

## ARTICLE 2. INTERPRETATIONS AND DEFINITIONS

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#### 2.1. MINIMUM REQUIREMENTS

2.1.1. In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements and deemed neither to limit nor repeal any other powers granted under state statutes.

#### 2.2. GREATER RESTRICTIONS GOVERN

2.2.1. These regulations shall be the minimum requirements for administration, enforcement, procedures, restrictions, standards, uses, variances, and all other areas addressed by this Ordinance. If any federal or state law or any other existing ordinance or regulation allows lesser regulation, this Ordinance shall govern so that, in all cases, the more restrictive (greater) restriction shall govern. Whenever regulations imposed by this Ordinance are less restrictive than regulations imposed by any governmental authority through regulation, rule or restriction, the regulations imposed by that authority shall govern. Regardless of any other provision of this Ordinance, no land shall be developed or used, and no structure shall be erected or maintained in violation of any state or federal regulation.

#### 2.3. ROUNDING OF NUMBERS

2.3.1. All calculations that result in a part or fraction of a whole number shall be rounded to the nearest whole number.

#### 2.4. FIGURES AND TABLES

2.4.1. The figures and tables provided in this Ordinance are designed to provide a visual explanation to selected Sections of the Ordinance. If any illustration appears to be in conflict with the text of the Ordinance, the text shall govern.

## 2.5. RULES OF CONSTRUCTION

2.5.1. For purposes of this Ordinance, the following rules of construction shall apply:

- A. Word Interpretation: Words not defined in this Ordinance shall be given their ordinary and common meaning.
- B. Tense: Words used in the present tense include the future tense. 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. **(Ord. 05/31/1977, 154.002 Section B)**
- C. Singular and Plural: Words used in the singular number include the plural number, and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.
- D. Mandatory Meaning: The words 'shall', 'will', and 'must' are mandatory in nature implying an obligation or duty to comply with the particular provision.
- E. Gender: As used in this Ordinance, words importing the masculine gender include the feminine and neuter.
- F. References: Any reference to an Article or Section shall mean an Article or Section of this Ordinance, unless otherwise specified.
- G. "Written" or "in writing" is deemed to include electronic documentation. **(N.C.G.S. § 160D-110(b))**
- H. Delivery: Unless specified otherwise, in the absence of evidence to the contrary, delivery by first-class mail shall be deemed received on the third business day following deposit of the item for mailing with the United States Postal Service, and delivery by electronic mail shall be deemed received on the date sent. **(N.C.G.S. § 160D-110(c))**
- I. Person: Includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
- J. May and Should: Are permissive; an officially adopted course or method of action intended to be followed.
- K. Shall and Will: Are always mandatory and not merely directive; expresses determination to implement/take action.
- L. Used for: Shall include the meaning "designed for."
- M. Used or Occupied: Shall mean "intended, designed, and arranged to be used or occupied."
- N. Lot: Shall include the words "plot," "parcel," "site," and "premises."
- O. Building: Shall include the word "structure."
- P. Street: Includes the word "alley," "road," "cul-de-sac," "highway," or "thoroughfare," whether designated as public or private.
- Q. Includes: Shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- R. Zoning Administrator: Shall mean the Zoning Administrator or his/her designee.
- S. Planning Board: Shall mean the "Town of Fairmont Planning Board."
- T. Town: Shall mean the "Town of Fairmont," a municipality of the State of North Carolina.
- U. Map and Zoning Map: Shall mean the "Official Zoning Map for the Town of Fairmont, North Carolina."
- V. Board of Adjustment: Shall mean the "Town of Fairmont Board of Adjustment."

## 2.6. COMPUTATION OF TIME

- 2.6.1. Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded.
- 2.6.2. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice and the notice or paper is served by mail (Certified Mail/Return Receipt Requested), three days shall be added to the prescribed period.

## 2.7. DEFINITIONS.

2.7.1. *Purpose.* For the purposes of this Ordinance, certain words, concept, and ideas are defined herein. Except where specifically defined herein, all words used in this Ordinance shall have their customary dictionary definition.

2.7.2. *Definitions.*

*Abutting.* Having property or district lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street, right-of-way, alley, easement or stream.

*Access.* A way of approaching or entering a property. Access also includes ingress, the right to enter, and egress, the right to leave.

*Access Easement.* An easement which grants the right to cross property.

*Accessory Building/Structure.* A detached subordinate building operated and maintained under the same ownership, the use of which is customarily incidental to that of the main building and which is located on the same lot as the main building. Accessory buildings include the following but are not limited to: detached garages, storage buildings, playhouses, and workshops, all of which are totally for personal use. Accessory buildings cannot be a manufactured home.

*Accessory Use.* A use incidental to and customarily associated with the Use by Right, and located on the same Zone Lot with the Use by Right, and operated and maintained under the same ownership with the operation of the Use by Right.

*Address.* The official street number assigned by Robeson County 911 Addressing for a specific lot, building or portion thereof.

*Administrative Approval.* Approval that the Zoning Administrator or designee is authorized to grant after Administrative Review.

*Administrative Decision.* Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as “ministerial” decisions or “administrative determinations.” (**N.C.G.S. 160D-102**).

*Administrative Hearing.* A proceeding to gather facts needed to make an administrative decision. (**N.C.G.S. 160D-102**).

Administrative Review. Non-discretionary evaluation of an application by the Zoning Administrator or designee. This process is not subject to a public hearing.

Adult Care Home. An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to people with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. Adult care homes and family care homes are subject to licensure by the Division of Health Service Regulation. (See N.C.G.S. 131-D-2.1)

Adult Day Care Center. The provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled.

Adult Establishment/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 anatomical areas and sexual activities specified in G.S. 14-202.10. This includes, but is not limited to, adult bookstores, adult motion picture theaters, adult mini motion picture theaters, adult live entertainments, or massage businesses. **(N.C.G.S. 160D-902(f))**

Agricultural Production (Crops). The production of (and activities relating or incidental to the production of) crops, fruits, vegetables, ornamental and flowering plants, and nursery products such as bulbs, trees, vines, shrubbery, flower and vegetable seeds and plants, and sod. Included in this definition are establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, and related activities.

Agricultural Production (Livestock). The production of (and activities relating or incidental to the production of) dairy, livestock, poultry products. Livestock as used here includes cattle, sheep, goats, hogs, and poultry as well as animal specialties such as horses, rabbits, bees, fur-bearing animals in captivity, and fish in captivity. This definition does not include animal feeder/breeder operations.

Agritourism. Agritourism means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for Agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting. **(N.C.G.S. 160D-903(a)).**

Air Compressors. A device that converts power (using an electric motor, diesel or gasoline engine, etc.) into potential energy stored in pressurized air (i.e., compressed air). By one of several methods, an air compressor forces more and more air into a storage tank, increasing the pressure.

Alley. A public or private thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation. **(Ord. 05/31/1977, 154.002 Section A)**

Alter. To make any structural changes in the supporting or loadbearing members of a building, such as bearing walls, columns, beams, girders, floor joists.

Animal Feeder/Breeder Operations. Establishments primarily engaged in the production, feeding, or fattening of cattle, hogs, chickens, or turkeys in a confined area for a period of at least 45 days on a contract or fee basis.

Antenna Communications. equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communication services.

Antenna Array. One or more rods, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include Omni-directional antenna (rod), directional antenna (panel), and parabolic antenna (disc). The Antenna Array does not include the Support Structure.

Apartment House. See Dwelling, Multiple Family.

Appeal. A request for a review of the interpretation of any provision of this Ordinance.

Applicable Codes. The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical and health codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Application, Wireless Communication Facility. A request that is submitted by an applicant to a Town for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, Town utility pole, or wireless support structure.

Assembly. A joining together of completely fabricated parts to create a finished product.

Assisted Living Residence. Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. There are three types of assisted living residences: adult care homes, adult care homes that serve only elderly persons, and multi-unit assisted housing with services. As used in this definition, "elderly person" means: (i) any person who has attained the age of 55 years or older and requires assistance with activities of daily living, housing, and services; or (ii) any adult who has a primary diagnosis of Alzheimer's disease or other form of dementia who requires assistance with activities of daily living, housing, and services provided by a licensed Alzheimer's and dementia care unit.

- (1) Adult Care Home. An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. Adult care homes include halfway houses and drug rehab facilities.
- (2) Multi-Unit Assisted Housing with Services. An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or other compensatory agents, must be capable, through informed consent, of

entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care.

Attached Building. A building that is joined to another building at one or more sides by a party wall or walls.

Athletic Field. Outdoor sites, often requiring equipment, designed for formal athletic competition in field sports (e.g. softball, soccer, football)

Automated Teller Machine. A mechanized consumer banking device operated by or associated with a financial institution for the convenience of its customers, whether outside, in an access controlled facility or a location remote from the controlling financial institution. ATM's located within a building or on site of the controlling financial institution shall be considered accessory to the principal use.

Auto Wrecking. A person or establishment that provides open storage, disassembling, or salvaging for junked motor vehicles.

Automobile Repair Services. An establishment primarily engaged in one or more of the following activities: 1) general automotive repair or service, 2) automotive engine repair, 3) installation or repair of automotive transmissions, 4) installation or repair of automotive glass, 5) installation or repair of automotive exhaust systems, 6) repair of automotive tops, bodies and interiors, and 7) automotive painting and refinishing.

A-Weighted Sound Level (dBA). A number in decibels, which is read from a sound-level meter, when the meter is switched to its weighting scale labeled "A." The number approximately measures the relative noisiness or annoyance level of many common sounds, including aircraft.

