

Chapter 10: - DEFINITIONS AND RULES OF INTERPRETATION

10.1 - GENERAL RULES FOR INTERPRETATION

10.1.1 - Meanings and Intent

All provisions, terms, phrases, and expressions contained in this Development Ordinance shall be construed according to the stated purpose and intent of the Development Ordinance or its various sections.

10.1.2 - Headings, Illustrations, and Text

Headings, illustrations in this Development Ordinance are intended to supplement and explain the meaning of the text, but shall not be used to expand, limit, or alter the meanings of the words in the text. In case of an inconsistency between a heading or illustration and the substantive text of any section, the text of the section shall govern.

10.1.3 - Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples; not to be exhaustive lists of all possibilities.

10.1.4 - Computation of Time

Periods of time defined by a number of days shall mean a number of consecutive calendar days, including all weekend days, holidays, and other non-business/working days; however, if the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.

10.1.5 - References to Other Regulations/Publications

Where this Development Ordinance refers to other regulations or publications, the reference shall be to the most recent version of such regulation or publication, including any amendments that may have been made after the effective date of this Development Ordinance. If the regulation or publication referred to is no longer published or effective, the reference shall be deemed to be any successor or replacement regulation or publication, if there is one, as determined by the Planning Director.

10.1.6 - Delegation of Authority

Whenever a provision appears requiring the head of a department or division, or another officer or employee of the Town to perform an act or duty, that provision shall be construed as authorizing the department/division head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

10.1.7 - Technical and Nontechnical Terms

Words and phrases not otherwise defined in this Development Ordinance shall be construed according to the common and approved usage of the language, but technical words and phrases not otherwise defined in this Development Ordinance that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

10.1.8 - Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the Town of Emerald Isle, unless otherwise indicated.

10.1.9 - Mandatory and Discretionary Terms

The word "shall" is always mandatory, and the words "may" or "should" are always permissive.

10.1.10 - Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows. "And" indicates that all connected items, conditions, provisions, or events shall apply. "Or" indicates that one (1) or more of the connected items, conditions, provisions, or events shall apply.

10.1.11 - Tenses, Plurals, and Gender

Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular. The masculine shall include the feminine, and vice versa.

10.2 - DEFINITIONS

Unless specifically defined below, words or phrases used in this Development Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

ABANDONMENT

A property, use, or structure that has been physically and objectively discontinued, ceased, relinquished, vacated, or not maintained for a consecutive period of one-hundred eighty (180) or more days and regardless of any condition or circumstance beyond the control of such parties that prevent a continuation of the use or occupancy of the structure or property.

ABUTTING

See Adjacent.

ACCESSORY STRUCTURE

A structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures.

ACCESSORY USE

A use customarily incidental and subordinate to the principal use of land or building, and located on the same lot with such principal use.

ADDITION (TO AN EXISTING BUILDING)

An extension or increase in the floor area or height of a building or structure.

ADJACENT, ADJOINING LOT OR LAND

A lot or parcel of land that shares all or part of a common lot line or boundary with another lot or parcel of land or that is directly across a public street or right-of-way.

ADULT DAY CARE CENTER

See "Day care center."

ADVERSE IMPACT

Any modification, alteration or effect on a feature or characteristic of community waters or wetlands, including their quality, quantity, hydrodynamics, surface area, species composition, living resources, aesthetics or usefulness for human or natural uses that is or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or that unreasonably interferes with the enjoyment of life or property, including outdoor recreation.

ADVERTISING SIGN (ON-PREMISES)

Directs attention to a business, profession, commodity, service, or entertainment sold or offered upon the premises where such sign is located, or to which it is attached.

ALTERNATIVE ANTENNA SUPPORT STRUCTURES (AASS)

Structures that are functionally and legally capable of supporting wireless communication antennae, including, but not limited to buildings, water towers, and utility poles as an ancillary use of the primary structure.

ALLEY

A public way that affords only secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATION

Any change or expansion in the size, configuration, or location of a structure; or any change or expansion in the use of a structure or lot, from a previously approved or legally existing size, configuration, location, or use.

AMENDMENT

Any change by the Board of Commissioners to the Unified Development Ordinance such as text amendments or changes to the Official Zoning District Maps.

AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION (AMTA)

A Washington, D.C. based industry trade group that serves to support its specialized mobile radio (SMR) operator members through lobbying and networking efforts.

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

A private sector federation for voluntary standardization of measurements.

ANTENNA

Any apparatus or group of apparatus, designed for the transmitting and/or receiving of electromagnetic waves that includes, but is not limited to: telephonic, radio or television communications. Antennas include omni-directional (whip) antennas, sectorized (panel) antennas, microwave dish antennas, multi or single bay (FM & TV), yagie, or parabolic (dish) antennas, but do not include satellite earth stations.

ANTENNA, DISH

A parabolic, spherical, or elliptical antenna intended to receive wireless communications.

ANTENNA, FLUSH-MOUNTED

An antenna that is attached flush to an antenna-supporting structure, without the use of sidearms or other extension devices.

ANTENNA, PANEL

A directional antenna designed to transmit and/or receive signals in a directional pattern that is less than three hundred sixty (360) degrees and is not flush-mounted or dish antenna.

ANTENNA, SURFACE MOUNTED

An antenna that is attached flush to the surface or façade of a building or structure other than an antenna-supporting structure.

ANTENNA, WHIP

A cylindrical, omni directional antenna designed to transmit and/or receive signals in a 360-degree pattern.

