

ARTICLE II - Basic Definitions and Interpretations

§ 152-15. Definitions. *(Amended 10/26/2015, 4/25/16, 12/12/16, 5/22/2017)*

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

- (1) **Accessory Building.** See “Building, Accessory,” below.
- (2) **Accessory Use.** See section 152-150, “Accessory Uses.”
- (3) **Administrator.** See section 152-37, “Land Use Administrator.”
- (4) **Adult Care Home, Class A.** All group homes for adults other than Class B group homes, maternity homes, or nursing care homes. This term includes assisted living facilities, and it also specifically includes but is not limited to group homes for adults who are in need of such a residential arrangement because they are aged or infirm, or have a “handicap” as defined in the Fair Housing Act (42 U.S.C. § 3602), or are “handicapped” as that term is defined in G.S. § 168-21.
- (5) **Adult Care Home, Class B.** A group home for adults that serves primarily the needs of those who (i) are “dangerous to others” as those terms are defined in G.S. § 122C-3(11) and (21); or (ii) are currently using or are addicted to controlled substances; or (iii) who have been assigned to a group home as a condition of probation, parole, or “intermediate punishment,” as defined in G.S. § 15 A-1340.11(6).
- (6) **Amateur Radio Antenna.** Any tower and/or antenna owned and operated by an amateur radio operator for “amateur service,” as that term is defined by 47 C.F.R. § 97.3(a)(4). Said towers and antennas must be used only for noncommercial purposes and must be fifty (50) feet tall or less. For the purposes of this chapter, any antenna not meeting this definition shall be deemed a “Wireless Telecommunications Facility.” This use does not include towers and antennas owned or operated by a government agency.
- (7) **Ambulance Service.** A privately-owned business that is licensed by the relevant governmental entities and where emergency and non-emergency ambulances may be located; where personnel may be on site twenty-four (24) hours per day; and where maintenance of ambulance vehicles may occur.
- (8) **Animal Boarding Facility.** A facility where animals are boarded overnight, but which does not include any animal breeding or training. This term does not include “doggie day cares” or similar facilities that keep animals only during the day. See also, “Kennel” and “Specialized Dog Training Facility.”
- (9) **Animal Grooming Services.** A facility for the grooming of animals, but which does not include any animal boarding, breeding or training services.
- (10) **Antenna.** Equipment designed to transmit or receive electronic signals.

(11) **Architecturally Integrated Subdivision.** See, “Subdivision, Architecturally Integrated.”

(12) **Articulation.** An emphasis given to architectural elements (including windows, balconies, porches, entries, etc.) to create a complementary rhythm or pattern; modulation of building façades, massing and detail to create variety.

(13) **Auction Hall.** A business or nonprofit organization that sells retail or wholesale items through regularly occurring auctions at a fixed location. This definition does not include the following:

- (i) Businesses that conduct auctions solely online;
- (ii) Estate sales, going-out-of-business sales, and similar sales, the primary purpose of which is to divest an estate, business or other operation of unwanted goods; and
- (iii) Auctions used to support religious and nonprofit organizations, provided that such auctions may not occur more than three times per year.

(14) **Bar.** A commercial enterprise whose primary activity is the sale of alcoholic beverages to be consumed on the premises. Bars include taverns, night clubs, private clubs, bottle clubs, and similar facilities serving alcoholic beverages. See also, “Neighborhood Bar.”

(15) **Base Flood.** See section 152-252(7).

(16) **Bay Window.** A window or series of windows forming a bay or recess in a room and projecting outward from the wall.

(17) **Bed and Breakfast.** A building that was designed and used as a single-family detached dwelling or a two-family dwelling in which temporary lodging is now offered to the public for compensation. Meals may also be offered for compensation.

(18) **Block.** A piece of land bounded on one or more sides by streets or roads.

(19) **Board, Town.** See “Town Board.”

(20) **Boarding House.** A residential use consisting of at least one dwelling unit together with more than two rooms that are rented or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A boarding house is synonymous with “rooming house” and is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests in a bed and breakfast or hotel.

(21) **Building.** A structure designed to be used as a place of occupancy, storage or shelter.

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

(23) **Building Footprint.** The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. The term “building footprint” shall include basements; elevator shafts; stairwells at each story; floor space used for mechanical equipment with structural headroom of six (6) feet, six (6) inches or more; penthouses; attic space, whether or not a floor has actually been laid, providing structural headroom of six (6) feet, six (6) inches or more; interior balconies; and mezzanines. A building footprint is also sometimes referred to as the gross floor area.

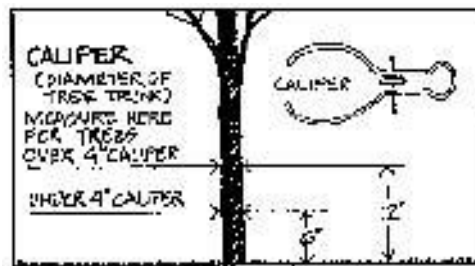
(24) **Building Height.** The vertical distance between the floor of the main story (i.e. not including basements built below grade) to the highest point of the building.