Bar, Lounge. An establishment used primarily for sale or dispensing of alcoholic beverages by the drink for on-site consumption and where food may be available for consumption on the premises as an accessory to the principal use.

Base Station. A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

Basement. A story of a building or structure having one-half or more of its clear height below grade.

Bed and Breakfast Inn. An overnight lodging business located within a structure originally designed and built as a single family residence. Overnight guest facilities are limited in number, and maximum stay by guests is restricted to seven (7) consecutive days. Meals shall only be provided to overnight guests.

Bed and Breakfast Inns are further divided into Bed and Breakfast Guest Homes and Bed and Breakfast Inns.

- (a) A Bed and Breakfast Guest Home is an owner-occupied, single-family residential structure with accommodations for up to six (6) guest sleeping rooms.
- (b) A Bed and Breakfast Inn has accommodations for up to twenty-three (23) persons in no more than twelve (12) guest sleeping rooms.

Bedroom. A room designated as sleeping or bedroom on the plans.

**Billboard.** Outdoor structure or display, pictorial or otherwise, either freestanding or attached to a building, which advertises or attracts attention to a business, commodity, service or other activity conducted, sold or offered elsewhere than on the premises on which the sign is located.

**(Ord. 05/31/1977, 154.002 Section A)**

**Bingo Hall.** A facility used primarily for the conduct of bingo games, open to the public and not in a subsidiary nature to another use.

**Block.** The land lying within an area bounded on all sides by streets or any combination of intersecting streets, railroad rights-of-way, watercourses or other features or natural barriers which permanently interrupt the continuity of development.

**Board of Adjustment.** A quasi-judicial body, appointed by the Board of Commissioners, and given certain powers under this Ordinance.

**Board of Commissioners.** An elected board – called the city or town **council**, the **board of commissioners** or the **board** of aldermen – is the governing body in each North Carolina municipality. The number of members on the board, method of election and whether they represent districts or hold at-large seats are determined by the municipal charter.

**Bona Fide Farm Purposes.** - Agricultural activities as set forth in G.S. 160D-903(**N.C.G.S. 160D-903**).

**Bona Fide Farm.** Land that receives or is eligible to receive an agricultural use exemption from the county tax office and is used for the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market. The term does not include nonfarm activities conducted on farmland. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes: 1. A farm sales tax exemption certificate issued by the Department of Revenue. 2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3. 3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return. 4. A forest management plan. (**N.C.G.S. 160D-903(a)**).

**Buffer.** 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 and rivers.

**Buildable Lot.** One or more lots of record in one undivided ownership with sufficient total area, exclusive of easements, flood hazards, well and septic tank fields; sufficient total dimensions; and sufficient access to permit construction thereon of a principal building together with its required parking and buffer yards.

**Buffer Yard/Buffer Strip.** A strip of land which is established to separate one type of land use from another type of land use and which contains natural or planted vegetation, berms, walks, or fences.

**Building.** Any structure used or intended for supporting or sheltering any use or occupancy. Each portion of a building separated from other portions by a fire wall shall be considered a separate building.

**Building, Accessory.** A building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot therewith.

**(Ord. 05/31/1977, 154.002 Section A)**



**Building, Principal.** A building in which is conducted the principal use of the lot on which the building is situated.  
**(Ord. 05/31/1977, 154.002 Section A)**

**Building, Height.** The vertical distance measured from the grade of the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof. Height of a building in stories does not include basements, except as specifically provided for in this Ordinance.

**Building Permit.** An official administrative authorization issued by the Town prior to beginning construction consistent with the provisions of NCGS 160A-417.

**Building Separation.** The minimum required horizontal distance between buildings.

**Building Setback Line.** A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost 3 feet of any uncovered porches, steps, eaves, gutters and similar fixtures and the street right-of-way line when measured perpendicularly thereto.  
**(Ord. 05/31/1977, 154.002 Section A)**

**Caliper Inches.** Quantity in inches of the diameter of trees measured at six inches above the ground for trees four inches or less in trunk diameter and twelve inches above the ground for trees over four inches in trunk diameter.

**Campground.** Campgrounds, also including Recreational Vehicle park and travel trailer parks, means a parcel of land in which two or more campsites are designated primarily for temporary occupancy by recreational vehicles for travel, recreational or vacation uses. Such parks shall be construed to include those parks having sites for tent camping as well as for RV campers. Also referred to as “campground” and “park.”

**Camper Trailer (Pop-Up)** – A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

**Canopy Tree.** A species of tree which normally grows to a mature height of forty feet or more with a minimum mature crown width of thirty feet.

**Cemetery.** Land and facilities, including offices and chapels, used for or intended to be used for the burial of the dead, whether human or animal. Such a facility includes any burial ground, mausoleum, or columbarium.

**Certificate of Occupancy.** Official certification that a premises conforms to provisions of the zoning code and building code and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use. Unless such a certificate is issued, a structure cannot be occupied.

**Certificate of Zoning Compliance.** A statement, signed by the Zoning Administrator, setting forth that the building, structure or use complies with the Zoning Ordinance and that the same may be used for the purpose stated therein.

**Certify.** Whenever this Ordinance requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the



Town may accept certification by telephone from some agency when the circumstances warrant it, or the Town may require that the certification be in the form of a letter or other document.

*Certiorari, Nature of.* The review of the record of a case (minutes of a hearing) by a court for the issuance of a ruling to a board having some judicial power.

*Charter.* - The entire body of local acts currently in force applicable to the Town of Fairmont, including articles of incorporation issued to a city by an administrative agency of the State, and any amendments thereto adopted. (N.C.G.S. 160A-102).

*Channel.* The bed where a river, stream or watercourse runs.  
**(Ord. 05/31/1977, 154.002 Section A)**

*Child Care.* A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.

*Child Care Facility.* Includes child care centers, family child care homes, and any other child care arrangement not excluded by NCGS 110-86 (2) that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.

- (1) *Child care center.* An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.
- (2) *Small child care center.* Small centers in a residence that are licensed for six to twelve children which may keep up to three additional school age children, depending upon the ages of other children in care. When the group has children of different ages, staff-child ratios and group size must be met for the youngest child in the group.
- (3) *Family child care home.* A child care arrangement located in a residence where, at any one time, more than two (2) children, but less than nine (9) children, receive child care.

*Chimney.* A vertical shaft of reinforced concrete, masonry, or other approved material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid, or gaseous fuel.

*Churches/Places of Worship.* Facilities used primarily for nonprofit purposes by a recognized and legally established sect to provide assembly and meeting areas for religious activities. Accessory uses include Sunday school facilities, parking, caretaker's housing, pastor's housing, and permanent group living facilities such as convents. Examples include churches, temples, synagogues, and mosques, but not associated schools, day care facilities, or other facilities not devoted to religious activity.

*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.

*City.* – As defined in G.S. 160A-1(2). 'City' is interchangeable with the terms 'town' and 'village,' is used throughout this ordinance. (N.C.G.S. 160D-102).

*City/Town Right-of-Way.* A right-of-way owned, leased, or operated by a Town, including any public street or alley that is not a part of the State highway system.

City/Town Utility Pole. A pole owned by a Town in the Town right-of-way that provides lighting, traffic control, or a similar function.

Customary Home Occupation. Any use conducted for gain entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof, and in connection with which there is no display; provided further, no person, not a resident on the premises shall be employed specifically in connection with the activity; no mechanical equipment shall be installed or used except as is normally used for domestic or professional purposes; and not over 25% of the total floor space shall be used for home occupations.

**(Ord. 05/31/1977, 154.002 Section A)**

Class A Motor Vehicle. - A combination of motor vehicles that meets either of the following descriptions:

- (a) Has a combined GVWR of at least 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.
- (b) Has a combined GVWR of less than 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.

**Statutory Reference NCGS 20-4.01(2a)**

Class B Motor Vehicle. - Any of the following:

- (a) A single motor vehicle that has a GVWR of at least 26,001 pounds.
- (b) A combination of motor vehicles that includes as part of the combination a towing unit that has a GVWR of at least 26,001 pounds and a towed unit that has a GVWR of less than 10,001 pounds.

**Statutory Reference NCGS 20-4.01(2b)**

Class C Motor Vehicle. - Any of the following:

- (a) A single motor vehicle not included in Class B.
- (b) A combination of motor vehicles not included in Class A or Class B.

**Statutory Reference NCGS 20-4.01(2c)**

Clubs and Lodges. An incorporated or unincorporated association for civic, social, cultural, fraternal, literary, political, recreational or like activities, operated on a nonprofit basis for the benefit of its members.

Code Official. An employee of the town with responsibility for administration and enforcement of development ordinances.

Collector Street. A street whose principal function is to carry traffic between cul-de-sac, local, and sub-collector streets, and streets of higher classification, but which may also provide direct access to abutting properties.

Collocation. The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the surface of the earth adjacent to existing structures, including utility poles, Town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term "collocation" does not include the installation of new utility poles, Town utility poles, or wireless support structures.

Combination Use. A use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permitted Uses. Under some circumstances, a second principal use may be regarded as

accessory to the first, and thus a combination use is not established. 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.

Common Area(s). All areas, including private streets, conveyed to an owners' association within a development, or owned on a proportional undivided basis in a condominium development.

