

Article 2. BASIC DEFINITIONS AND INTERPRETATIONS

Section 2-1: Word Interpretation

For the purposes of this Ordinance, certain words shall be interpreted as follows. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

- (A) As used in this Ordinance, words importing the masculine gender include the feminine and neuter.
- (B) Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.
- (C) Words used in the present tense include future tense.
- (D) The word "person" includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
- (E) The word "may" is permissive.
- (F) The word "shall" and "will" are always mandatory and not merely directive.
- (G) The word "used for" shall include the meaning "arranged for," "designed for," "intended for," and "occupied for."
- (H) The words "used" or "occupied" shall mean "intended, designed, and arranged to be used or occupied."
- (I) The word "lot" shall include the words "plot," "parcel," "site," "tract," and "premises."
- (J) The word "building" shall include all structures regardless of similarity to buildings, excluding fences and retaining walls.
- (K) The word "Town Commissioners" shall include "Board of Commissioners" of the Town of Ayden, North Carolina.
- (L) The word "Town" shall mean the "Town of Ayden," a municipal corporation of the State of North Carolina.
- (M) The words "map," "zoning map," and "Ayden Zoning Map" shall mean the "Official Zoning Map for the Town of Ayden, North Carolina."

(N) The words "Board of Adjustment" shall mean the "Town of Ayden Board of Adjustment."

(O) The words "Ordinance" and "Regulations" shall mean the "Official Zoning and Subdivision Ordinance for the Town of Ayden, North Carolina."

Section 2-2: Definitions of Basic Terms

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Ordinance.

(1) *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 or alley.

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

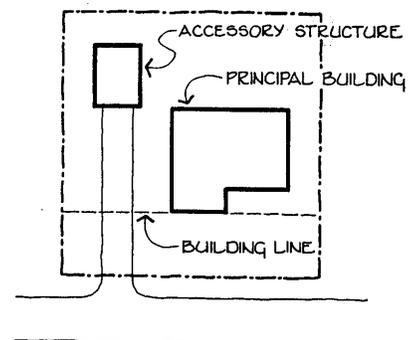
(3) *Accessory Building or Use*. A building or use, not including signs, which is:

(a) Conducted or located on the same lot as the principal building or use served, except as may be specifically provided elsewhere in this Ordinance;

(b) Clearly incidental to, subordinate in area and purpose to, and serves the principal use; and

(c) Either in the same ownership as the principal use or is clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of or to the principal use.

(d) Intended to be used or actually used to feed, confine, maintain or stable cattle, horses, sheep, goats, turkeys, chickens, swine, non-domestic animals or any combination thereof.



(4) *Addition (to an existing building)*. An extension or increase in the floor area or height of a structure. Additions to existing structures shall comply with the requirements for new construction.

(5) *Administrator*. The Zoning Administrator for the Town of Ayden.

(6) *Adoptive Home*. A family home approved by a child placing agency to accept a child for adoption.

(7) *Adult Arcade*. An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other

photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

- (8) *Adult Bookstore.* An establishment which derives more than fifty (50) percent of its revenues from the offering to customers of books, magazines, sexual paraphernalia, films, or videotapes (whether for viewing off premises or on premises by use of motion picture machines or other image producing devices), periodicals or other printed or pictorial materials which are intended to provide sexual stimulation or sexual gratification to such customers, and which are distinguished by or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities, or specified anatomical areas.
- (9) *Adult Business.* An adult business shall be defined as any business activity, club, or other establishment which permits any employee, member, patron, or guest on its premises to exhibit any specified anatomical areas before any other person or persons. Adult businesses including specified sexual activities, massage parlors, adult arcades, adult bookstores, adult cabarets, adult motion picture theaters, adult theaters, sexual encounter establishments, and sexually oriented businesses are prohibited within the Town of Ayden planning jurisdiction.
- (10) *Adult Cabaret.* An establishment whose principal business purpose is the offering to customers of live entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities, or specified anatomical areas.
- (11) *Adult Motion Picture Theater.* An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
- (12) *Adult Theater.* An establishment, containing a room with tiers or rows of seats facing a screen, or projection area, whose principal business purpose is the exhibition to customers of motion pictures which are intended to provide sexual stimulation or sexual gratification to such customers and which are distinguished by or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
- (13) *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.

(14) *Antenna*. Equipment designed to transmit or receive electronic signals.

(15) *Apartment (Dwelling Unit)*. A room or suite of one or more rooms intended or held for use as a residence by a single household or family (i.e., dwelling unit). Such dwelling unit may be located in an apartment house or duplex.

(16) *Apartment House*. See Dwelling, Multi-Family.

(17) *Appeal*. A request for a review of the Administrator's interpretation of any provision of this Ordinance or a request for a variance.

(18) *Approval Authority*. The Board of Commissioners of the Town of Ayden, the Board of Adjustment or other board or official designated by Ordinance as authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

(19) *Assembly*. A joining together of completely fabricated parts to create a finished product.

(20) *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. The Department of Health and Human Services may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. 131E-102. Effective October 1, 1995, there are two types of assisted living residences: adult care homes and group homes for developmentally disabled adults. Effective July 1, 1996, there is a third type, multi-unit assisted housing with services.

(21) *Automobile Off-Street Parking (Commercial Lot)*. Any building or premises, except a building or premises described as a private garage, used for the storage of motor vehicles for the public or private businesses.

(22) *Automobile Repair, Major**. The following activities shall be considered major repair:

- (a) Engine overhaul or dismantling of subparts;
- (b) Body or frame repair;
- (c) Windshield or glass replacement;

- (d) Transmission, starter, alternator or other subpart rework service;
- (e) Welding or metal cutting; and
- (f) Any other repair other than "minor repair."

(23) *Automobile Repair; Minor**. The following activities shall be considered minor repair:

- (a) Engine tune-up; changing of plugs, filters, oil, lubricants, belts, adjustments;
- (b) Change and rotate tires;
- (c) Brake services;
- (d) Electrical system services;
- (e) Radiator services;
- (f) Muffler services; and
- (g) Battery service.

(24) *Automobile Service Station (Gas Station)*. Any building or land used for the dispensing, sale, or offering for sale at retail any automobile fuels along with accessories such as lubricants or tires. Car washing, mechanical and electrical repairs, and tire repairs shall only be performed incidental to the conduct of the service station and shall be performed indoors. Fuel pumps shall not be within fifteen (15) feet of any property line or street right-of-way. Incidental activities shall not include tire re-treading, major body work, major mechanical work, or upholstery work.