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

(26) **Building-Related Equipment.** Includes heating and air-conditioning equipment, chimneys and vents, signs, antennae, gutters and down spouts, steps, shutters, lights, garages, sheds, birdhouses, doghouses, and accessory storage structures.

(27) **Caliper.** A measurement of the diameter of a tree trunk taken to the following standards:

- (i) New nursery (to be installed) and non-regulated (existing onsite) trees: trees up to and including four (4) inches in diameter shall be measured six (6) inches above ground level. For trees above four (4) inches in diameter, the caliper measurement shall be taken twelve (12) inches above ground level; and
- (ii) Regulated onsite trees: the caliper of regulated trees shall be measured four and one-half (4½) feet above average ground level.



(28) **Camp, Therapeutic Wilderness.** A residential treatment facility provided in a camping environment, which is designed to assist individuals to develop behavioral control, coping skills, self-esteem and interpersonal skills. See, section 152-163.19.1.

(29) **Cemetery.** Any one or a combination of the following in a place used or to be used and dedicated or designated for cemetery purposes: (i) a burial park, for earth interment, (ii) a mausoleum, or (iii) a columbarium. For the purposes of this chapter, a cemetery does not include a crematorium.

(30) **Certificate of Zoning Compliance.** A permit issued by the Land Use Administrator that authorizes the recipient to make use of property in accordance with the requirements of this chapter.

(31) **Certify.** Whenever this chapter 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.

(32) **Child Care Facility.** Any facility that qualifies as a “child care facility” under G.S. § 110-86(3) and must be licensed by the State of North Carolina pursuant to G.S. § 110-93.

(33) **Child Care Home, Class A.** All group homes for minor children other than Class B group homes. This definition specifically includes but is not limited to group homes for minor children who are in need of such a residential arrangement because they are orphaned, abused, neglected, or dependent, or who have a “handicap” as defined in the Fair Housing Act (42 U.S.C. § 3602), or are “handicapped” as that term is defined in G.S. § 168-21.

(34) **Child Care Home, Class B.** A group home for minor children that serves primarily the needs of those who (i) are “dangerous to others” as those terms are defined in G.S. § 122C-3(11) and (21); or (ii) are currently using or are addicted to controlled substances; or (iii) who have been assigned to a group home as a condition of probation, parole, or “intermediate punishment” as defined in G.S. § 15A-1340.11(6).

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

(36) **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.

(37) **Cluster Development.** See, sections 152-160(D)(6) and (H), which are part of the Water Supply Watershed Overlay District regulations, and 152-189, “Single-Family Residential Cluster Development.”

(38) **Collocation.** The installation of new wireless telecommunications facilities on previously approved structures.

(39) **Comprehensive Plan.** The Town of Aberdeen 2030 Comprehensive Land Development Plan which identifies and analyzes land use, development, and other issues facing the community. The plan typically is based on substantial data collection and analysis, extensive public participation, and considers the interrelationship between land uses, transportation, utilities, and other public services and needs.

(40) **Combination Use.** A use consisting of a combination on one lot of two or more principal uses separately listed in section 152-146 (the Table of Permissible Uses). See also section 152-153, "Combination Uses." (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. See section 152-150, "Accessory Uses." In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a principal use.)

(41) **Conditional Use Permit.** A permit issued by the Town Board that authorizes the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements imposed by the Town Board.

(42) **Condominium.** Real estate, portions of 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. For the purposes of this chapter, condominiums are considered to be multi-family development.

(43) **Convenience Store.** A one-story retail store with a building footprint of less than 2,000 square feet that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract and depends upon a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the "Fast Fare," "7-11," and "Pantry" chains.

(44) **Developer.** A person who is responsible for any undertaking that requires a certificate of zoning compliance, special use permit, conditional use permit, or sign permit.

(45) **Development.** That which is to be done pursuant to a certificate of zoning compliance, special use permit, conditional use permit, or sign permit

(46) **Dimensional Nonconformity.** See subsection 152-121(1).

(47) **Dish Antenna.** A dish antenna, which is also referred to as an earth station, is defined as an accessory structure that includes the following:

Article II – Basic Definitions and Interpretations

- (i) An antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources;
- (ii) A low-noise amplifier, which is situated at the focal point of the receiving component and whose purpose is to magnify the transfer signals; and
- (iii) A coaxial cable whose purpose is to carry the signals into the interior of a building.

See also section 152-163.4.

(48) **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.

(49) **Duplex.** See “Residence, Duplex.”

(50) **Dwelling Unit.** An enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

(51) **Electronic Gaming Operation.** Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines/operations, or cybercafés. This does not include any lottery approved by the State of North Carolina or any nonprofit operation that is otherwise lawful under State law (for example, church or civic organization fundraisers).

(52) **Entertainment Restaurant.** See “Restaurant, Entertainment.”