Communications Facility. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications Service. Cable service as defined in 47U.S.C. § 522(6), information service as defined in 47U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services. Communications Service Provider A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

Competent Evidence. NC General Statutes require that the rules of evidence as applied in the trial division of the General Court of Justice ordinarily be followed but adds the important exception that “when evidence is not reasonably available under such rules to show relevant facts, they may be shown by the most reliable and substantial evidence available.” The Board just limit itself to the type of evidence that ought to be admissible before local administrative agencies generally. The term “competent” is essentially a synonym for “admissible before a local board.”

Comprehensive Plan. The Comprehensive Plan is intended to guide coordinated, efficient, and orderly development within the planning and development regulation jurisdiction based on an analysis of present and future needs. The comprehensive plan, land-use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the governing board. **(N.C.G.S. 160D-102).**

Conditional Zoning. - A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. **(N.C.G.S. 160D-102).**

Condominium. Portions of real estate which are designated for separate ownership, and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Condominium Development. A development of one or more structures containing two or more units intended for owner occupancy, where the land beneath each unit and all common areas (as defined in the North Carolina Unit Ownership Act) are owned proportionately by each unit owner in the development. Units and the land on which they are built do not meet conventional lot requirements for street frontage and yard sizes, and walls between units are constructed in accordance with North Carolina State Building Code requirements. All such projects shall conform to the density requirements as outlined in this Ordinance and shall be approved in accordance with the provisions of this Ordinance.

Convenience Store. A one-story, retail that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only 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 of convenience stores are those operated by the “Fast Fare,” “7-11,” and “Pantry” chains.

Corner Lot. A lot abutting two or more streets at their intersection.

County. - Any one of the counties listed in G.S. 153A-10. **(N.C.G.S. 160D-102).**

County Board. Refers to the Robeson County Board of County Commissioners.

Critical Root Zone. The rooting area of a tree established to limit root disturbance, generally defined as a circle with a radius extending from a tree's trunk to the furthest point of the crown dripline.

Cul-de-Sac Street. A short local street having one end open to traffic and the other end permanently terminated by a vehicular turnaround.

Curb Line. On the basis of orientation of the existing structure the line located at the back of the street curb perpendicular to the structure. Such line shall be fixed by the Zoning Administrator subject to review by the Board of Adjustment.

Customary Home Occupations. Any use conducted for gain within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof, and in connection with which there is no display; provided further, no person not a resident on the premises shall be employed specifically in connection with the activity; no mechanical equipment shall be installed or used except such as is normally used for domestic or professional purposes; and not over 25% of the total floor space or 400 square feet of any structure, whichever is less, shall be used for home occupations.

Day. Any reference to days shall mean calendar days unless otherwise specified. A duration of days shall include the first and last days on which an activity is conducted, and all days in between, unless otherwise specified by state law.

Day-Night Average Sound Level (Ldn). A measure of noise which considers the 24-hour average sound level, 365 days a year, in "A" weighted decibels. Those events occurring between 10:00 pm and 7:00 am, incur a 10 decibel penalty. This is the accepted parameter for determining the impacts of noise on people.

Decibel (dB). Sound is measured in decibels. The zero on the decibel scale is based on the lowest sound level that is the healthy, unimpaired human ear can detect. Decibels are not linear units, but representative points on a sharply rising (exponential) curve. Thus, an increase of 10 decibels represent an approximate doubling of acoustic energy.

Decision-Making Board. - A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this ordinance. **(N.C.G.S. 160D-102).**

Deck. An open and roofless platform that adjoins a house and is supported by a means other than the principal structure.

Detached Building. A building having no party or common wall with another building except an accessory building.

Determination. A written, final and binding order, requirement, or determination regarding an administrative decision. Determinations can include stop work order and notices of violation to force development to halt. **(N.C.G.S. 160D-102).**

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. **(N.C.G.S. 160D-102).**

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) excavation, grading, filling, clearing, or alteration of land;
- (c) the subdivision of land as defined in G.S. 160D-802; or
- (d) the initiation or substantial change in the use of land or the intensity of use of land. This definition does not alter the scope of regulatory authority granted by the Articles of NCGS Chapter 160D.

***Statutory Reference – NCGS 160D-102.***

*Development Approval.* An administrative or quasi-judicial approval made pursuant to N.C.G.S. Chapter 160D 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, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Ordinance, including plat approvals, permits issued, development agreements entered into, and building permits issued. Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to NCGS Chapter 160D attach to and run with the land. ***(N.C.G.S. Chapter 160D-104).***

*Development, Density Of.* The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new streets, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks, shall be used for density calculations.

*Development Regulation.* A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to NCGS Chapter 160D, or a local act or charter that regulates land use or development. ***(N.C.G.S. 160D-102).***

*Direct Light.* Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a lighting system.

*District.* Any section of the Town of Fairmont in which zoning regulations are uniform.

*Drainage Easement.* An easement which grants the right of water drainage to pass in open channels or enclosed structures.

*Drainageway.* Any natural or man-made channel that carries surface runoff from precipitation.

*Drawings.* Construction drawings utilized during construction prepared by an architect, landscape architect, engineer, or surveyor licensed to practice in North Carolina. Drawings, as-built Engineering plans prepared after the completion of construction, by the engineer by an architect, landscape architect, engineer, or surveyor licensed to practice in North Carolina, in such a manner as to accurately identify and depict the location of all on-site improvements, which includes but is not limited to all structures, parking facilities, detention/retention areas, curbs, gutters, and sidewalks.

*Dripline.* A vertical line extending the outermost portion of a tree's canopy to the ground.

Driveway. A private, vehicular access connecting a house, carport, parking area, garage, or other buildings with the street. A driveway is not a road, street, boulevard, highway, or parkway.

Driveway Approach. An area of the public right-of-way located between the roadway and property adjacent to the public right-of-way that is intended to provide for vehicles from the roadway to the adjacent property.

Duplex. (See Two-Family Dwelling).

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, except that for purposes of NCGS Chapter 160D, Article 12 – Minimum Housing Codes, it does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose. **(N.C.G.S. 160D-102).**

Dwelling, Multi-Family. A building arranged or designed to be occupied by three or more families living independently of each other.

Dwelling, Single-Family. Also referred to as a Single-family Detached unit, is a building arranged, or designed to be occupied by one family, the structure having only one dwelling unit.

Dwelling, Townhouse. A building consisting of single-family residences attached to one another in which each unit is located on an individually-owned parcel, generally within a development containing drives, walks and open space in common area.

Dwelling, Two-Family. A building arranged or designed to be occupied by two families living independently of each other (the structure having only two dwelling units).

Dwelling Unit. A dwelling or that portion of a multiple dwelling used or designed as a residence for one family. In Nursing Homes, Homes for the Aged, Convalescent Homes and other such multi-unit facilities, two resident persons shall be equivalent of one dwelling unit. The term DWELLING shall not be deemed to include a motel, hotel, tourist home, or other structure designed for transient residence.

**(Ord. 05/31/1977, 154.002 Section A)**

Easement. A grant by the property owner for use, by the public, a corporation, or a person(s), of a strip of land for a specified use.

Eave. An overhanging roof extension not exceeding three feet.

Effective Date of this Ordinance. The date of adoption by the Fairmont Board of Commissioners of this Ordinance and any amendments thereto.

Eligible Facilities Request. A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Equipment Compound. An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

Equipment Facility. Any structure used to contain ancillary equipment for a Wireless Communication Facility which includes cabinets, shelters, a build out of an existing structure, pedestals, and other similar structures.

Erect. Build, construct, erect, re-build, re-construct, or re-erect as the same is commonly defined.

**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 Chapter 160D. **(N.C.G.S. 160D-102).**

**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 Ordinance 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, or
- (c) the right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS 160D-1-8 or under common law. **(NCGS 160D-102)**

**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 Robeson County Register of Deeds prior to the original adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the original adoption of this Ordinance.

**Ex parte.** A Latin legal term meaning "from (by or for) [the/a] party". An ex parte decision is one decided by a judge without requiring all of the parties to the controversy to be present.

**Extraterritorial Jurisdiction (ETJ).** An area outside the municipal corporate limits extending up to one (1) mile from these limits, where the Town of Fairmont exercises planning, zoning and subdivision powers.

**Fabrication.** Manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores, lumber or rubber. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects.

**Fall Zone.** The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

**Family.** One or more persons occupying a dwelling unit and living as a single household.

**Family Care Home.** A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for six or less resident handicapped persons, pursuant to NCGS 168-21.

**Family Foster Home.** The private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship, or adoption.

**Farmers' Market, Open-Air/ Farm Stand.** A market where the seasonal selling or offering for sale at retail of locally and self-grown vegetables or produce is conducted. This may include items made directly from vegetables or produce, fresh flowers and plants, and/or self-made crafts and sold directly to the consumer at an open-air-market in a pre-designated area, where the vendor is generally the individual who raised the vegetables or produce or created the craft.



Federal Communications Commission FCC. The Federal Communications Commission regulates interstate and international communications by radio, television, wire, satellite, and cable in all 50 states, the District of Columbia and U.S. territories. An independent U.S. government agency overseen by Congress, the Commission is the federal agency responsible for implementing and enforcing America's communications law and regulations.

Federal Telecommunications Act of 1996. The Telecommunications Act of 1996 was the first significant overhaul of telecommunications law in more than sixty years, amending the Communications Act of 1934.

Fence. A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material, used as a boundary or means of protection or confinement, but not including a hedge or other vegetation.