(25) *Automobile Storage and Salvage*. The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two or more motor vehicles, which for a period exceeding 30 days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima-facie evidence of an automobile wrecking yard.

(26) *Basement*. That portion of a building having its floor subgrade (below ground level) on all sides.

(27) *Bed and Breakfast Inn*. A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises (including boarding home(s) and tourist home(s)).

(28) *Bingo Parlors***. Any business enterprise, whether as a principal or an accessory use, where specific games of chance are played with individual cards having numbered squares ranging from one to 75, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers.

(29) *Block*. A tract of land or a lot or group of lots bounded by streets, public parks, golf courses, railroad rights-of-way, water courses, lakes, unsubdivided land, or a boundary line or lines of the county or its towns or any combination of the above.

(30) *Block Frontage*. That portion of a block which abuts a single street.

- (31) *Board of Adjustment.* A local body, created by Ordinance, whose responsibility is to hear appeals from decisions of the Administrator or Building Inspector and to consider requests for variances from the terms of the Zoning Ordinance.
- (32) *Board of Commissioners.* The governing body of the Town of Ayden.
- (33) *Boarding House.* A building other than a hotel or motel where, for compensation, meals are served and lodging is provided.
- (34) *Bona Fide Farm.* Any tract of land larger than ten (10) acres and otherwise eligible for tax deferral as authorized in NCGS 105-277.1 et. seq. shall be considered a bona fide farm. Any trade of land on which agricultural activities are clearly of an incidental nature may also be considered as a bona fide farm upon determination by the Administrator upon consideration of agricultural productivity and improvements, and any other necessary or available information. Bona fide farms do not include intensive livestock operations.
- (35) *Buffer.* A fence, wall, hedge, existing natural vegetative area, or other planted area or device used to enclose, buffer, or separate one use or lot from another.
- (36) *Buildable Area.* The portion of a lot remaining after required setback yards have been made.
- (37) *Building.* Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry, or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars, trailers, manufactured homes, and attached or unattached carports consisting of a roof and supporting members, and similar structure whether stationary or movable.
- (38) *Building, Commercial.* Any building used for business purposes.
- (39) *Building, Detached.* A building having no party or common wall with another building.
- (40) *Building, Height of.* The vertical distance from the average sidewalk or street grade, or finished grade of the building lot, whichever is the highest, to the highest point of the building.
- (41) *Building Inspector.* The person, officer, and his authorized representatives, whom the Town Commissioners have designated as their agent for the administration and enforcement of the Town building codes.
- (42) *Building, Main.* A building in which the principal use of the lot on which the building is situated is conducted.

- (43) *Building Setback Line*. A line parallel to the property line in front of which no structure shall be erected as specified in Article 5, "Table of Area, Yard, and Height Requirements," of the Town of Ayden Zoning Ordinance.
- (44) *Building Site*. Any lot, or portion thereof, or two (2) or more contiguous lots, or portions thereof, of a parcel of land upon which a building or buildings may be erected in conformance with the requirements of the Town of Ayden Zoning Ordinance.
- (45) *Bulk Storage*. A facility containing storage tanks, pipe network, power, and control systems which allow dry bulk materials to be aerated and handled as required. Normally used to store materials which are consumed in relatively large quantities (i.e., barite, bentonite, and cement).
- (46) *Canopy, Marquee, or Awning*. Any roof-like structure extended over a sidewalk or walkway.
- (47) *Certificate of Occupancy/Compliance*. Official certification that a premise conforms to provisions of the Zoning Ordinance (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.
- (48) *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.
- (49) *Children's Camp*. A residential child-care facility which provides foster care at either a permanent camp site or in a wilderness setting.
- (50) *Club or Lodge (Private Non-Profit, Civic or Fraternal)*. A non-profit association of persons, who are bona fide members paying dues, which owns, hires, or leases a building, or portion thereof; the use of such premises being restricted to members and their guests.
- (51) *Cluster Development*. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

- (52) *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.
- (53) *Community Building*. A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.
- (54) *Conditional Use Permit*. A permit issued by the Board of Commissioners upon recommendation of the Planning Board that authorizes the recipient to make use of property in accordance with the requirements of the Town of Ayden Zoning Ordinance as well as any additional requirements imposed by the Board of Commissioners.
- (55) *Condominium*. A dwelling unit or commercial unit in which the ownership of the occupancy rights to the unit is individually owned or for sale to an individual and such ownership is not inclusive of any land.
- (56) *Contractor, General*. One who is engaged in one or more aspects of building construction and/or land development through a legal agreement.
- (57) *Contractor, Trades*. One who accomplishes work or provides facilities under contract with another and specifically engages in a specialized trade, such as plumbing, heating, wiring, sheet metal and roofing work, etc.
- (58) *Convenience Store*. A one-story, retail store designed and stocked to sell primary food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract and depends upon a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the "Fast Fare," "BP," and "Pantry" chains.
- (59) *Crematoriums**. A location containing properly installed and certified apparatus intended for use in the act of cremation.
- (60) *Day Care Center*. Any child care arrangement that provides day care on a regular basis for more than four (4) hours per day for more than five (5) children, wherever operated and whether or not operated for profit, except that the following are not included: public schools; non-public schools whether or not accredited by the North Carolina State Department of Public Instruction, which regularly and exclusively provide a course of grade school instruction to children who are of public school age; summer camps having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods.

- (61) *Dedication*. A gift by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.
- (62) *Developer*. A person who is responsible for any undertaking that requires a zoning certificate of compliance, special use permit, conditional use permit, or sign permit.
- (63) *Development*. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.
- (64) *Dimensional Nonconformity*. 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.
- (65) *Dish Antenna (or Earth Station)*. A dish antenna, or earth station, is any accessory structure capable of receiving, for the sole benefit of the principal use, radio or television signals from a transmitter or a transmitter relay located in planetary orbit.
- (66) *Dish Antenna (or Earth Station) Height*. The height of the antenna or dish shall be that distance as measured vertically from the highest point of the antenna or dish, when positioned at its lowest angle for operation, to ground level at the bottom of the base which supports the antenna.
- (67) *Dish Antenna (or Earth Station) Setback*. The setback of a dish antenna shall be measured from the center mounting post supporting the antenna.
- (68) *District*. Any section of the Town of Ayden and its extraterritorial jurisdiction in which zoning regulations are uniform.
- (69) *Drive-in Establishment (Drive-Thru Window)*. An establishment which accommodates patrons by providing facilities to conduct business directly from their automobiles, such as banks, restaurants, etc.
- (70) *Driveway*. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.
- (71) *Driveway, Private*. A roadway serving two or fewer lots, building sites, or other division of land, and not intended to be public ingress or egress.