(53) **Entertainment Establishment.** An establishment offering, for monetary compensation, performances for amusement or pleasure including concert halls, other types of music venues, movie theaters, and other types of theaters. Beverages and food may be served, but their sale and consumption is not the primary purpose of this use. Alcohol may be served in accordance with State law. This use does not include arcades, pool halls, game rooms or similar uses; entertainment restaurants; or sexually oriented businesses. This use does not include noncommercial assemblies for which no fee is charged to attend, such as churches and other religious organizations, fraternal organizations and civic organizations.

(54) **Expenditure.** A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding commercial commitments to make future expenditures, as well as any other substantial changes in position.

(55) **Explosive.** Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. For the purposes of this ordinance, “explosive” shall be defined in the same manner as set forth in 27 C.F.R. § 555.11 and 13 N.C.A.C. 7F .0702(n).

(56) **Expressway.** A divided multi-lane arterial street designed to carry large volumes of traffic at relatively high speeds. Access to expressways is at least partially controlled and generally with grade separations at major intersections. See also section 152-210, “Street Classification.”

(57) **Extraterritorial Planning Area.** That portion of the town’s planning jurisdiction that lies outside the corporate limits of the town.

(58) **Family.** An individual or two (2) or more persons related by blood, marriage, or adoption living together in a dwelling unit; or a group of not more than four (4) persons, one (1) or more of whom is not related by blood, marriage, or adoption to the other.

A family may also include five (5) or fewer foster children placed in a family foster home licensed by the State of North Carolina, or six (6) or fewer persons placed in a family care home licensed by the State of North Carolina.

(59) **Fence.** A linear or curvilinear structure or hedge, which partitions or encloses all or part of a property. See section 152-163.6, “Fences and Walls.”

(60) **Firearm.** In accordance with G.S. § 14-409.39, a firearm is a handgun, shotgun, or rifle which expels a projectile by action of an explosion.

(61) **Floodplain.** See section 152-252(24).

(62) **Floodway.** See section 152-252(31).

(63) **Forestry.** Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber. This activity also includes the commercial harvesting of forest products such as pine straw.

(64) **Freeway.** A divided multi-lane arterial street designed to carry large volumes of traffic at relatively high speeds. Freeways have no direct access to abutting properties, streets or roads and access is provided at selected crossroads via connecting ramps. See also section 152-210, “Street Classification.”

(65) **Garage, Residential.** A residential accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families residing upon the premises. Residential garages are not intended for the storage of commercial vehicles associated with a business, including a home occupation, or other nonresidential use. *(Amended 4/3/2014)*

(66) **Gardening, Recreational Vehicles and Related Equipment.** Includes lawnmowers, snow blowers, tractors, wheelbarrows, ladders, scaffolding, lawn rakes, lawn rollers, snowmobiles, ATV's, campers, truck-camper units, boats, and recreation trailers. See also "Recreational Vehicle."

(67) **Gate.** A door or other device attached to a fence which, when opened, provides a means of ingress and egress for persons and things for which it was intended, and which, when closed, forms a continuous barrier and screen as a part of the fence in which it is attached.

(68) **Gross Floor Area.** See "Building Footprint."

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

(70) **Half Street.** See "Street, Half."

(71) **Handicapped Person.** A person with a temporary or permanent physical, emotional, or mental disability, but not including persons who are "dangerous to others," as that terms is defined in G.S. § 122C-3(11).

(72) **Height.** See "Building Height."

(73) **High-Volume Traffic Generation.** See "Traffic Generation, High Volume."

(74) **Home Daycare.** A child care facility located in a residence where, at any one time, more than two (2) children, but less than nine (9) children, receive child care. This term is synonymous with "family child care home," which is defined in G.S. § 110-86(3)(b).

(75) **Home Occupation.** A commercial activity that: (i) is conducted by a person on the same lot (in a residential district) where such person resides and (ii) is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use (see section 152-150, "Accessory Uses"), but that can be conducted without any significantly adverse impact on the surrounding neighborhood.

Without limiting the generality of the foregoing, a use may not be regarded as having an insignificantly adverse impact on the surrounding neighborhood if: (i) goods, stock-in-trade, or other commodities are displayed; (ii) any on-premises retail sales occur; (iii) more than one person not a resident on the premises is employed in connection with the purported home occupation; (iv) it creates objectionable noise, fumes, odor, dust or electrical interference; or (v) more than twenty-five (25) percent of the total building footprint of residential buildings plus other buildings housing the purported home occupation or more than 500 square feet of the building footprint (whichever is less) is used for home occupation purposes.

The following is a non-exhaustive list of examples of enterprises that may be home occupations if they meet the foregoing definitional criteria: (i) the office or studio of a physician,

dentist, artist, musician, lawyer, architect, engineer, teacher, or similar professional; (ii) workshops, greenhouses, or kilns; or (iii) dressmaking or hairdressing studios. See also section 152-166.2, “Home Occupations.”

(76) **Hotel.** A building in which temporary lodging is offered to the public for compensation, which is open to transient guests and is not a “bed and breakfast” as defined herein. A hotel is synonymous with a “motel” and a “motor lodge”.