Fifth-Wheel Trailer – A vehicular unit mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use, of a size and weight that does not require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

Flag Lot. A lot that is composed of a narrow 'flagpole' strip extending from the street and much wider 'flag' section lying immediately behind a lot or lots having the required street frontage for a conventional lot. In the case of a flag lot, the lot line at the end of the flag pole lying generally parallel to the street to which the flagpole connects shall be considered to be the front lot line for setback purposes.

Floating Home. A house built on a floating platform without a means of propulsion. **(N.C.G.S. 146-12)**

Fine Arts and Crafts. Individual art pieces, not mass produced consisting of one or more of the following: paintings, drawings, etchings, sculptures, ceramics, inlays, needlework, knitting, weaving, and/or craftwork, leather, wood, metal, or glass.

Flea Market. Buildings or open areas in which sales areas or stalls are set aside or rented, and which are intended for use by one or more individuals or by educational, religious, or charitable organizations to sell a variety of articles such as those which are either homemade, homegrown, handcrafted, old, obsolete or antique.

Food Truck. A large motorized vehicle, such as a van or trailer, which can be moved from place to place, and which is equipped to cook, prepare, serve, and/or sell food.

Forestland. Land that is devoted to growing trees for the production of timber, wood, and other forest products. Forestry The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

Forestry Activity. Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing State rules and regulations pertaining to forestry.

Forestry Operations. Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, and related activities. Not included in this definition are logging establishments, sawmills, and planing mills.

Frontage. All property abutting on one side of a street measured along the street line.

Game Room. A use providing video games or other games for playing for amusement and recreation. Any table games such as air hockey, football, pinball, or the like shall be included under this definition. More than three

such games shall constitute a primary use and shall be allowed only in those zoning districts permitting game rooms as a listed permitted use. Three or fewer such games shall constitute an accessory use and may be permitted in any licensed retail business.

*Garage, Private.* A building or space used as an accessory to or a part of the main building permitted in any residence district, and providing for the storage or care of motor vehicles and in which no business, occupation or service for profit is in any way conducted.

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

*Garage, Storage.* Any building or premises, other than a private or public garage, used exclusively for the parking or storage of motor vehicles.

*Golf Cart.* - A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour and shall be operated in compliance with NCGS 20-121.1. **Statutory References: NCGS 20-4.01, Definitions; NCGS 20-121.1, Operation Of A Low-Speed Vehicle On Certain Roadways.**

*Governing Board.* - The city council or board of county commissioners. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and shall mean any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage. **(N.C.G.S. 160D-102).**

*Grade, Finished.* The final elevation of the ground surface after development.

*Grade, Natural.* The elevation of the ground surface in its natural state before man-made alterations.

*Granny Pod/Temporary Health Care Structure.* A temporary structure that will house a single mentally or physically impaired person in accordance with NCGS 160A-383.5. The statute defines these to be North Carolina residents who require assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation, transferring, toileting, and eating). The impairment must be certified in writing by a physician licensed in North Carolina.

*Grocery Store.* A retail establishment, not a convenience store, for the display and sale of meat, fruits, fresh and packaged foods, cleaning supplies, paper goods, pet supplies, health and beauty products, bakery products, dairy products, wine, beer, and similar items for human consumption and may include a bakery, delicatessen or prescription pharmacy.

*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. The sum of the gross horizontal areas of one or several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

*Group Care Facility.* A facility licensed by the State of North Carolina (by whatever name it is called, other than "Family Care Home" as defined by this Ordinance), with support and supervisory personnel that provides room and board, personal care or habilitation services in a family environment for not more than 30 people.

*Group Development.* A group of 2 or more principal structures built on a single lot, tract or parcel of land not subdivided into the customary streets and lots and which will not be so subdivided, and designed for occupancy

by separate families, businesses or other enterprises. Examples would be: cluster type subdivisions, row houses, apartment courts, housing projects, school and hospital campuses, shopping centers and industrial parks. **(Ord. 05/31/1977, 154.002 Section A)**

Habitable Floor. Any floor useable for living purposes which includes working, sleeping, eating, cooking or recreation or a combination thereof.

Habitable Room. A room or heated floor space used or intended to be used for living or sleeping, excluding bathrooms, kitchens, places for cooking or eating purposes, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets, and storage spaces.

Hazardous Material. Any material defined as a hazardous substance under 29 Code of Federal Regulations §1910.120(a)(3).

Health Spa. A profit-making business or a private club as opposed to YMCA. Spa would include such activities as weight lifting, exercising, steam room, whirlpool, sauna, and possibly other gymnastics.

Height, Wireless Communication Facility. When referring to a Wireless Communication Facility, the vertical distance measured from the base of the tower to the highest point on the Wireless Communication Facility, including the Antenna Array and other attachments.

Home for the Aged. A boarding home with more than six (6) beds meeting all of the requirements of the State of North Carolina for the boarding and care of persons who are not critically ill and who do not need regular professional medical attention.

Home Occupation. Any profession or occupation carried on entirely within a dwelling providing that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, that no more than 25 percent of the total floor area is used for such purposes, and that there is no outside or window display. No mechanical equipment shall be installed or used other than is normally used for domestic or home occupation purposes.

Hotel(motel). A building used as an abiding place of more than 14 persons who for compensation are lodged with or without meals and in which no provision is made for cooking in any individual room or suite.

Indirect Light: Direct light that has been reflected or has scattered off of other surfaces.

Inoperable Vehicle. Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsion. For the purpose of this Ordinance, any vehicle which is registered with the North Carolina Department of Motor Vehicles and has a current North Carolina motor vehicle registration license affixed to it shall not be considered inoperable.

Institutionalized Persons. Persons who are committed through some legal process (jail, hospital ward for the dangerously mentally ill), or persons committed to an institution, such as a halfway house, on a time-of-day basis.

Itinerant Merchant, Transient Merchant, Itinerant Vendor or Food Truck Vendor. Any person, firm or corporation whether as owner, agent, consignee, or employee, whether a resident of the Town or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said Town, and who, in furtherance of such purpose, hires, leases, uses, or occupies any building or land, structure, motor vehicle, tent, trailer, railroad box car, truck or boat, public room in hotel, motel, lodging houses, apartments, shops, or any street, alley, or other place within the Town for the exhibition and sale of such goods, wares, and

merchandise, either privately, or at public auction provided that such definition shall not be construed to include:

- (a) Any person selling at a yard sale who has received the appropriate permits and licenses from the Town.
- (b) Internet sales.
- (c) Any vendor lawfully participating in sales at a Farmers Market.
- (d) Non-profits, civic and religious organizations.

Interior Setback. A setback from any property line not alongside a street.

Junk/Salvage Yard. Any land or area used, in whole or in part, for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

Junked Motor Vehicle. A motor vehicle that does not display a current license plate and is one or more of the following: 1) is partially dismantled or wrecked; or 2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or 3) more than five years old and appears to be worth less than one hundred dollars; provided that any motor vehicle used on a regular basis for business or personal use shall not be caused to be removed or disposed.

Kenel. A commercial operation that: (i) 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), (ii) engages in the breeding of animals for sale, or (iii) engages in the training or breeding of animals.

Lake Front Property. Any property adjoining or abutting upon a lake.

Land Clearing and Inert Debris Landfill (LCID). A landfill facility for waste generated from land clearing, concrete, brick, concrete block, uncontaminated soil, gravel and rock, unpainted wood, and yard trash. "Yard trash" is solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, and similar vegetative materials.

Landowner or Owner. - The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner.<sup>31</sup> The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals. **(N.C.G.S. 160D-102).**

Large Retail. A retail structure or group of structures having a total in excess of 25,000 square feet of gross floor area.

Legislative Decision. - The adoption, amendment, or repeal of a regulation under this Chapter or an applicable local act. It also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of NCGS Chapter 160D – Development Agreements. **(N.C.G.S. 160D-102).**

Legislative Hearing. - A hearing to solicit public comment on a proposed legislative decision. **(N.C.G.S. 160D-102).**

Loading Area or Space, Off-Street. An off-street area logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles. Required off-street loading space is not to be included as off-street parking in computing required off-street parking space.

Local Act. – As defined in G.S. 160A-1(5).

Local Government. - A city or county. **(N.C.G.S. 160D-102).**

Local Street. A street whose primary function is to provide access to abutting properties.

Lot. A parcel of land occupied or to be occupied by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot area as are required by this ordinance and having not less than the minimum required frontage upon a street, either shown on a plat of record, or considered as a unit of property and described by metes and bounds.

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 into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and thirty feet from the center of the traveled portion of the street; or
- (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.

Lot, Corner. A lot which occupies the interior angle at the intersection of two street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning permit.

**(Ord. 05/31/1977, 154.002 Section A)**

Lot Coverage. The portion of a lot covered by building(s) and/or structure(s).

Lot, Depth of. The average horizontal distance between front and rear lot lines.

**(Ord. 05/31/1977, 154.002 Section B)**

Lot, Width of. The average horizontal distance between side lot lines.

Lot Line, Rear.

- (a) If the lot has one front line, the boundary opposite that front line shall be the rear line.
- (b) If the lot has two front lines the boundary opposite the shorter of the two front lines shall be the rear line, provided that if both front lines are of equal length, the rear line shall be fixed by the Building Inspector, subject to review by the Board of Adjustment, on the basis of orientation of existing structures.
- (c) If the lot has three or more front lines, there shall be no rear line. Lot of Record A lot which is a part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Robeson County prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

Lot of Record. A lot, plot, parcel, or tract recorded in the Office of the Robeson County Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation.

Major Repair. Any activity that could result in deposition of materials or pollution into the shoreline area waters.