- (72) *Dwelling (Dwelling Unit)*. A building, or portion thereof, designed, arranged, or used for permanent living quarters. The term "dwelling" shall not include travel trailer, motel, hotel, tourist home, or other structures designed for transient residence.
- (73) *Dwelling, Duplex*. A building containing two (2) dwelling units sharing a common wall.
- (74) *Dwelling, Multi-Family*. A building containing three (3) or more dwelling units, except where permitted as an accessory use.
- (75) *Dwelling, Single-Family*. A building containing one dwelling unit only, but may include one (1) separate unit, with no separate entrance, as an accessory use to be occupied only by employees or relatives of the household.
- (76) *Easement*. A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.
- (77) *Electronic Gaming Operation**. Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including but not limited to sweepstakes and video poker, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This use does not include any lottery approved by the State of North Carolina.
- (78) *Erect*. Build, construct, rebuild, or reconstruct, as the same are commonly defined.
- (79) *Existing Construction*. Any structure for which the "start of construction" commenced before (date of adoption of current zoning ordinance).
- (80) *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 criteria established under Article 14, Vested Rights for the Town of Ayden.
- (81) *Existing Manufactured Home Park or Subdivision*. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before (date of adoption of current zoning ordinance).
- (82) *Expansion to an Existing Manufactured Home Park or Subdivision*. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

- (83) *Extraterritorial Jurisdiction.* All that area that is within one mile or less of the contiguous corporate limits of the Town of Ayden.
- (84) *Fabrication.* The process and/or assemblage of various components into a complete or partially completed commodity. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects. The refining aspects of manufacturing and other initial processing of basic raw material such as metal ores, lumber and rubber, etc., are excluded.
- (85) *Family.* One or more persons related by blood, marriage, or adoption living together as a single housekeeping unit and having a recognized head of household; provided that a group of five or more persons who are not within the second degree of kinship shall not be deemed to constitute a family. For the purposes of this Ordinance, such persons may include foster children, gratuitous guests, contributing roommates, and domestic servants employed on the same premises.
- (86) *Family Care Home.* A home with support and supervisory personnel that provides room and board, personal care, and rehabilitation services in a family environment for not more than six (6) resident handicapped persons.
- (87) *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.
- (88) *Fence, Boundary.* A structure serving as an enclosure, a barrier, or a boundary, usually constructed of posts joined together by wood, vinyl, wrought iron, bricks, stone, or wire.
- (89) *Fence, Decorative.* A structure serving as an enclosure, a barrier, or a boundary, usually constructed of posts joined together by wood, vinyl, wrought iron, bricks, or stone. Chain link or wire fencing material is prohibited.
- (90) *Fill.* Any material used to raise the elevation of the surface of the land, excluding a grade base and paving.
- (91) *Flea Market.* A commercial operation held on a regular periodic basis and patronized by individual entrepreneurs who transport a variety of merchandise to a common geographical area for the purpose of sale or trade to the general public. This definition does not include sporadic and infrequent yard sales held in residential areas.
- (92) *Floor.* The top surface of an enclosed area in a building including basement (i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction). The term does not include the floor of a garage used solely for parking vehicles.

- (93) *Floor Area (for determining off-street parking and loading requirements)*. The sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, "floor area" for the purposes of measurement for off-street parking space shall not include: floor area devoted to primarily storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; or basement floor other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.
- (94) *Frontage*. All property abutting a street line measured along the street line.
- (95) *Game Room, Pool or Billiard Parlors**. Any establishment that has two or more pool/billiard tables and/or four or more electronic or mechanical game machines, or has its principal purpose the operation of same, regardless of the number of tables or game machines; may provide food service; may not provide alcoholic beverages.
- (96) *Garage, Private*. A building used as an accessory to or a part of the main building permitted in any residential district, and providing for the storage of motor vehicles.
- (97) *Gate*. A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier and buffer as a part of the fence in which it is attached.
- (98) *Gross Floor Area*. The sum of the enclosed area on all floors of a building measured from the outside faces of the exterior walls. It includes any below grade floor areas used for habitation or storage.
- (99) *Group Care Facility*. An establishment qualified for a license by the State of North Carolina for the provision of resident services of seven (7) or more individuals of whom one or more are unrelated, and who are either handicapped, aged, disabled, or who are runaway, disturbed, or emotionally deprived children and who are undergoing rehabilitation or extended care, and who are provided services to meet their needs. For the purposes of this definition included are group homes for all ages, halfway houses, boarding homes for children, and convalescent and nursing homes. Further, this definition includes those homes that provide services for six (6) or fewer persons who are not handicapped.
- (100) *Hazardous Material*. Any substance listed as such in: Superfund Amendments and Reauthorization Act (SARA) Section 302, Extremely Hazardous Substances; Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Hazardous Substances; or Section 311 of the Clean Water Act (CWA), Oil and Hazardous Substances.

(101) *Historic Structure*. Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

(102) *Home Occupation*. Any occupation or profession carried on entirely within a dwelling by one or more occupants thereof, provided that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes.

(103) *Homeless Shelter**. A facility operated by a nonprofit organization, including but not limited to a religious institution, that provides short-term overnight accommodations in a centralized setting to needy individuals and families free of charge. This definition shall not include any use that qualifies as a Group Home.

(104) *Hotel or Motel*. A building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants; where rooms are furnished for the accommodation of such guests; and which may have one or more dining rooms, restaurants, or cafes where meals are served.

(105) *Improvements*. The addition of any building, accessory building, parking area, loading area, fence, wall, hedge, lawn or mass planting (except to prevent soil erosion) to a lot or parcel of property.

(106) *Intensive Livestock Operations*. Any enclosure, pen, feedlot, building, or group of buildings intended to be used or actually used to feed, confine, maintain or stable cattle, horses, sheep, goats, turkeys, chickens, swine, or any combination thereof, with at any time a total of 100 animal units or more present, where their dietary needs are met primarily by means other than grazing.