(77) **Household Pet.** Any animal kept as a pet rather than for productive purposes, including but not limited to dogs and cats. For the purposes of this ordinance, a working dog, such as a hunting dog or sheep herding dog, shall be considered a pet and not livestock. All domestic fowl, including but not limited to chickens, shall be considered livestock, regardless of whether said animals are kept primarily as pets or for productive purposes. Any animal not classified as livestock shall be deemed a household pet. See, “Livestock.”

(78) **Housing Facility for Older Persons (“HFOP”).** Any apartment that complies with the provisions of 24 C.F.R. Part 100, Subpart E, “Housing for Older Persons.”

(79) **Intermediate Care Institution.** An institutional facility maintained for the purpose of providing accommodations for seven (7) or more persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided by a group home.

(80) **Junkyard.** See “Salvage Yard.”

(81) **Kennel, Large.** A facility where animals are boarded overnight and bred or trained. A large kennel is a facility located on a tract of land that is a minimum of fifty (50) acres in size. This term does not include “doggie day cares” or similar facilities that keep animals only during the day. See also, “Animal Boarding Facility” and “Specialized Dog Training Facility.”

(82) **Kennel, Small.** A facility where animals are boarded overnight and bred or trained. A small kennel is a facility located on a tract of land that is a minimum of ten (10) acres in size but less than fifty (50) acres in size. This term does not include “doggie day cares” or similar facilities that keep animals only during the day. See also, “Animal Boarding Facility” and “Specialized Dog Training Facility.”

(83) **Land Management Plan.** A detailed building, site and operation plan for a lot showing the location and names of the natural and manmade features including buildings, trees, plantings, grass areas, and walks.

(84) **Lawn and Garden Center.** A retail operation primarily engaged in selling of decorative items for lawns and gardens such as fountains, statuary, yard art, and some plants. Although some landscaping supplies such as grass seeds, hay, pine straw, and fertilizer may be sold, sales of these items are not the primary purpose of the business, and the business shall not be primarily engaged in providing bulk quantities of landscaping materials to commercial landscapers

and contractors. Wholesale sales are not permitted, and plants for sale cannot be raised on site. (See also the definition of “Plant Nursery.”)

(85) **Livestock.** Animals raised for the production of meat, milk, eggs, fiber or used for draft or equestrian purposes, including but not limited to horses, mules, cows, pigs, goats, llamas, ostriches, sheep, domestic fowl (such as chickens, ducks, turkeys, etc.), rabbits, and all other animals that typically are kept primarily for productive or useful purposes rather than as pets. All domestic fowl, including but not limited to chickens, shall be considered livestock, regardless of whether said animals are kept primarily as pets or for productive purposes. See also “Household Pet.” (Amended 3/29/12)

(86) **Loading and Unloading Area.** That portion of the vehicle accommodation area used to satisfy the requirements of section 152-291(C)(9).

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

If a public body or any authority with the power of eminent domain condemns, purchases, or otherwise obtains fee simple title to, or a lesser interest in, a strip of land cutting across a parcel of land otherwise characterized as a lot by this definition, or a private road is created across a parcel of land otherwise characterized as a lot by this definition, and the interest thus obtained or the road so created is such as effectively to prevent the use of this parcel as one lot, then the land on either side of this strip shall constitute a separate lot.

Subject to section 152-123, “Nonconforming Lots,” the permit-issuing authority and the owner of two or more contiguous lots may agree to regard the lots as one lot if necessary to comply with any of the requirements of this chapter.

(88) **Lot Area.** The total area circumscribed by the boundaries of a lot, except that: (i) 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 (30) feet from the center of the traveled portion of the street; and (ii) 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.

(89) **Low Volume Traffic Generation.** See “Traffic Generation, Low Volume.”

(90) **Manufactured Home.** Also referred to as a “mobile home.” It is not synonymous with a “modular home,” which is also defined in this section. Any structure that: (i) consists of a single unit completely assembled at the factory, or of two (double-wide) or three (triple-wide) principal components totally assembled at the factory and joined together at the site; (ii) is designed so that the total structure (or in the case of double-wides or triple-wides, each component thereof) can be transported on its own chassis; (iii) is over forty (40) feet in length and over eight (8)

feet in width; (iv) is designed to be used as a dwelling and provide a complete, independent dwelling unit for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation; (v) is actually being used or held ready for use as a dwelling unit; and (vi) is not constructed in accordance with the standards set forth in the North Carolina State Building Code.

(91) **Manufactured Home, Class A.** 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 that satisfies the following additional criteria:

- (i) The pitch of the manufactured home's roof has a minimum vertical rise of two (2) feet for each twelve (12) feet of vertical run.
- (ii) The exterior materials are of wood, hardboard, or aluminum comparable in composition, appearance, and durability to site-built houses in the vicinity.
- (iii) A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the manufactured home; and
- (iv) The tongue, axles, transporting lights, and removable towing apparatus are to be removed subsequent to final placement.

(92) **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 and is not a Class A manufactured home.

(93) **Manufactured Home Park.** A residential use in which more than one manufactured home is located on a single lot.

(94) **Maternity Home.** A group home licensed as a maternity home by the N.C. Department of Health and Human Services pursuant to G.S. § 131D-1.