Major Thoroughfare Street. Major thoroughfares consist of interstate, other freeway, expressway, or parkway links, and major streets that provide for the expeditious movement of high volumes of traffic within and through urban areas.

Manufactured Home. - A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. **(N.C.G.S. 160D-102 and N.C.G.S. 143-145(7))**

A manufactured home (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis. (HUD.GOV)

Manufactured Home, Class A/Modular Home. A manufactured home 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 and satisfies each of the following additional criteria:

- (a) The home has a length not exceeding four (4) times its width;
- (b) The pitch of the home's roof shall have a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- (c) The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- (d) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
- (e) The front entrance has stairs and a porch being at least four feet by six feet in size. Stairs, porches, entrance to and exit from the home shall be constructed in compliance with the applicable NC Building Code.

Manufactured Home, Class B. A manufactured home 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 but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home. A Class B manufactured home satisfies these additional criteria:

- a) The manufactured home has a minimum length of fifty-two (52) feet measured along the longest axis and a minimum width of fourteen (14) feet measured at the narrowest part of the other axis;

- b) The manufactured home has a minimum of seven hundred and twenty-eight (728) square feet of enclosed living area;
- c) The pitch of the roof of the manufactured home has a minimum vertical rise of three feet for each twelve feet of horizontal run;
- d) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.
- e) The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and rests upon a continuous uniform foundation enclosure, un-pierced except for required ventilation and access. The foundation skirting shall be of a non-combustible material or material that will not support combustion. Any wood framing for foundation skirting shall be constructed with treated lumber;
- f) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina State Building Code; and
- g) The moving hitch, wheels and axles, and transporting lights have been removed.

Manufactured Home, Class C. (Commonly referred to as a single section manufactured home) Any manufactured home that does not meet the definition criteria of a Class A or Class B manufactured home. Class C manufactured homes shall not be moved in to the Town's planning jurisdiction. Once a Class C manufactured home is disconnected from utilities at its current location, it cannot be moved or reconnected to utilities at a different location within the Town of Fairmont. Also, the disconnected manufactured home must be removed and disposed of and cannot be used for storage.

Manufactured Home Park. Land used or intended to be used, leased or rented for occupancy by six or more mobile homes, anchored in place by a foundation or other stationary support, to be used for living purposes and accompanied by automobile parking spaces and incidental utility structures and facilities required and provided in connection therewith. This definition shall not include trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

Manufactured Home Space. A designated area of land within a manufactured home park designed for the accommodation of a single manufactured dwelling home in accordance with the requirements of this Ordinance.

Marquee. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Micro Wireless Facility. A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Minor Thoroughfare Street. Minor thoroughfares collect traffic from collector, sub-collector, and local streets and carry it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating movement of moderate volumes of traffic within and through urban areas and may also serve abutting property.



Modular Home. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State 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 (2) or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the North Carolina State Building Code applicable to site built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site.

To qualify for a label or seal under subsection (a) of this section, a single-family modular home must meet or exceed the following construction and design standards:

- (1) Roof pitch. - For homes with a single predominant roofline, the pitch of the roof shall be no less than five feet rise for every 12 feet of run.
- (2) Eave projection. - The eave projections of the roof shall be no less than 10 inches, which may not include a gutter around the perimeter of the home, unless the roof pitch is 8/12 or greater.
- (3) Exterior wall. - The minimum height of the exterior wall shall be at least seven feet six inches for the first story.
- (4) Siding and roofing materials. - The materials and texture for the exterior materials shall be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.
- (5) Foundations. - The home shall be designed to require foundation supports around the perimeter. The supports may be in the form of piers, pier and curtain wall, piling foundations, a perimeter wall, or other approved perimeter supports. (1971, c. 1099; 1989, c. 653, s. 2; 2003-400, s. 17.)

**Statutory Reference – NCGS 160D-910 and NCGS 143-139.1**

Moratorium. The temporary prohibition of any activity.

Motel or Motor Lodges. A building or group of buildings containing sleeping rooms, designed for or used temporarily by automobile transients, with garage or parking space conveniently located to each unit.

Motor Home. A vehicular unit, designed to provide temporary living quarters, built into as an integral part, or permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must provide at least four of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating or air conditioning, a portable water supply system including a faucet and sink, separate 110-125-volt electrical power supply, or an LP gas supply. (As defined in G.S. 20-4.01(27) k)

Multi-Tenant Building. A building that is used for two or more occupancies, provided each occupancy is separated by construction having fire-resistive ratings in compliance with the NC Building Code.

National Flood Insurance Program. This program makes available to residents of flood-prone areas, flood insurance at reasonable premium rates through the means of a federal subsidy. Local jurisdictions are required to enact land use and control measures designed to guide the rational use of the flood plain and minimize potential damage from future flooding as a condition for the availability of the federally subsidized flood insurance. **(Ord. 05/31/1977, 154.002 Section A)**

Nightclubs and Bars. Include commercial clubs, private clubs, discotheques, cabarets, taverns and places of entertainment in which music, dancing, and entertainment is conducted. A commercial establishment open to the general public either without charge or upon payment of a cover charge or membership, licensed to sell alcoholic beverages or holding a brown bag permit, offering entertainment involving the use of prerecorded or live amplified sound, provided by paid employees, paid private contractors, unpaid entertainers or customers.

**(Ord. 05/31/1977, 154.002 Section A)**

Noise Abative Construction. Includes insulation, storm windows and/or air conditioning designed to reduce interior noise due to aircraft activity. Landscaping may reduce ground noise, but has little impact on noise reduction from airborne produced noise.

Nonconforming Lot. A lot existing at the effective date of this Ordinance or any amendment to it (and not created for the purpose of evading the restrictions of this Ordinance) that cannot meet the minimum area or lot-width requirements of the district in which the lot is located.

Nonconforming Project. Any structure, development, or undertaking that is incomplete at the effective date of this ordinance 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 Ordinance or any amendment to it, an existing lot or structure or use of any 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 lot does not meet minimum acreage requirements, because structures do not satisfy maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with the Ordinance, or because land or buildings are used for purposes made unlawful by the Ordinance.

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 running a manufacturing business in a residentially zoned area is a nonconforming use.)

**(Ord. 05/31/1977, 154.002 Section A)**

Nonconformity, Dimensional. A nonconforming situation that occurs when the height or size 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.

Nursing Home. An establishment which provides full-time convalescent or chronic care, or both, to persons who are not related by blood or marriage to the operator, or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Obstruction. Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this Ordinance.

Office. Quarters maintained by individuals or corporation for the purpose of offering services in which no goods or merchandise are sold or displayed over the counter.

Official Maps and Plans. Any maps or plans officially adopted by the City Council as a guide for the future development and growth of the City and the area immediately adjacent to it. Such maps or plans may consist of maps, charts, and text.

Open space. An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state. Open Storage Unroofed storage areas, whether fenced or not.

Open storage. Unroofed storage area, whether fenced or not.

**(Ord. 05/31/1977, 154.002 Section A)**

Ordinance. This Ordinance, including any amendments. Whenever the effective date of the Ordinance is referred to, the reference includes the effective date of any amendment to it.

Outdoor Advertising, Off-Premises. The use of land consisting of a sign erected and maintained for the purpose of (i) displaying, advertising, identifying, or directing attention to business products, operations, or services sold or offered at a site other than the site where the sign is erected or (ii) promoting an attraction, activity, idea, opinion, or other noncommercial messaging that is unrelated to the site where the sign is erected. A sign meeting this definition is commonly known as a billboard, where space is commonly made available or rented to advertisers to display their messages to the traveling public.

Outdoor Advertising. Any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or any other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the interstate or primary system, whether the same be permanent or portable installation.

**(NCGS § 136-128. Definitions.)**

Owner. A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

Overlay District. A zoning district established by the ordinance to prescribe special regulations to be applied to a site in combination with the underlying or base district.

Parking Lot or Area. An area or plot of land used for, or designated for, the parking of vehicles, either as a principle use or as an accessory use.

Park Model Home. Park Model Homes are factory produced and assembled units which can meet one of the three following set of regulations: 1) those that are considered recreational vehicles constructed in accordance with the ANSI A119.5- Recreational Park Trailer Standards, 2) those that are considered equivalent to a single family stick built residence because they are "dual labeled" as a recreational park trailer and also labeled with a validating stamp for compliance with the NC Modular Construction Program, and 3) those that are constructed and dual labeled in accordance with the Federal Manufactured Housing Construction and Safety Standards as a single family (HUD) manufactured home.

Parking Space. The storage space for one (1) automobile of not less space than prescribed by this Ordinance, plus the necessary access space. It shall always be located outside the dedicated street right-of-way.

Parking Space, Off-Street. A parking space located outside of a dedicated street right-of-way.

Pedestrian Way. A right-of-way or easement dedicated to public use to facilitate pedestrian access to adjacent streets and properties.

Permitted Use. Also known as 'Use by Right'. Any use permitted as a right in a zoning district and subject to the limitations of the regulations of the zoning district.

Person. An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity. **(N.C.G.S. 160D-102).**

Person with Disabilities. Person with disabilities means a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism,

hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11) b. **(N.C.G.S. 160D-907(b).)**

**Planned Unit Development.** A tract of land under single corporation, firm, partnership or association ownership, or otherwise under unified ownership, planned and developed as integral unit in a single development scheme or a well-defined series of development operations in accordance with an approved site plan.

**Planning and Zoning Commission.** A Board appointed by the Town Council and the County Board of Commissioners to study the Town and its environs, to recommend plans and policies for the future, and to advise the Town Council in matters pertaining to planning and zoning.