(107) *In-Home Day Care Facility***. A structure in which the primary use is clearly a single-family dwelling which is also used to provide day care services on a temporary basis without transfer of custody for three (3) to five (5) unrelated children. *(The keeping of 1-2 children does not constitute an In-Home Day Care Facility and does not require a permit.)*

- (108) *Junk*. Pre-used or unusable metallic parts and other nonmetallic manufactured products that are worn, deteriorated or obsolete, making them unusable in their existing condition, but are subject to being dismantled and salvaged.
- (109) *Junk Yard*. Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packaged, disassembled, or handled, including but not limited to, scrap iron and other metals, paper, rags, vehicles, rubber tires, and bottles. A "junk yard" includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings. A lot containing more than three (3) inoperative vehicles shall constitute a junk yard for the purposes of this Ordinance.
- (110) *Junked/Inoperative Motor Vehicle*. As authorized and defined in G.S. § 160A-303.2 the term, junked/inoperative motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and that (1) is partially dismantled or wrecked; (2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or (3) is more than five years old and appears to be worth less than \$100.
- (111) *Kennel*. An operation that: (a) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), (b) engages in the breeding of animals for sale, (c) engages in the importation of animals for sale, or (d) houses animals for sporting and hunting events.
- (112) *Landfill*. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the NC General Statutes. For the purpose of this Ordinance, this term does not include composting facilities.
- (113) *Lighting Definitions*.
- (a) *Cutoff Fixture*. An outdoor light fixture shielded or constructed in such a manner that no more than two and one-half percent (2-1/2%) of the total light emitted by the fixture is projected above the horizontal plane of the fixture.
 - (b) *Cutoff Fixture, Full*. An outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture.
 - (c) *Cutoff Fixture, Semi-*. An outdoor light fixture shielded or constructed in such a manner that it emits no more than five percent (5%) of its light above the horizontal plane of the fixture, and no more than twenty percent (20%) of its light ten (10) degrees below the horizontal plane of the fixture.
 - (d) *Flood Lamp*. A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.
 - (e) *Flood Light*. A form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.
 - (f) *Footcandle (FC)*. A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.

- (g) *Glare*. The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, to cause annoyance, discomfort, or loss of visual performance and ability.
- (h) *IESNA*. The Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.
- (i) *Internal Refractive Lens*. A glass or plastic lens installed between the lamp and the sections of the outer fixture globe or enclosure. Refractive refers to the redirection (bending) of the light as it goes through the lens, softening and spreading the light being distributed from the light source thereby reducing direct glare.
- (j) *Light Source*. The element of a lighting fixture that is the point of origin of the lumen emitted by the fixture.
- (k) *Lumen*. A quantitative unit measuring the amount of light emitted by a light source.
- (l) *Maintained Footcandles*. Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high pressure sodium and 0.64 for metal halide and mercury vapor.
- (m) *Medium Base*. The size of lamp socket designed to accept a medium or Edison base lamp.
- (n) *Outdoor Sports Field*. An area designed for active recreation, whether publicly or privately-owned, including but not limited to baseball/softball diamonds, soccer fields, football fields, golf courses and ranges, tennis courts, racetracks, and swimming pools.
- (o) *Outdoor Performance Area*. An area permanently dedicated to the public presentation of music, dance, theater, media arts, storytelling, oratory, or other performing arts, whether publicly or privately-owned, including but not limited to amphitheaters and similar open or semi-enclosed structures.
- (p) *Right-of-Way*. An interest in land to the Town which provides for the perpetual right and privilege of the Town, its agents, franchise holders, successors, and assigns to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain, and use a public street, including related and customary uses of street rights-of-way such as sidewalks, bike paths, landscaping, mass transit facilities, traffic control, traffic control devices and signage, sanitary sewer, stormwater drainage, water supply, cable television, electric power, gas, and telephone transmission and related purposes in, upon, over, below, and across the rights-of-way.
- (q) *Vehicular Canopy*. A roofed open, drive-through structure designed to provide temporary shelter for vehicles and their occupants while making use of a business' services.
- (r) *Wall Pack*. A type of light fixture typically flush-mounted on a vertical wall surface.
- (s) *Wide-Body Refractive Globe*. A translucent lamp enclosure used with some outdoor fixtures to provide a decorative look (including but not limited to acorn- and carriage light-style fixtures). "Wide-body" refers to a wider than average size globe (greater than 15.75" in diameter). "Refractive" refers to the redirection (bending) of the light as it goes through the lens, rendering the light fixture more effective. Wide-body

refractive globes are intended to soften and spread the light being distributed from the light source thereby reducing direct glare.

(114) *Loading and Unloading Area.* That portion of the vehicle accommodation area used to satisfy the requirements of Article 8. It provides space for bulk pickups and deliveries, scaled to delivery vehicles and accessible to such vehicles at all times even when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

(115) *Lot.* A parcel of land occupied or intended for occupancy by a main building or group of main buildings and accessory buildings approved as a Planned Building Group, together with such yards, open spaces, lot width and lot areas as 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. For the purposes of this Ordinance, the word "lot" shall be taken to mean (1) any number of contiguous lots or portions thereof, upon which one or more main structures for a single use are erected or are to be erected, or (2) a portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership or for development or both.

(116) *Lot, Area of.* The parcel of land enclosed within the boundaries formed by the property lines, plus one-half of any alley abutting the lot between the boundaries of the lot, if extended.

(117) *Lot, Corner.* A lot abutting the intersection of two (2) or more streets or a lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot at the apex meet at any angle of less than one hundred thirty-five (135) degrees. In such a case, the apex of the curve forming the corner lot shall be considered as the intersection of street lines for the purpose of this Ordinance, such as in corner visibility requirements.

(118) *Lot, Depth.* The depth of a lot is the average distance between the front and back lot lines measured at right angles to its frontage.

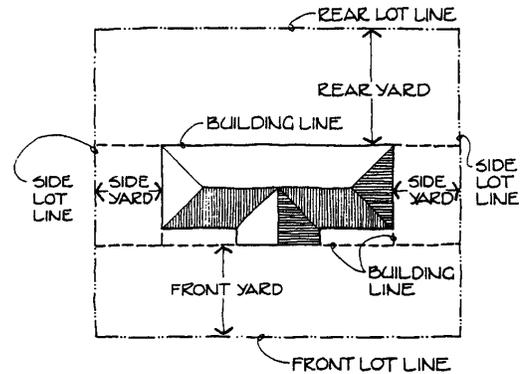
(119) *Lot, Interior.* A lot other than a corner lot with only one frontage on a street.

(120) *Lot Line.* Any boundary of a parcel of land.