(95) **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 sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the N.C. State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

(96) **Motel.** See, "Hotel".

(97) **Motor Lodge.** See, "Hotel".

(98) **Multi-Family Development.** A tract of land under single, individual, corporate, firm

partnership, or association ownership, or under common control evidenced by duly recorded contracts or agreements, planned and developed as an integral unit in a single development operation or in a definitively programmed series of development operations on/in which multi-family dwelling units are constructed. Multifamily development includes townhouses and condominiums.

(99) **Neighborhood Bar.** A bar intended to serve primarily a local clientele, all or most of whom live near the establishment. A neighborhood bar is not intended to serve either a larger regional clientele or travelers. See, “Bar.”

(100) **Net Buildable Area.** The total area within the project property boundary less:

- (i) All easements for storm drain or utilities;
- (ii) Highway, street rights-of-way, and sidewalk easements;
- (iii) Sediment basins and water retention/detention facilities;
- (iv) Wetlands, defined by the US Army Corps of Engineers;
- (v) Water and wastewater treatment facilities;
- (vi) State designated historic sites;
- (vii) Water areas including seasonal ponds; and
- (viii) Conservation areas as delineated on the Comprehensive Plan Future Land Use Map.

(101) **Nonconforming Lot.** See section 152-121.

(102) **Nonconforming Project.** See section 152-121.

(103) **Nonconforming Sign.** See section 152-284.

(104) **Nonconforming Situation.** See section 152-121.

(105) **Nonconforming Use.** See section 152-121.

(106) **Nonconformity, Dimensional.** See section 152-121.

(107) **Nursing Care Home.** A group home licensed as a nursing home under the Nursing Home Licensure Act, G.S. § 131E-100, et. seq.

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

(109) **Office.** A room, suite of rooms, or building in which a person or persons transact the affairs of a business, profession, service, industry, or government. When listed as a permitted or conditional use, an office shall serve as the primary use of the property. Offices that are accessory to another permitted, special or conditional use shall not be included in this definition. For example, a construction company could locate its main business office in any district where “office” is a permitted, special or conditional use, but it could not store equipment and materials at that site unless such storage were also a permitted, special or conditional use in that zoning district. The same construction company, however, could operate its business office as an accessory use on a site used for the lawful storage of equipment and materials, irrespective of whether offices were permitted in that zoning district.

Unless otherwise stated herein, professional services offices are considered “retail services” and are not included in this use.

(110) **Official Maps of Plans.** Any maps or plans officially adopted by the Town Board.

(111) **Open Air Market.** A commercial operation conducted outside of a building on a regular, periodic basis in which individual entrepreneurs are offered space and invited to bring various types of merchandise to a common site to be displayed and sold to the public. This use includes flea markets, farm and craft markets, produce markets and similar uses.

(112) **Open Space.** Land and/or water areas within a site which is designed and intended for the common use or enjoyment of the residents of the development or dedicated to the public use.

(113) **Outparcel.** A parcel, adjacent to or partially surrounded by a retail center or shopping center tract, which was either part of the original retail center or shopping center tract or which functions as an integral part of the retail center or shopping center. Such parcels have separate deeds or have been sectioned off by the developer for purposes of leasing to one or more businesses.

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

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

(116) **Parkway.** An arterial street for primarily noncommercial traffic, with full or partial control of access, and usually located within a park or ribbon of park-like development. See also section 152-210, “Street Classification.”

(117) **Pawnshop.** The location at which, or premises in which, a pawnbroker regularly conducts business. For the purposes of this ordinance, a pawnshop is considered a retail use. See also, Aberdeen Code of Ordinances Title 11, Art. V, “Pawnbrokers.”

(118) **Person.** An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

(119) **Planned Unit Development (“PUD”).** A development constructed on a tract of at least (eight) 8 acres of net buildable area within the primary corporate limits of the Town of Aberdeen or at least (twenty-five) 25 acres of net buildable area in the extraterritorial jurisdiction of the Town of Aberdeen, planned and developed as an integral unit on land within a PUD zoning district.

(120) **Planning Jurisdiction.** The area within the town limits as well as the area beyond the town limits within which the town is authorized to plan for and regulate development, as set forth in section 152-4, “Jurisdiction.”

(121) **Plant Nursery.** An establishment engaged in the raising of plants for sale to wholesale and retail customers. Accessory items such as pots and fertilizer may also be sold. Greenhouses are permitted as part of this use. (See also the definition of “Lawn and Garden Center.”)

(122) **Plat.** A map or plan of a tract of land that depicts how the land has been or will be subdivided.

(123) **Principal Building.** See “Building, Principal.”

(124) **Public Water System.** Any water supply system furnishing water for human consumption that meets the criteria of G.S. § 130A-313(10).

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

(126) **Recreational Vehicle (RV).** A vehicle, which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

(127) **Recycling Collection Center.** Any facility used as a drop-off point for household and consumer recyclables, including but not limited to household plastics, glass, mixed paper and cardboard. Recycling collection centers do not include salvage yards or any other kind of facility that accepts commercial waste, construction and demolition debris, wood debris and other materials suitable for a land clearing and inert debris landfill, hazardous waste, appliances, tires or yard waste.