**Planning and Development Regulation Jurisdiction.** - The geographic area defined in Part 2 of NCGS Chapter 160D within which a city or county may undertake planning and apply the development regulations authorized by NCGS Chapter 160D. **(N.C.G.S. 160D-102)**

**Planning Board.** - Any board or commission established pursuant to NCGS 160D-3-1. **(N.C.G.S. 160D-102.)**

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

**Pollution.** The presence in the waters of the town of any one or more substances or contaminants which are harmful or injurious to human health or welfare, marine, animal or plant life, or property.

**Pre-School.** A facility for the care and/or education of children of pre-school age, including kindergartens and day care centers.

**Principal Building.** A building in which is conducted the principal use of the buildable lot on which it is located or, in a group housing development, of the building site on which it is located.

**Principal Dwelling.** Any principal building or structure which is used and designed for human habitation including living, sleeping, cooking and eating activities excluding dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents.

**Principal Structure.** A structure(s) in which is conducted the principal use(s) of the lot on which it is located.

**Private Drive.** A vehicular travel way not dedicated or offered for dedication as a public street, providing access to parking lot(s) for two or more principal buildings in a group housing development.

**Private Sewer.** A system which provides for collection and/or treatment of wastewater from a development, or property, and which is not maintained with public funds.

**Private Street.** A vehicular travel way not dedicated or offered for dedication as a public street, but resembling a cul-de-sac or a local street by carrying traffic from a series of driveways to the public street system.

**Private Water.** A system which provides for the supply and/or distribution of potable water for use by a development, project, or owner, and which is not operated or maintained by a government organization or utility district.

**Processing.** Any operation changing the nature of material or materials, such as chemical composition or physical qualities. Does not include operations described as fabrication.

**Property.** All real property subject to land-use regulation by a local government and includes any improvements or structures customarily regarded as a part of real property. **(NC.G.S. 160D-102)**

Property Owner's Association. An incorporated organization operating under land agreements through which: (a) Each lot owner is automatically a member; (b) Each lot is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property.

Public. Belonging or open to, enjoyed and used by and/or maintained for the public generally, but not limited to a facility the control of which is wholly or partially exercised by some governmental agency.

Public Sewer. A system which provides for the collection and treatment of sanitary sewage from more than one property, and is owned and operated by a government organization or sanitary district.

Public Street. A dedicated public right-of-way for vehicular traffic which 1) has been accepted by the Town of Fairmont or the NCDOT for maintenance; or 2) is not yet accepted but in which the roadway design and construction have been approved under public standards for vehicular traffic.

Public Water. A system which provides distribution of potable water for more than one property and is owned and operated by a government organization or utility district.

Quasi-Judicial Decision. - A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions involving variances, special use permits, certificates of appropriateness,<sup>42</sup> and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings-to be made by the decision-making board. **(N.C.G.S. 160D-102)**

Rear Setback. A setback from an interior property line lying on the opposite side of the lot from the front street setback.

Reasonable Accommodations. Accommodations held to be reasonable include conversion of a motel to a shelter and a variance from setback requirements. A total exclusion of all nursing home facilities and assisted living residences from a residential district has been held to be a failure to make reasonable accommodations.

Recreational Vehicle - A vehicular type unit designed as temporary living quarters for recreational, camping, or travel use that either has its own motive power or is mounted on, or towed by, another vehicle. Examples of recreational vehicles include mapper trailers, fifth-wheel trailers, motor homes, travel trailers and truck campers. (NCGS Chapter 20. Motor Vehicles, Article 1. Division of Motor Vehicles Section 20-4.01. Definitions) This term shall not include a manufactured home as defined in G.S. 143-143.9(6).

A recreational vehicle is: (a) Built on a single chassis; (b) Four hundred square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a passenger motor vehicle or a light-duty truck or designed to be carried on a pickup truck; and (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicle Park. Any site or tract of land, of contiguous ownership, upon which two or more recreational vehicles, motor homes, travel trailers and tents, but not manufactured homes, together with supporting facilities and required open spaces are provided in accordance with this Ordinance. This definition shall not include migrant labor camps, manufactured home parks or recreational vehicle sales lots. See also Campground.

**Recreational Vehicle Space.** A plot of land within a recreational vehicle park designed for the accommodation of one recreational vehicle in accordance with the requirements set forth in this Ordinance.

**Reservation.** An obligation shown on a plat or site plan to keep property free from development and available for public acquisition for a stated period of time. It is not a dedication nor a conveyance.

**Residential Child-Care Facility.** A staffed premise with paid or volunteer staff where children receive continuing full-time foster care. Residential child-care facility includes child-caring institutions, group homes, and children's camps which provide foster care, but not family care homes.

**Restaurant.** An establishment where food service is a primary activity. The facility may be designed to cater or accommodate the consumption of food either on or off the premises. The serving of alcoholic beverages in a restaurant shall be in compliance with the ABC laws.

**Retail Trade.** Businesses which sell goods (that are not for resale) to the public and which are open on a regular basis for consumer shopping. At least 40% of the floor space of a retail business must be open to the public and devoted to the sale and display of goods on the premises.

**Retaining Wall.** A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill or other similar material.

**Reverse Frontage Lot.** A through lot which is not accessible from one of the parallel or non-intersecting streets upon which it fronts.

**Right-of-Way.** Any public or private area that allows passage of people or goods, to include: passageways such as freeways, streets, bike paths, alleys, sidewalks, and walkways. A public right-of-way is a right-of-way that is dedicated or deeded to the public for public use and is under the control of a public agency.

**Roof Line.** The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

**Rooming House.** A building or portion thereof which contains guest rooms which are designed or intended to be used, let, or hired out for occupancy by, or which are occupied by, four (4) or more but not exceeding nine (9) individuals for compensation, whether the compensation be paid directly or indirectly.

**Rooming Unit.** A room designed, occupied, or intended for occupancy as separate living quarters with sleeping, but not necessarily cooking and sanitary facilities provided therein.

**Search Ring.** The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structures.

**Seating Capacity.** The actual seating capacity of an area based upon the number of seats, or one seat per eighteen inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the NC Building Code.

**Service Station.** Any building or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, lubricants, or tires, except that indoor car washing, minor motor adjustment, and flat tire repair are only performed incidental to the conduct of the service station.

**Setbacks.** The required distance between every structure and the lot lines of the lot on which it is located.



Setback, Wireless Communication Facility. The required distance from the property line of the parcel on which the Wireless Communication Facility is located to the base of the Support Structure and Equipment Shelter or cabinet where applicable, or, in the case of guy-wire supports, the guy anchors.

Sewerage System, Public. A system serving 2 or more connections. Plans for public and community sewer systems must be approved by the NC Department of Environmental Quality.

**(Ord. 05/31/1977, 154.002 Section A)**

Sewerage System, Individual. A septic tank arrangement of sewage disposal. Individual sewage disposal systems must be installed and maintained in accordance with the State Board of Health "Rules and Regulations Governing the Disposal of Sewage from any Residence, Place of Business, or Place of Public Assembly in North Carolina," and regulations of the County Board of Health.

**(Ord. 05/31/1977, 154.002 Section A)**

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 anatomical areas and sexual activities specified in N.C.G.S. 14-202.10.

Shopping Center. A group of commercial establishments planned, developed, and managed as a unit with a unified design of buildings and with coordinated parking and service areas.

Shrub, Intermediate. Deciduous or evergreen plants installed at a minimum height of 36 inches, a minimum of 5 canes, and a minimum spread of roots or root ball diameter of 14 inches.

Shrub, Large. Deciduous and/or evergreen plants, as required in the applicable sections, installed at a minimum height of 5-feet, a minimum of 6 canes, and a minimum spread of roots or root ball diameter of 24-inches. Large shrubs shall be maintained at a height of 6 to 10 feet, and shall be of a vegetation family which normally does not grow taller than 10 feet. Site plan A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features both natural and manmade and, depending on requirements, the location of proposed utility lines.

Side Setback. Any interior property line setback other than a rear setback.

Sidewalk. All that area legally open to public use as a pedestrian public way between the curb line and the public right-of-way boundary along the abutting property.

Sight Distance Area, Horizontal. The area formed by extending lines from the point of intersection of intersecting streets along the centerline of such streets for a distance of forty feet and connecting the ends of such lines by a straight line to form the base for a triangle. Each of the two sides of the triangle will be forty feet in length.

Sight Distance Area, Vertical. The area between three feet and ten feet above the horizontal area measured from the level of the point of intersection of the centerlines of the intersecting streets.

Sight Distance Easement. An easement which grants to the Town of Fairmont the right to maintain unobstructed view across property located at a street intersection.

Sign. Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names, or trademarks by which anything is made known, such as the designation of an individual,



a firm, an association, a profession, a business, a commodity, or product, which are visible from any public way and used to attract attention. This definition includes signs painted on building exterior walls.

Sign, Accessory means an advertising device used to disseminate information concerning the particular use of the lot upon which it is located.

Sign, A-Frame means any sign constructed in such a manner as to form an “A” or tent-like shape, hinged or not hinged at the top; each angular face held at an approximate distance by a supporting member. Also referred to as sandwich boards.

Sign, Animation. The movement, or optical illusion of movement of any part of the sign. Also included in this definition are signs having chasing action which is the action of a row of lights commonly used to create the appearance of motion. Automatic changeable copy boards are permitted provided that there is no running action to copy and provided that the copy does not change more than once every one minute. No flashing, revolving, or intermittent illuminating shall be employed.