(121) *Lot Line, Front.*

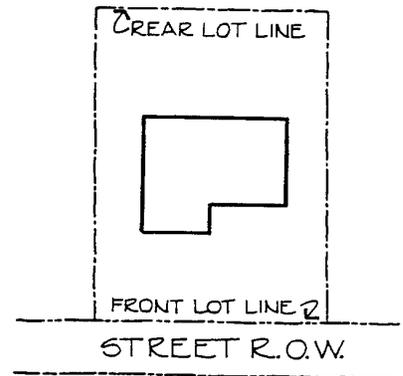
(a) If a lot has one property line which is coterminous with a street right-of-way line, such line shall constitute the front lot line;

(b) If a lot has two property lines which are also street right-of-way lines abutting different streets and those two (2) property (street right-of-way) lines form an angle between 80 degrees and 100 degrees, then the shorter of those two (2) lines shall constitute the front property line; if both lines are equal, the front property line shall be determined by the property owner if a front property line has not been designated on the final plat (minimum building lines are construed to designate the front lot line);



(c) If a lot is not encompassed by provision (a) or (b) and no front property line is designated on the final plat, the front property line shall be designated by the Zoning Administrator.

(122) *Lot Line, Rear.* The rear lot line shall be the property line(s) which is (are) opposite the front property line. If no property line is deemed by the Administrator or his authorized agents to be opposite the front property line and no minimum building line exists on the final plat to establish a rear lot line, then there shall be no rear lot line; however, the rear yard setback shall be maintained from the point (apex) on the property's perimeter which is the furthest removed from the mid point of the front line. The rear yard minimum building line shall be a line perpendicular to a straight line connecting said apex and the mid point of the front lot line.



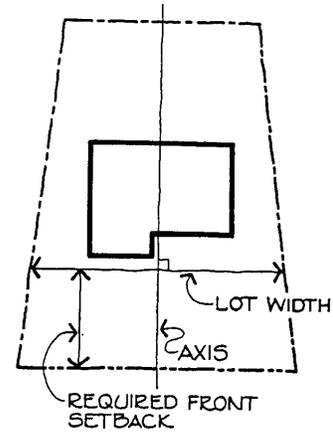
(123) *Lot Line, Side.* A boundary line which is not defined as front or rear lot line.

(124) *Lot, Nonconforming.* A lot or parcel of land that has less than the required minimum area or width as established by the zone in which it is located and provided that such lot or parcel was of record as a legally created lot on the effective date of this Ordinance.

(125) *Lot of Record.* A lot which is a part of a subdivision, a plat of which has been recorded in the office of the County Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the County Register of Deeds by the owner or predecessor in title thereto.

(126) *Lot, Through or Double Frontage.* A lot other than a corner lot with frontage on one or more streets. Through lots abutting two streets may be referred to as double frontage lots.

(127) *Lot Width*. The straight line distance between the points where the building line intersects the two side lot lines.



(128) *Manufactured Home*. A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (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 herein. "Manufactured home" includes any structure that meets all of the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq.

(129) *Manufactured Home (Mobile Home) Class A*. A double- or triple-wide manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

- (a) The home has a length not exceeding four times its width;
- (b) The pitch of the home's roof has 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) A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home; and
- (e) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

(130) *Manufactured Home (Mobile Home) Class B*. A single-wide manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards

promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home.

(131) *Manufactured Home (Mobile Home) Class C.* Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home. Class C manufactured homes are not permitted within Ayden's planning jurisdiction.

(132) *Manufactured Home Lot.* A manufactured home lot is a piece of land within a manufactured home park whose boundaries are delineated in accordance with the requirements of the Ordinance.

(133) *Manufactured Home Park.* Any single parcel of land upon which two (2) or more manufactured homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations. Manufactured home parks are referred to in this Ordinance as "MH Park(s)."

(134) *Manufactured Office.* A structure identical to a manufactured home except that it has been converted, or originally designed and constructed, for commercial or office use.

(135) *Massage Parlor.* An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

(136) *Modular Home.* A modular home is a factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, bears a seal or label issued by the Department of Insurance pursuant to G.S. 143-139.1, and is placed on a permanent foundation and used for residential purposes.

(137) *Motor Vehicle or Vehicle.* All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

(138) *Multi-family Development.* A single building on a single lot or tract containing more than two (2) dwelling units.

(139) *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 their 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. Multi-unit assisted housing with services programs are required to register with the Division of Facility Services and to provide a disclosure statement. The disclosure statement is required to be a part of the annual rental contract that includes a description of the following requirements:

- (a) Emergency response system;
- (b) Charges for services offered;
- (c) Limitations of tenancy;
- (d) Limitations of services;
- (e) Resident responsibilities;
- (f) Financial/legal relationship between housing management and home care or hospice agencies;
- (g) A listing of all home care or hospice agencies and other community services in the area;
- (h) An appeals process; and
- (i) Procedures for required initial and annual resident screening and referrals for services.

Continuing care retirement communities, subject to regulation by the Department of Insurance under Chapter 58 of the General Statutes, are exempt from the regulatory requirements for multi-unit assisted housing with services programs.

(140) NCGS. North Carolina General Statute.

(141) *New Construction*. Any structure for which the "start of construction" commenced after (date of adoption of current zoning ordinance). The term also includes any subsequent improvements to such structure.

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

(143) *Nonconforming Lot*. A lot existing on 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 or depth requirements of the district in which the lot is located.

(144) *Nonconforming Use.* The use of a building, manufactured home, structure, or land which does not conform to the use regulations of this Ordinance for the district in which it is located, either on the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated into this Ordinance.

(145) *Nuisance.* Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

(146) *Nuisance Vehicle.* A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (a) A breeding ground or harbor for mosquitos, other insects, rats, or other pests;
- (b) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (c) A point of collection of pools or ponds of water;
- (d) A point of concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor;
- (e) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, and the like;
- (f) So situated or located that there is a danger of it failing or turning over;
- (g) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (h) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;
- (i) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the governing body.

(147) *Nursing Home.* A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.

(148) *Official Maps or Plans.* Any maps or plans officially adopted by the Town of Ayden Board of Commissioners as a guide for the development of the Town and surrounding area.