(128) **Reservation.** An obligation to keep property free from development for a stated period of time. A reservation does not involve the transfer of property rights.

(129) **Residence, Duplex.** A two-family residential use in which the dwelling units share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

(130) **Residence, Multi-Family.** Three or more dwelling units placed on top of another or side-by-side and sharing common walls, floors and/or ceilings. The units are generally developed in a unified manner and located on one lot, unless the individual dwelling units are under condominium or townhome ownership. See also “Multi-Family Development.”

(131) **Residence, Multi-Family Conversion.** A multi-family residence containing not more than four (4) dwelling units and results from the conversion of a single building containing at least 2,000 square feet of the building footprint that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

(132) **Residence, Multi-Family Townhouses.** A principal structure containing three (3) or more single-family attached dwelling units with each unit on its own individual lot and in approved zero lot line developments. No dwelling unit may be located over another unit. All townhouse developments shall be subject to multi-family dwelling provisions of the zoning ordinance. For the purposes of this chapter, townhouses are considered to be multi-family development.

(133) **Residence, Primary with Accessory Apartment.** A residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than twenty-five (25) percent of the building footprint nor more than a total of 750 square feet.

(134) **Residence, Single-Family Detached, More Than One Dwelling Per Lot.** A residential use consisting of two or more single-family detached dwelling units on a single lot.

(135) **Residence, Single-Family Detached, One Dwelling Unit Per Lot.** A residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling units.

(136) **Residence, Two-Family.** A residential use consisting of a building containing two dwelling units. If two dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be located in one building.

(137) **Residence, Two-Family Apartment.** A two-family residential use other than a duplex, two-family conversion, or primary residence with accessory apartment.

(138) **Residence, Two-Family Conversion.** A two-family residence resulting from the conversion of a single building containing at least 2,000 square feet of the building footprint that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

(139) **Restaurant.** An establishment where food and drink are prepared, served, and consumed within a structure, or through take-out or delivery service. A minimum of fifty-one (51) percent of gross sales must be created by the sale of food. This definition does not include sexually oriented businesses.

(140) **Restaurant, Entertainment.** An establishment where food and drink are prepared, served, and consumed within a structure that includes, as an integral component of the facility, dancing, musicals, theater, comedy acts, or other live performances. This use does not include sexually oriented businesses.

(141) **Retail Center.** A building or group of buildings housing retail sales businesses on a unified tract under single or multiple ownerships with a combined building footprint of up to 40,000 square feet.

(142) **Retail Sales or Rental.** A business principally engaged in offering a category of similar goods or products, as opposed to services, for sale or rental to the general public for personal use and not for resale. Examples include but are not limited to grocery stores, hardware stores, pharmacies, clothing shops, toy stores, home furnishings stores, and office supplies stores. This use includes stores that sell a single type of retail item and stores that sell a combination of retail items. This use also includes businesses engaged in the rental of small consumer goods such as videos and DVDs, but it does not include the rental of large equipment or moving trucks and equipment. This use does not include department stores, the sale of large items such as automobiles or farm equipment, or other uses that are listed separately in this code.

(143) **Retail Sales or Rental, High-Volume.** High-volume retail sales or rentals include those uses specifically identified as such in section 152-146, "Table of Permissible Uses," and any other retail sales or rental use not classified as "low-volume retail sales or rentals."

(144) **Retail Sales or Rental, Low-Volume.** Low-volume retail sales or rentals include any retail sales or rental use that likely has a lower than average rate of trips generated per 1,000 square feet of leasable area on a weekday. To make this determination, the Land Use Administrator shall refer to "specialty retail center" in the most recent edition of the *ITE Trip Generation* manual, use #814. The Land Use Administrator may substitute a different use category for "special retail center" if the substituted use more accurately describes the proposed use. An applicant proposing to have a use classified as low-volume retail sales or rental is not required to present a traffic impact analysis or study, but the applicant shall present written evidence, such as an affidavit estimating trips per day to the use, sufficient to make the determination described herein.

(145) **Retail Services.** A business principally engaged in providing a service as opposed to products, to the general public. Examples include but are not limited to banks and other financial services; real estate offices; insurance offices; barber shops; beauty shops and salons; shops that repair items such as appliances, shoes, radios, and televisions; dance studios; educational tutoring services; food catering services; photography studios; printing shops; travel agencies; and professional offices such as dental, law, medical, optician's and engineer's offices. This use does

not include funeral homes, crematoriums, dry cleaners, laundries, vehicle repair shops, or other uses that are listed separately in this code.

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

(147) **Roadside Stand.** A direct marketing operation without a permanent structure, comprised of a vehicle, a structure (i.e. a “produce stand”) or a combination of both, but in no case shall a roadside stand be a permanent structure for which a certificate of occupancy is required. Roadside stands shall only offer outdoor shopping and are seasonal in nature. See section 152-163.18.