Sign, Area. The surface area of a sign which shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. However, in computing sign area only one (1) side of a double-faced sign structure shall be considered. Frames and structural members not bearing advertising matter shall not be included in computation of the surface area.

Signs, Announcement or Signs, Business. Any outdoor notice containing words, letters, figures, numerals, emblems, devices, trademarks or trade names or combinations thereof, by which anything is made known such as the designation of a firm, corporation, profession, business, commodity or product located or available on the premises.

**(Ord. 05/31/1977, 154.002 Section A)**

Sign, Banner. A temporary sign composed of cloth, canvas, plastic, fabric, or similar light-weight, non-rigid material that can be mounted to a structure with cord, rope, cable, or a similar method or that may be supported by stakes in the ground.

Sign, 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.

Sign, Business. Identification means any sign which advertises an establishment, a service, commodity, or activity conducted upon the premises where such sign is located.

Sign, Canopy or Awning. 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, Column/Pole. A freestanding sign supported by one or more columns or poles or other similar support.

Sign, Construction. A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier or others involved in the development of the project.

Sign, Copy. Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface.

Sign, Electronic Message Center. A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.

Sign, Face. The entire display surface area of a sign upon, against, or through which copy is placed.

Sign, Feather/Flutter Flag. A freestanding temporary sign typically constructed of a single plastic or metal shaft driven in the ground with an attached pennant that is vertically elongated and attached to the shaft.

Sign, Flag. A device generally made of flexible material, usually cloth, paper or plastic, typically used as a symbol of a government, school, or religion. The term "Flag" does not include feather flag signs.

Sign, Freestanding. A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of a sign.

Sign, Height Of. The vertical distance measured from the natural ground to the top of the sign face or sign structure, whichever is greater. Fill may not be used to raise the sign height.

Sign, Incidental. Those signs that are permitted without need for a sign permit.

Sign, Kinetic. A wall-mounted computer-programmable lighting system that displays changing and moving colors.

Sign, Marquee. Any sign that is attached to, in any manner, or made a part of any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.

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. This definition does not include menu and sandwich board signs.

Sign, Monument. Any sign permanently attached to the ground and not attached to any building advertising multiple tenants, multiple uses, multiple buildings or multiple parcels. The design of the monument sign is to advertise multiple offerings in the building, group of buildings, or development area. Individual business within multi-tenant facilities are not permitted freestanding signs and shall have their signage located on a monument sign.

Sign, Non-Conforming. A sign which was legally erected prior to the effective date of this Ordinance, but which does not conform to these regulations.

Sign Permit. A zoning permit issued by the Zoning Inspector that authorizes the location of a sign.

Sign, Political. A sign identifying and urging voter support for a particular election issue, political party, or candidate for public office.

Sign, Portable. A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer, bench, wheeled carrier, or other non-motorized mobile structure with or without wheels.

Sign, Projecting. A sign which is attached to and projects more than twelve (12) inches from a building face or wall.

Sign Regulations. Regulations governing the size, material, lighting, placement, and other requirements for locating signs within the Town's planning jurisdiction.

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, Snipe. A sign that is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences, or to other objects.

Sign, Stacking. The placing of one sign above another in the same location.

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

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

Sign, Temporary. A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or is intended to remain on the location where it is erected or placed for a period of not more than thirty (30) calendar days prior to or following the associated circumstance, situation, or event.

Sign, Wall. Any sign attached to, painted on, or erected against any wall of a building or structure so that the exposed face of the sign is on a plane parallel to the plane of said wall and which does not extend more than twelve (12) inches from the wall. Wall signs also include any sign erected against, installed on, or painted on a penthouse above the roof of a building as long as the wall of the penthouse is on a plane parallel to the wall of the building. Wall signs also include a sign attached to, painted on, or erected against a false wall or false roof that does not vary more than thirty (30) degrees from the plane of the adjoining wall elevation.

Sign, Window. Any sign appearing in, on or through a window of a structure and visible from outside. The term window sign shall not be used to define a window display.

Site Plan. - A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision. **(N.C.G.S. 160D-102)**

Site Plan, Major. All site plans not meeting the requirements for a minor site plan.

Site Plan, Minor. Includes the following:

- (a) Buildings or additions with an aggregate enclosed square footage of less than 7,000 square feet;
- (b) Buildings or additions involving land disturbance of less than one (1) acre;
- (c) Multi-family development involving fewer than ten (10) dwelling units;
- (d) Parking lot expansions which comply with this Ordinance with no increase in enclosed floor area;

- (e) Revision to landscaping, signage, or lighting which comply with the requirements of this Ordinance;
- (f) Accessory uses which comply with the requirements of this Ordinance;
- (g) Site plans which do not require a variance or modification of the requirements of this Ordinance, and otherwise comply with this Ordinance; and
- (h) Site plans which do not require easement dedication or street construction.

Small Wireless Facility. A wireless facility that meets both of the following qualifications:

- (a) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet.
- (b) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Sound Transmission Class (STC). A single-number rating which provides an estimate of sound transmissions loss performance of a wall or floor as related to airborne sound generated by a limited class of household sound sources. The higher the number, the better the performance.

Special Use. A use that is allowed, through a special use permit, in specific zoning districts provided they meet certain conditions set out in the ordinance. Those conditions are generally related to avoiding adverse impacts on the neighboring area

Special Event. -Temporary street fairs, festivals, farmers' markets, 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.

Special Exception. A specific authorization granted in accordance with the provisions of this Ordinance by the Board of Adjustment for the extension, enlargement, or replacement of a nonconforming use.

Special Promotion. An advertising activity or circumstance of a business which is not part of its daily activities or normal routine, and in which the display or sale of merchandise, wares, or other tangible items is the sole purpose for the promotion. Special promotions include grand openings or closeout sales, but do not include reoccurring sales advertisements or other similar publicity.

Special Use Permit. - A permit issued to authorize development or land uses in a particular zoning district for a use of property that is an exception. **(N.C.G.S. 160D-102)**

Stabilizing Vegetation. Any vegetation that protects the soil against erosion.

Stables. A capacity of not more than one horse for each 3,500 square feet of lot area upon which the stable is located is required. Horses are to be owned by the owners/occupants of the premises and are not kept for remuneration or hire.

Standing. The following persons shall have standing to file a petition or appeal under this Ordinance:

- (a) Any person meeting any of the following criteria:
  - (1) Has an ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.
  - (2) Has an option or contract to purchase the property that is the subject of the decision being appealed.
  - (3) Was an applicant before the decision-making board whose decision is being appealed.
- (b) Any other person who will suffer special damages as the result of the decision being appealed.
- (c) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.
- (d) A town whose decision-making board has made a decision that the Council believes improperly grants a variance or is otherwise inconsistent with the proper interpretation of an ordinance adopted by the Town Council.

Storm Drainage Facilities. The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Stormwater Runoff. The direct runoff of water resulting from precipitation in any form. Stormwater runoff is generated from rain and snowmelt events that flow over land or impervious surfaces, such as paved streets, parking lots, and building rooftops, and does not soak into the ground. The runoff picks up pollutants like trash, chemicals, oils, and dirt/sediment that can harm our rivers, streams, lakes, and coastal waters.

Story. That portion of a building, other than the basement, included between the surface of any floor and the surface floor next above it; or, if there be no floor above it, the space between the floor and the ceiling next above it.

Story, Half. A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which not more than two-thirds (2/3) of the floor area is finished off for use.

Stream- A stream has a **defined channel that contains water for at least part of the year.** It may have flow that is increased by stormwater runoff. It may dry up during part of the year.

Street Line. The dividing line between a street right-of-way or easement and the contiguous property.

Street, Private. Any right-of-way or area set aside to provide vehicular access within a development that is not dedicated to the Town of Fairmont or State of North Carolina and that is not maintained by the Town of Fairmont or State of North Carolina.

Street, Public. A street consisting of a publicly dedicated right-of-way and a roadway maintained by the Town of Fairmont or the State of North Carolina.

Street Right-of-Way. A strip of land occupied or intended to be occupied by a travelway for vehicles and also available, with the consent of the appropriate governmental agency, for installation and maintenance of sidewalks, traffic control devices, traffic signs, street name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.

Street Setback. Any setback from a street, road, or lane.

Structure. Anything constructed or erected, the use of which requires permanent location of the ground, or attachment to something having a permanent location on the ground, including signs.

Sub-collector Street. A street whose principal function is to provide access to abutting properties, but which is also designed to be used or is used to connect local streets with collector or higher classification streets.

Subdivider. Any person who subdivides land.

Subdivision. - The division of land for the purpose of sale or development as specified in NCGS 160D-8-2. **(N.C.G.S. 160D-102)**

Subdivision Regulation. -A set of regulations adopted by the Town which governs the proposed division of land into separate lots for resale against pre-determined standards. In addition to final plat approval, the regulation may include provisions for review and approval of sketch plans and preliminary plats. The regulation may provide for different review procedures for different classes of subdivisions. Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision or unified development ordinance. **(N.C.G.S. 160D-801)**

Substantial Modification. The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

- (a) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- (b) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure the greater of (i) more than 20 feet or(ii) more than the width of the wireless support structure at the level of the appurtenance.
- (c) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Support Structure. A structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, guy-wire-support tower and other similar structures. Any

device (Attachment Device) which is used to attach an Attached Wireless Communication Facility to an existing building or structure (Attachment Structure) shall be excluded from the definition of and regulations applicable to Support Structures.