- (149) *Open Space*. An area (land and/or water) generally lacking in manmade structures and reserved for the enjoyment of residents of a Planned Unit Development, or other group project. Common open spaces may contain accessory structures, and improvements necessary or desirable for religious, education, non-commercial, recreational, or cultural uses.
- (150) *Ordinance*. This Zoning and Subdivision 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.
- (151) *"Park Model" Recreational Vehicle*. A manufactured home typically built in accordance with the construction requirements of HUD National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. but because of their limited size they are not required to be labeled by the HUD manufacturing housing program. Since these park model type units are not under the jurisdiction of the HUD program, they are labeled and sold as recreational vehicles.
- (152) *Parking Area, Aisles*. A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.
- (153) *Parking Space, Off Street*. For the purpose of this Ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.
- (154) *Patio Home*. A single-family detached or semi-detached unit built on a small lot which may be enclosed by walls which provide privacy.
- (155) *Person*. An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.
- (156) *Personal Care Services*. Any hands-on services allowed to be performed by In-Home Aides II or III as outlined in Department of Health and Human Services rules.
- (157) *Planned Building Group*. A residential project containing nine (9) or more attached dwelling units; a residential project with attached dwelling units for individual ownership; a commercial and/or institutional project located in an O-I, B-2, LI, HI, or PUD zoning district; a commercial and/or office-institutional project located within an O-I, B-2, LI, HI, or PUD zoning district involving the construction of a building greater than five thousand (5,000) square feet; a commercial and/or office-institutional project within an O-I or PUD zoning district involving the construction of more than one (1) building; or a manufactured home park.
- (158) *Planned Unit Development (PUD)*. A development constructed on a tract of at least 25 acres under single ownership, planned and developed as an integral unit, and consisting

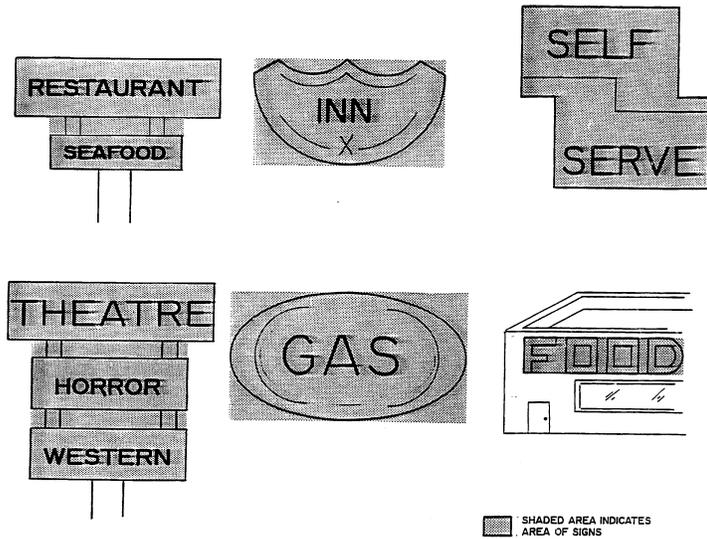
of a combination of residential and nonresidential uses on land within a PUD district in accordance with Article 7.

- (159) *Planning Board*. The public agency usually empowered to prepare a comprehensive plan and to evaluate proposed changes in land use, either by public or private developers, for conformance with the plan.
- (160) *Plat*. A map or plan of a parcel which is to be, or has been, subdivided showing the location, boundaries, and ownership of individual properties.
- (161) *Primarily Educational Institution*. Any institution which operates one or more scholastic or vocational and technical education programs that can be offered in satisfaction of compulsory school attendance laws, in which the primary purpose of the housing and care of children is to meet their educational needs, provided such institution has complied with Article 39 of Chapter 115C of the General Statutes.
- (162) *Principal Building*. A structure or, where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.
- (163) *Processing*. Any operation changing the nature of material or material's chemical composition or physical properties; does not include operations described as fabrication.
- (164) *Public Water Supply System*. Any supply furnishing potable water for ten (10) or more residences or businesses or a combination of residences or businesses.
- (165) *Public Sewer*. A sewage system which is owned by the Town of Ayden, by any other unit of government or authority, or by a private corporation, person, or association and which is designed to serve uses locating along existing lines or within the service area of the system, should additional collection lines be constructed.
- (166) *Recreation Area or Park*. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.
- (167) *Recreational Vehicle*. A recreational vehicle is a vehicle which is: (a) built on a single chassis; (b) self-propelled or permanently towable by a light duty truck; (c) four hundred (400) square feet or less when measured at the largest horizontal projection; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use. Recreational vehicles must be ready, willing and able to move off-site within 48 hours. When a recreational vehicle is located within a special flood hazard area, the local Flood Prevention Ordinance must be met. Recreational vehicles include "park model" recreational vehicles as defined by this Ordinance.

- (168) *Recreational Vehicle Parks.* Any single parcel of land upon which two (2) or more recreational vehicles, occupied for sleeping purposes, are located regardless of whether or not a charge is made for such purposes. Recreational Vehicle Parks are referred to in this Ordinance as "RV Park(s)."
- (169) *Register of Deeds.* The Register of Deeds for Pitt County, North Carolina.
- (170) *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.
- (171) *Retail.* Sale of a commodity, [the sale being] to the ultimate consumer and [the commodity being] not customarily subject to sale again.
- (172) *Retention Pond Facilities.* A permanent structure that provides for the storage of runoff and is designed to maintain a permanent pool of water.
- (173) *Right-of-Way.* The property located within and adjoining the streets, roads, and highways within the Town which rights-of-way are owned by the Town or state or otherwise maintained by the Town or the state.
- (174) *Salvage Operation.* The reclamation, dismantling, or storage of pre-used commodities, junk and similar material for the purposes of resale, processing, distribution, or deposition.
- (175) *School.* Any public or private institution for the teaching of children and adults.
- (176) *Sexual Encounter Establishment.* An establishment other than a hotel, motel, or similar establishment offering public accommodations which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.
- (177) *Sexually Oriented Business.* Any business activity, club, or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Regulated businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters. Specified sexual activities, massage parlors, and adult cabarets are prohibited.
- (178) *Shopping Center.* Two or more commercial establishments planned and constructed in an integrated manner on a single site with off-street parking and loading facilities provided on the site and related in location, size, and type of shops to the trade area which the site serves.

(179) *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, firm, association, profession, business commodity or product, which are visible from any public way and used to attract attention.

(180) *Sign, Area*. The surface area of a sign shall be computed as including the entire area visible from any one point, within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign including lattice work, wall work, and individual letters and spaces between letters comprising part(s) of the sign. Computations of sign area shall include only



one side of a double-faced sign structure. If a sign has two sides joined at an angle of greater than 60°, the surface of both sides of the sign shall be included in the computation of area.