(148) **Rooming House.** See “Boarding House.”

(149) **Salvage Yard.** Any non-residential property used for the storage, collection, and/or recycling of any type of equipment or scrap or discarded material, including but not limited to vehicles, appliances, and related machinery. This definition does not include recycling operations conducted entirely within an enclosed building and recycling operations that are accessory to a principal use. See, section 152-163.27, “Recycling Operations.” This definition includes junkyards and any recycling operation that does not fit into another existing category of use set forth in this chapter.

(150) **Screening.** A fence, wall, hedge, landscaping, earthen berm, buffer area or any combination of these provided to create a visual and/or physical separation between land uses.

(151) **Septic System.** A ground absorption sewage treatment and disposal system consisting of a septic tank and a nitrification field, necessary pipe lines, conduits, pump stations and other appurtenances required for proper collection, distribution, treatment, disposal, operation and performance of the system or any other non-sewer system approved by the Moore County Health Department and, when applicable, the State of North Carolina.

(152) **Sexually Oriented Business.** Any business or establishment characterized by an emphasis on matters depicting, describing or relating to specific sexual activities or specific anatomical areas. Sexually oriented businesses include any use in use group 31.000 in the Table of Permissible Uses (see, section 152-146) and are regulated by section 152-163.18.1, “Sexually Oriented Businesses.”

(153) **Shooting Range, Indoor.** An area within a building designated and operated for the use of rifles, shotguns, silhouettes, or any other firearm discharge. Skeet shooting, trap shooting and black powder rifle use are not permitted in an indoor shooting range.

(154) **Shooting Range, Outdoor.** An outdoor area designated and operated for the use of rifles, shotguns, silhouettes, skeet trap, black powder, or any other firearm discharge.

(155) **Shopping Center.** A building or group of buildings housing retail sales businesses on a unified tract under single or multiple ownerships with a combined building footprint of more than 40,000 square feet, the purpose of which is retail sales.

(156) **Shopping Mall.** A shopping center in which seventy-five (75) percent or more of the building footprint is accessed from enclosed promenades, walkways, concourses or courtyards.

(157) **Sign.** Any device that is sufficiently visible to persons not located on the lot where such device is located to accomplish either of the following objectives:

- (i) The device is designed to attract the attention of persons not located on the lot, or
- (ii) The device is designed to communicate information to persons not located on the lot.

(158) **Sign, Freestanding.** See section 152-271.

(159) **Sign, Nonconforming.** See section 152-271.

(160) **Sign, Off-Premises.** See section 152-271.

(161) **Sign Permit.** A permit issued by the Land Use Administrator that authorizes the recipient to erect, move, enlarge, or substantially alter a sign.

(162) **Sign, Temporary.** See section 152-271.

(163) **Site Plan.** A plan of development submitted to the town to obtain one of the following zoning or land use permits or approvals:

- (i) Preliminary or final subdivision plat approval,
- (ii) Certificate of Zoning Compliance,
- (iii) Special Use Permit,
- (iv) Conditional Use Permit, or
- (v) Planned Unit Development Plan approval.

Site plans are also required with applications for conditional zoning. 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.

(164) **Special Events.** Circuses, fairs, carnivals, festivals, or other types of special events that (i) run for longer than one day but not longer than two weeks, (ii) are intended to or likely to

attract substantial crowds, and (iii) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

(165) **Specialized Dog Training Facility.** A kennel for dogs that have already received basic obedience training. Examples of specialized dog training facilities include dog training facilities for “seeing eye,” search and rescue, and military and police operations. See also, “Animal Boarding Facility” and “Kennel.”

(166) **Street.** A public street or a street with respect to which an offer of dedication has been made. See also section 152-210, “Street Classification.”

(167) **Street, Half.** A street whose centerline coincides with a subdivision plat boundary, with one half (1/2) or less of the street right-of-way width being contained within the subdivision plat.

(168) **Structure.** Anything constructed, erected, or placed on a property.

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

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

- (i) the combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this chapter;
- (ii) the division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- (iii) the public acquisition by purchase of strips of land for widening or opening of streets or for public transportation system corridors; or
- (iv) the division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in this chapter.

(171) **Subdivision, Architecturally Integrated.** A subdivision in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots.

(172) **Subdivision, Cluster.** See, “Cluster Development.”

(173) **Subdivision, Major.** Any subdivision other than a minor subdivision.

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

(i) the creation of more than a total of three lots;

(ii) the creation of any new public streets,

(iii) the extension of a public water or sewer system, or

(iv) the installation of drainage improvements through one or more lots to serve one or more other lots.

Further, if the subdivider owns, leases, holds an option on or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, or road right-of-way from the property to be subdivided, the subdivision shall not qualify as a minor subdivision.

(175) **Temporary Emergency, Construction, or Repair of Residence.** A residence (which may be a manufactured home) that is: (i) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster; or (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; or (iii) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site.

(176) **Temporary Health Care Structure.** A transportable residential structure, providing an environment facilitating a caregiver’s provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted. See also, section 152-150, “Accessory Uses.”