Swimming Pool. A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty inches designed, used, and maintained for swimming and bathing.

Temporary Building. Any building of an impermanent nature, or one which is designed for use for a limited time, including any tent or canopy.

Temporary Emergency, Construction or Repair Residence. - A subordinate residence (which may be a Class B manufactured home, travel trailer) that is: located on the same lot as a single-family dwelling made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or(ii)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.

Temporary Event. An activity sponsored by a governmental, charitable, civic, educational, religious, business, or trade organization which is infrequent in occurrence and limited in duration. Examples include arts and crafts shows, athletic events, community festivals, carnivals, fairs, circuses, concerts, conventions, exhibitions, trade shows, outdoor religious events and other similar activities.

Temporary Storage Facility (portable storage units). - Any container intended for storing or keeping household goods, other personal property or business related goods intended to be filled, refilled, or emptied while located outdoors and later removed from the property for storage or disposal off-site. Temporary Storage Facilities are sometimes also known as portable storage units or portable storage containers.

Temporary Structure. Any structure of an impermanent nature or one which is designed for use for a limited time, including any tent or canopy.

Temporary Wireless Communication Facility. - A Wireless Communication Facility to be placed in use for ninety (90) or fewer days.

Tenant. Any person who alone, or jointly, or severally with others occupies a building under a lease or holds a legal tenancy

Therapeutic Foster Home. -A family foster home where, in addition to the provision of foster care, foster parents who receive appropriate training provide a child with behavioral health treatment services under the supervision of a county department of social services, an area mental health program, or a licensed private agency and in compliance with licensing rules adopted by the Commission.

Thoroughfare Plan. A plan adopted by the Board of Commissioners for the development of existing and proposed major streets that will adequately serve the future travel needs of an area in an efficient and cost effective manner.

Through Lot. A lot abutting two streets that do not intersect at the corner of the lot.

Tiny House. - A single-family detached home that is 200 square feet to 699 square feet in size (not including loft space) and complies with the North Carolina State Building Code, includes container homes. A tiny house on wheels for permanent occupancy (longer than 30 days) is considered a recreational vehicle.



*Tourist Cottages.* A commercial operation primarily engaged in the seasonal rental, on a daily, weekly or monthly basis, of attached or detached lodging units. The lodging units, which may also contain cooking and eating facilities, are short-term, seasonal housing accommodations similar to that provided by a motel or resort lodge.

*Tourist Home.* A private residence in which accommodations are provided for lodging and may include meals for overnight guests for a fee for not exceeding fourteen (14) persons, and open to transients.

*Tower and Antenna Use Application (TAA).* - A form provided to the applicant by the Town for the applicant to specify the location, construction, use and compliance with the development standards of a proposed Wireless Communications Facility.

*Town Council* - The Town Board of Commissioners of Fairmont, North Carolina.

*Townhouse Development* - A development of one or more structures containing a total of two (2) or more units intended for owner occupancy, where ownership of the land beneath each unit runs with that unit, where units and the individually owned lands on which they rest do not meet conventional lot requirements for street frontage and yard sizes, and where walls between units are constructed in accordance with North Carolina State Building Code requirements.

*Townhouse Lot.* A parcel of land intended as a unit for transfer of ownership, and lying underneath, or underneath and around, a townhouse, patio home, or unit in a nonresidential group development.

*Tract.* All continuous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership, being developed as a unit, although not necessarily all at one time.

*Travel Trailer* – A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

*Travel Way* - That portion of a right-of-way that is improved for use by self-propelled vehicles or bicycles, including paved or gravel areas and any other area intended for vehicle movement.

*Truck Camper* – A portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use, consisting of a roof, floor, and sides and is designed to be loaded onto and unloaded from the bed of a pickup truck.

*Use.* The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

*Use, Accessory.* See Accessory Use.

*Use, Mixed.* Occupancy of building or land by more than one use.

*Use(s), Principal.* The primary purpose or function that a lot or structure serves or is proposed to serve.

*Use by Right.* A use which is listed as a Use by Right in any given zone district in this Ordinance.

*Use, Special.* See Special Use.

*Utility Easement.* An easement which grants to the Town of Fairmont or other utility provider the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic

tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.

Utility Pole. A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

Variance. A request to deviate from current zoning requirements. If granted, it permits the owner to use his land in a way that is ordinarily not permitted by the zoning ordinance. It is not a change in the zoning law, but a waiver from the requirements of the zoning ordinance. Variances run with the land and are not a personal right of any individual applicant, therefore the personal circumstances of an applicant are irrelevant. If, however, the applicant is a person with disabilities, the Federal Fair Housing Act requires that the Town make reasonable accommodation for that person. **(N.C.G.S. 160D-102, Note 381)**

Vehicle Stacking Lane. The space specifically designated as awaiting area for vehicles whose occupants will be patronizing a drive-in business. Such space is considered to be located directly alongside a drive-in window, facility, or entrance used by patrons and in lanes leading up to and away from the business establishment.

Vested Right. - The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS 160D-1-8 or under common law. **(NCGS 160D-102)**

Video Arcades. Any establishment that has on its premises more than 2 video games, pinball machines or other games for the purpose of monetary gain or the enjoyment of its patrons.

**(Ord. passed 9-13-1983, 154.002 Section A)**

Waiver. Official permission from a designated permit-issuing authority, other than the Board of Adjustment, to depart from specified requirements of this Ordinance.

Warehouse. A building or compartment in a building used and appropriated by the occupant for the deposit and safekeeping or selling of his own goods at wholesale, and/or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade, to be again removed or reshipped.

Warehousing. The depositing or securing of goods, wares, and/or merchandise in a warehouse.

Watercraft. - A watercraft of any type or size specifically designed to be propelled, whether by engine, sail, oar, paddle, or other means, which is used to travel from place to place by water. A boat or vessel shall also include any machine designed or intended to travel over water by self-propulsion or while attached to any self-propelled vessel.

Water System, Public. "Public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if the system serves 15 or more service connections or which regularly serves 25 or more individuals.

**(NCGS § 130A-313(10))**

Water System, Individual. "Private drinking water well" means any excavation that is cored, bored, drilled, jetted, dug, or otherwise constructed to obtain groundwater for human consumption and that serves or is proposed to serve 14 or fewer service connections or that serves or is proposed to serve 24 or fewer individuals. The term "private drinking water well" includes a well that supplies drinking water to a transient noncommunity water system as defined in 40 Code of Federal Regulations § 141.2 (July 1, 2003 Edition).

**(NCGS § 87-85 (10a))**

Water System, Semi-Public. Water supply systems serving from 2 to 9 connections, inclusive. This system may be regulated by the County Board of Health, and plans should be approved by the County Health Department.

**(Ord. 05/31/1977, 154.002 Section A)**

Water Tower. A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

Wholesale. Sale for resale, not for direct consumption.

Wireless Communications. Any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services(PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist.

Wireless Communication Facility. Any unstaffed facility for the transmission and/or reception of wireless telecommunication services, usually consisting of an Antenna Array, connection cables, an Equipment Facility, and a Support Structure to achieve the necessary elevation. Wireless Facility Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

- (a) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- (b) Wireline backhaul facilities.
- (c) Coaxial or fiber-optic cable that is between wireless structures or utility poles or Town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless Infrastructure Provider. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless Provider. A wireless infrastructure provider or a wireless services provider.

Wireless Services. Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless Services Provider. A person who provides wireless services.

Wireless Support Structure. A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a Town utility pole is not a wireless support structure.

Yard. An open space on the same lot with a principal building, unoccupied and unobstructed by any structure from the surface of the ground upward except for drives, sidewalks, lamp posts, entrance steps, retaining walls, fences, landscaping, and as otherwise provided herein.

Yard, Front. An open space on the same lot with a building, between the front line of the building (exclusive of steps) and the front property line or street right-of-way line and extending the full width of the lot.

**(Ord. 05/31/1977, 154.002 Section A)**

Yard, Rear. An open space between the rear line of the principal building (exclusive of steps) and the rear line of the lot and extending the full width of the lot; may be used for accessory building.

Yard, Side. An open, unoccupied space on the same lot with a building between the side line of the building (exclusive of 6-8 steps) and the side line of the lot and extending from the front yard line to the rear yard line.

Zoning Administrator. The official as designated by the Town Board of Commissioners who is charged with the enforcement of the Zoning Ordinance.

Zoning District. An area defined by this Ordinance and delineated on the Official Zoning Map, in which the requirements for the use of land and in which building and development standards are prescribed.

Zoning Map. Zoning district boundaries adopted pursuant to this ordinance shall be drawn on a map that is adopted or incorporated within a duly adopted development regulation. Zoning district maps that are so adopted shall be maintained for public inspection in the office of the local government clerk or such other office as specified in the development regulation. The maps may be in paper or a digital format approved by the local government.

Zoning Map Amendment or Rezoning. An amendment to a zoning regulation to change the zoning district that is applied to a specified property or properties. It does not include the initial adoption of a zoning map by a local government or the repeal of a zoning map and re-adoption of a new zoning map for the entire planning and development regulation jurisdiction. It does not include updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district. It does include the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations. It does include the application of an overlay zoning district or a conditional zoning district. **(N.C.G.S. 160D-102)**

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

Zoning Regulation. A zoning regulation authorized by Article 7 of NCGS Chapter 160D. **(N.C.G.S. 160D-102)**

Zoning Vested Right. See Vested Right.

Zoological Garden. A public park or large enclosure where live animals are kept for display to the public.