specific point (e.g., the water supply intake).

**Watershed Administrator.** (see Administrator)

**Watershed Variance, Major.** A variance from the minimum statewide water supply watershed protection rules that results in:

- a) relaxation, by a factor of greater than ten (10) percent, of any management requirement that takes the form of a numerical standard under the low-density option;
- b) the relaxation of any management requirement that applies to a development proposal intended to qualify under the high-density option.

**Watershed Variance, Minor.** A variance from the minimum statewide watershed protection rules that results in a relaxation by a factor of up to ten (10) percent of any management requirement under the low-density option.