(177) **Therapeutic Wilderness Camp.** See, “Camp, Therapeutic Wilderness.”

(178) **Thoroughfare Plan.** Any officially adopted thoroughfare plan of the Town of Aberdeen or the North Carolina Department of Transportation (“NC DOT”).

(179) **Town.** The Town of Aberdeen.

(180) **Town Board.** The Town of Aberdeen Board of Commissioners, which is also referred to herein as the “Board of Commissioners.”

(181) **Townhouse.** See, “Residence, Multi-Family Townhouses.”

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

(183) **Tract.** See, “lot.” The term tract is used interchangeably with the term lot, particularly in the context of subdivisions, where one “tract” is subdivided into several “lots.”

(184) **Traffic Generation, High Volume.** All uses in the 2.000 classification of the Table of Permissible Uses other than low-volume traffic generation uses.

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

(186) **Trees, Canopy.** Canopy trees shall be of a species having minimum height of eight (8) feet at planting and a minimum mature height of at least thirty (30) feet and a crown spread of at least twenty (20) feet. At the time of planting, the tree shall have a minimum caliper of one (1) inch measured at four (4) feet above ground.

(187) **Trees, Understory.** Understory trees shall be of a species having a minimum height of four (4) feet at planting and a minimum mature crown spread of twelve (12) feet. At the time of planting, the tree shall have a minimum caliper of one-half (½) inch measured at two (2) feet above ground. At maturity, understory trees shall be thirty (30) feet or less in height.

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

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

(190) **Utility Facilities.** Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, corporation, or any entity defined as a public utility for any purpose by G.S. § 62.3 and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Excepted from this definition are utility lines and supporting structures listed in subsection 152-151(B).

(191) **Utility Facilities, Community or Regional.** All utility facilities other than neighborhood facilities. Community or regional utility facilities include, but are not limited to, windmills, wind turbines and similar structures.

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

(193) **Variance.** A grant of permission by the Board of Adjustment that authorizes the recipient to do that which, according to the strict letter of this chapter, he or she could not otherwise legally do.

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

(195) **Warehouse.** Storage of goods and materials for either commercial or industrial activity.

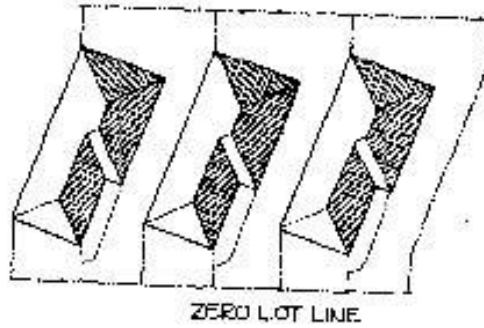
(196) **Wholesale Sales.** On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

(197) **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 telecommunications facilities. A utility pole is not a wireless support structure.

(198) **Wireless Telecommunication Facility.** A utility facility located at a single location and used by a private business user or commercial wireless service provider to transmit, receive or relay electromagnetic signals (including microwaves). Such a facility includes all or any part of antennas or antenna arrays, wireless telecommunications towers, support structures, transmitters, receivers, base stations, combiners, amplifiers, repeaters, filters or other electronic equipment as well as all associated cabling, wiring, equipment enclosures and other improvements. This use does not include amateur radio antennas and towers and antennas owned or operated by a government agency. See also, G.S. § 160A-400.51. See also, "Amateur Radio Antenna."

(199) **Yarding.** The practice of providing chickens or other domestic fowl with a fenced yard in which the animals can freely roam outside of their coop.

(200) **Zero Lot Line Detached Unit Housing Unit.** A single-family detached housing unit placed on a lot such that a windowless wall is placed on one side property line and the footage required for two (2) side yards is placed on the other side property line as the total side yard requirement for the lot.



§ 152-16. Lots Divided by District Lines.

(A) Whenever a single lot two acres or less in size is located within two or more different zoning districts, the district regulations applicable to the district within the larger portion of the lot lines shall apply to the entire lot.

(B) Whenever a single lot greater than two acres in size is located within two or more zoning districts, then:

(1) If each portion of the lot located within a separate district is equal to or greater than the minimum lot size for that district, then each portion of the lot shall be subject to all the regulations applicable to the district in which it is located.

(2) If any portion of the lot located within a separate district is smaller than the minimum lot size for that district, then such smaller portion shall be regarded as if it were in the same zoning district as the nearest larger portion to which it is attached.

(C) This section applies only to lots created on or before the effective date of this chapter unless the Board of Adjustment, in a proceeding under section 152-93, "Interpretations," to determine district boundaries, concludes that a lot established after the effective date of this section was not created to bring additional lot area within a more intensive zoning district, or otherwise to take unfair or unwarranted advantage of the provisions of this section.

§ 152-17 Conflicts Between Ordinances or Other Laws.

Whenever any provision of this chapter is in conflict with the provisions of any other ordinance, including other ordinances within the chapter; statute; regulation; or other law, the more restrictive standard shall apply. (Amended 4/9/12)

§ 152-18 through § 152-20. Reserved.