(181) *Sign, Flashing*. Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and/or color at all times when such is in use. For the purpose of this Ordinance, any moving, illuminated sign shall be considered a "flashing sign." Such signs shall not be deemed to include time and temperature signs or public message displays using electronic switching.

(182) *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. A sign that stands without supporting elements, such as a "sandwich sign," is also a freestanding sign.

(183) *Sign, Identification*. A sign used to display only the name, address, crest, or trademark of the business, individual, family, organization, or enterprise occupying the premises, the profession of the occupant or the name of the building on which the sign is displayed; or a permanent sign announcing the name of a subdivision, shopping center, park, or public or quasi-public structure, facility or development and the name of the owners or developers.

(184) *Sign, Off-Premises (Billboards)*. A sign that draws attention to or communicates information about a business, establishment, service, commodity, accommodation, attraction, entertainment, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located.

(185) *Sign, Portable*. Any sign not exceeding thirty-two (32) square feet in billboard area and not permanently attached to the property on which it is located.

(186) *Sign, Projecting*. A sign attached to a wall and projecting away from that wall more than twelve (12) inches, but not more than five (5) feet.

(187) *Sign, Roof*. A sign which is displayed above the eaves of a building.

(188) *Sign, Temporary*. A display, informational sign, banner, or other advertising device constructed of cloth, canvas, fabric, wood, or other temporary material, with or without a structural frame (including banners), and intended for a limited period of display, including decorative displays for holidays or public demonstrations.

(189) *Sign, Wall*. A sign attached to a wall and not projecting away from the wall more than twelve (12) inches.

(190) *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.

(191) *Site Specific Development Plan*. A plan of development submitted to the Town to obtain one of the following zoning or land use permits or approvals:

- (a) Final Subdivision Plat,
- (b) Conditional Use Permit,
- (c) Planned Unit Development Plan, or
- (d) Special Use Permit.

Notwithstanding the foregoing, a document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall not constitute a site specific development plan.

(192) *Skirting*. A continuous, uniform foundation enclosure constructed of vinyl, or metal fabricated for such purpose and that is unpierced except for required ventilation or access. Vinyl/metal skirting shall only be allowed within a manufactured home park. Manufactured homes which are on individual lots must have a masonry foundation.

(193) *Solar Facility (farm)**. A solar collection system that generates electricity from sunlight to a wholesale electricity market through a regional transmission organization and an interconnection with the local utility power grid and/or for direct distribution to more than one property or consumer as a commercial venture. Solar facilities shall consist of a minimum of three (3) individual photovoltaic modules (solar panels), which are an assembly of solar cells to generate electricity. Solar facilities constructed only for the production of electricity dedicated to another facility co-located at the same site, or a solar facility which is clearly a subordinate accessory land use, shall not be subject to the conditional use permit requirements.

(194) *Soup Kitchen***. A facility operated by a nonprofit organization, including but not limited to a religious institution, that provides meals on-site to needy individuals and families free of charge.

(195) *Specified Anatomical Areas*. Shall include the following:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast below a point immediately above the top of the areolas.
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(196) *Specified Sexual Activities*. Shall include the following:

- (a) The fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts.
- (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- (c) Masturbation, actual or simulated.
- (d) Excretory functions as part of or in connection with any of the activities set forth in subsection (a) through (c) of this definition.

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

(198) *Storage*. A deposition of commodities or items for the purpose of future use or safekeeping.

(199) *Storage, Self-Service*. A building consisting of individual, small, self-contained units that are leased or owned for the storage of goods and wares.

(200) *Street*. A dedicated and accepted public right-of-way for vehicular and pedestrian traffic which affords the principal means of access to abutting property.

(a) *Alley*. A minor right-of-way privately or publicly owned, primarily for the service access to the back or side of properties whose principal frontage is on a street and is not intended for general traffic.

(b) *Arterial or Major Street*. A traffic artery designed primarily to carry heavy volumes of local vehicular traffic from the intersecting minor streets.

(c) *Collector Street*. A street designed to carry medium volumes of vehicular traffic, provide access to the major street system, and collect the vehicular traffic from the intersecting minor streets.

(d) *Cul-de-Sac*. A street intersecting another street at one end and permanently terminated by a vehicular turnaround at the other.

(e) *Local or Minor Street*. A street, the principal purpose of which is to provide vehicular access to the properties abutting it.

(f) *Marginal Access Street*. A local or minor (service) street which parallels and is immediately adjacent to a major street or highway, and which provides access to abutting properties and protection from through traffic and control of intersections with major traffic streets.

(201) *Street ROW Line*. The line between the street right-of-way and abutting property.

(202) *Street, Private*. Any road or street which is not publicly owned and maintained, and is used for access by the occupants of the development, their guests, and the general public.

(203) *Structure*. A walled and roofed building, a manufactured home, a gas or liquid storage tank, or other manmade facility or infrastructure that is principally above ground.

(204) *Subdivider*. Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

(205) *Subdivision**. All divisions of a tract or parcel of land into two (2) or more lots, or building sites, when any one or more of those divisions is created whether immediate or future, for sale or building development, and all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

- (a) the combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards contained herein;
- (b) the division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- (c) the public acquisition by purchase of strips of land for the widening or opening of streets;
- (d) the division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards contained in Article 5 of this Ordinance.

(206) *Subdivision, Major.* All subdivisions shall be considered major subdivision except those defined as minor subdivisions.

(207) *Subdivision, Minor.* A minor subdivision is a tract to be subdivided which is five (5) acres or less in size, and five or fewer lots result after subdivision:

- (a) all of which front on an existing approved street;
- (b) not involving any new public streets, right-of-way dedication, or requiring any new street for access to interior property;
- (c) not requiring drainage improvements or easements, other than rear and side lot line easements, to serve the applicant's property or interior properties;
- (d) not involving any utility extensions; and
- (e) not requiring any easements, other than rear and side lot line easements.

(208) *Substantial Damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its undamaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. See definition of "substantial improvement."

(209) *Substantial Improvement.* Any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during (the life of building) (a 12-month, one year period), in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the building. The market value of the building should be (1) the appraised value of the building prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the building prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety

code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions.

(210) *Tattoo Parlors**. Tattoo parlors are establishments that provide services, which create an indelible mark or figure, fixed upon the body by insertion of pigment under the skin or by production of scars.

(211) *Telecommunication Tower*. A tower facility, including, but not limited to, radio and television transmission towers or similar utilities, microwave towers, and mobile telephone or radio towers. This term shall not include radio transmission facilities for use by ham radio operators or two-way local radio facilities for business or governmental purposes that are under one hundred (100) feet in height and that, at a height of fifty (50) feet above the base, have a maximum horizontal measurement of eighteen (18) inches nor shall it include any tower erected by a public authority for public safety or emergency service communication purposes.

(212) *Temporary Storage Units (Containers)***. Temporary storage units (containers) shall be defined as the following:

- (a) Temporary storage containers on single unit residential structure and duplex residential structure lots wherein one (1) to two (2) containers containing no more than 320 square feet in total space may be located on a given site.
- (b) Temporary storage containers on non-residential lots wherein one (1) to two (2) containers containing no more than 320 square feet in total space may be located or wherein upon approval of the Zoning Administrator a total of four (4) units may be permitted so as that the total space does not exceed 640 square feet.
- (c) Containers designed or used on property zoned or used for residential purposes for the collection and hauling of waste or debris, including but not limited to roll-off containers or boxes and bin container (e.g. construction dumpsters).
- (d) Non self-propelled, fully enclosed trailers that are designed or used to transport goods, materials and equipment and are placed on property zoned or used for residential purposes (semi-trailers).

(213) *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.

(214) *Tourist Home*. Any dwelling occupied by the owner or operator in which rooms are rented to guests, for lodging of transients and travelers for compensation, and where food may be served.

(215) *Tower*. Any structure whose principal function is to support antenna.

(216) *Town*. The Town of Ayden, North Carolina.

- (217) *Town Board of Commissioners or Town Board.* The Board of Commissioners of the Town of Ayden, North Carolina.
- (218) *Town Manager.* The chief administrator of the Town (NCGS 160A-148).
- (219) *Townhouse for Individual Ownership.* A dwelling unit having a common or party wall with another dwelling unit. Each attached dwelling unit is characterized by its own subdivided lot of record which is conveyed with the dwelling unit when purchased.
- (220) *Tract.* A tract is a piece of land whose boundaries have been described or delineated by a legal instrument or map recorded in the office of the Pitt County Register of Deeds.
- (221) *Trailer.* Any vehicle or structure originally designed to transport something or intended for human occupancy for short periods of time. Trailers shall include the following:
- (a) *Travel Trailer.* A vehicular, portable building built on a wheeled chassis to include towable recreational vehicles (see definition 176), designed to be towed by a self-propelled vehicle for use for travel, recreation, or vacation purposes, having a body width of eight (8) feet or less or body length thirty-nine (39) feet or less when equipped for road travel.
 - (b) *Camping Trailer.* A folding building manufactured of metal, wood, canvas, plastic, or other materials, or any combination thereof, mounted on wheels and designed for travel, recreation, or vacation use.
 - (c) *Tow Trailer.* A non self-propelled vehicle designed to be hauled by a self-propelled vehicle and used to transport vehicles, boats, freight, or other materials.
- (222) *Use.* The purpose for which land or structure thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.
- (223) *Use-By-Right.* A use which is listed as an unconditionally permitted activity in this Ordinance.
- (224) *Variance.* A variance is a relaxation of the terms of the Zoning and Subdivision Ordinance where such variance will not be contrary to the public interest, which will not create a nuisance, and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of a structure or size of yards and open space; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district. Variances will not be granted for non-conforming lots.

(225) *Violation*. Failure of a structure, use, or other development to be fully compliant with all applicable regulations contained in this Ordinance.

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

(227) *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.

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

(229) *Wheel Bumpers*. Any device, concrete or otherwise constructed, which prohibits vehicles from driving beyond the front end of a parking space.

(230) *Wholesale*. Sale of a commodity for resale to the public for direct consumption.

(231) *Yard*. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by vegetation or as otherwise provided herein.

(232) *Yard, Front*. A yard extending across the full width of the lot, from the front line of the building to the front line of the lot; the front yard shall include the area of steps and eaves, but shall not include the area of covered or uncovered porches.

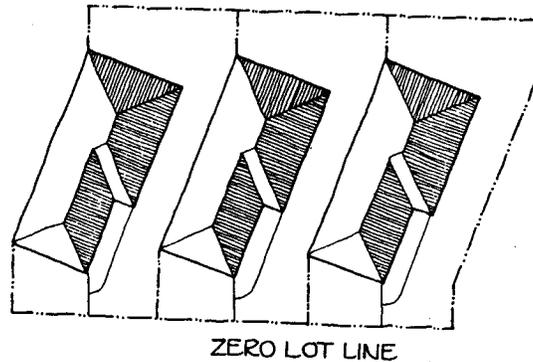
(233) *Yard, Rear*. A yard extending across the full width of the lot, from the rear line of the lot to the rear line of the main building; the rear yard shall include steps and eaves, but shall not include the area of covered or uncovered porches.

(234) *Yard, Side*. An open, unoccupied space (except for encroachments permitted by Note 2, page 80) on the same lot with a building, between the building and the side line of the lot, extending through from the front building line to the rear yard or, where no rear yard is required, to the rear line of the lot.

(235) *Yard Sale*. All general sales, open to the public, conducted from or on a residential premise in any residential district for the purpose of disposing of personal property. The term "yard sale" shall include all such herein described sales, whether or not they are "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sales. Only four (4) one-day yard sales in any 365-day period of time will be permitted.

(236) *Zero Lot Line*. A concept used in planned developments where individual commercial buildings or dwellings, such as townhouses (row houses) and patio homes, are to be sold along with the ground underneath, and perhaps, a small yard or patio area. Such

commercial or residential units are grouped in buildings with two (2) or more units per building, usually including common walls or a single unit per building. With zero lot line, the minimum requirements for setbacks are not met and construction takes place right up to the lot line. However, the minimum requirements for lot area must conform to the requirements of the district.



(237) *Zoning*. A police power measure, enacted primarily by general purpose units of local government, in which the community is divided into districts or zones within which permitted and conditional uses are established as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts. The Zoning Ordinance consists of two parts: text and a map.

(238) *Zoning Certificate*. A certification by the Administrator or his authorized agents that a course of action to use or occupy a tract of land or a building, or to erect, install or alter a structure, building or sign situated in the extraterritorial jurisdiction of the Town, fully meets the requirements of this Ordinance.

(239) *Zoning Vested Right*. A right pursuant to NCGS 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

Section 2-3: Definitions Added By Amendment