APARTMENT BUILDING

A building containing three (3) or more residential dwelling units. Such units may be leased separately or developed as condominiums.

APPROVAL AUTHORITY

The Board of Commissioners, Board of Adjustment, Planning Board, Planning Director or official designated by this Development Ordinance or by the Town as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

ARCHITECTURAL FEATURE

A prominent or significant part or element of a building, structure, or site.

ARCHITECTURAL STYLE

The characteristic form and detail of buildings. Common styles include Colonial, Neo-Classical, Federal, American Victorian, and Arts & Crafts.

AREA OF SPECIAL FLOOD HAZARD

See "Special Flood Hazard Area (SFHA)."

ATTIC

The unfinished space between the ceiling joists of the top story and the roof rafters.

ATTIC STORY

Any story situated wholly or partly in the roof, so designated, arranged, or built as to be used for storage or habitation. If an attic that is accessible by a fixed stairway has a seven-foot clear height for greater than fifty (50) percent of the width of the floor below, then the space shall be considered as a story when determining building height. For purposes of this Ordinance, an attic story is permitted only in one- and two-family dwellings.

AWNING

A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

BANNER

A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentation's applied to plastic or fabric of any kind excluding flags and emblems of political, professional, religious, educational, or corporate organizations attached to the building.

BASEMENT

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

BASE FLOOD

The flood having a one (1) percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE)

A determination as published in the Flood Insurance Study of the water surface elevations of the base flood.

BED AND BREAKFAST

A single-family dwelling that consists of a single dwelling unit together with the rental of one (1) or more dwelling rooms on a daily or weekly basis. The dwelling rooms shall not be equipped to allow the preparation of meals, although a single meal may be provided in a common area by the proprietor of the establishment. Bed and breakfast facilities shall be limited to a maximum of twenty (20) dwelling rooms for rent.

BILLBOARD

A sign that identifies, advertises, and/or directs the public to a business, merchandise, service, entertainment or product that is located at a place other than the property on which such sign is located (see also "Sign, Off-Premises").

BLOCK

A unit of land bounded by streets or by a combination of streets and public land, waterways, or any other barrier to the continuity of development.

BREAKAWAY WALL

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUFFER, VEGETATIVE

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

BUILDING

See "Structure."

BUILDING, ACCESSORY

See "Accessory structure."

BUILDING LINE

Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections from the exterior surfaces, parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

BUILDING PERMIT

A permit obtained from the Town for the construction, repair, alteration, or addition to structure, which sets the inspection schedule and construction techniques for a particular project and specified use in accordance with this Ordinance and adopted building ordinances and other prevailing standards for construction, and includes the Town's necessary zoning approval.

BUILDING SETBACK LINE, FRONT, SIDE OR REAR

A line establishing the minimum allowable distance between the nearest portion of any exterior building wall or vertical projection thereof, and the right-of-way of the street or property line when measured perpendicularly thereto. The outermost three (3) feet of any uncovered porches, steps, eaves, gutters and similar fixtures may extend past the building setback line. All structures other than walkways shall be required to be set back so as to meet the required front, side and rear setback requirements with regard to the property lines.

CALIPER

The size of tree's trunk diameter as measured thirty-six (36) inches above the ground.

CAMA

North Carolina's Coastal Area Management Act. This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources' (NCDENR's) Division of Coastal Management (DCM).

CANOPY

A structure constructed of rigid materials that is attached to a building that serves as an overhang intended to shield persons from the elements.

CARPORT

Means a covered parking area opened on at least two (2) sides.

CAMOUFLAGED (TOWERS)

A tower that is designed to blend into the surrounding environment, such as a tower designed to resemble a tree or, if erected on an existing structure, an integral part of the building.

CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION (CTIA)

A family of representative companies that support the cellular, PCS, and enhanced SMR carriers industry through lobbying, research and policy efforts.

CERTIFICATE OF OCCUPANCY

A document issued by the Town allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with this Ordinance and all other applicable regulations.

CITATION

A notice by a governmental authority indicating a violation or possible violation of this Ordinance or other applicable government regulations applicable to the property.

CLEARING

The removal of trees and brush from the land but shall not include the ordinary mowing of grass.

COASTAL HIGH HAZARD AREA

A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in section 6.2.3(2), as Zone VE 1 through VE 18.

CO-LOCATION

The siting of two (2) or more wireless telecommunication antennae on the same wireless telecommunication support structure.

COMMERCIAL USE

Any use permitted by this Ordinance in one (1) or more of the B, VE, VW, MV, VE-C, VW-C or MV-C zoning district, or as otherwise permitted by this Ordinance. Unless otherwise indicated, the meaning and use of the term "commercial" or "business" are similar and the terms are interchangeable.

CONDOMINIUM

Ownership of single units in a multiunit structure with common areas and facilities in accordance with G.S. ch. 47A.

CONDOMINIUM DEVELOPMENT

A project consisting of three (3) or more condominium units in one (1) or more multiunit buildings designed, developed, and constructed for unit ownership in accordance with G.S. ch. 47A.

CONDOMINIUM HOTEL OR CONDOTEL

See definition of motel/hotel.

CONGREGATE HOUSING

Dependent or independent living facilities for the elderly; dormitories, orphanages, and similar uses, but not including group homes.

CONTIGUOUS

Abutting directly or immediately adjacent to a boundary or separated only by a street, railroad or public utility right-of-way.

CONVENIENCE STORE

A use where certain retail goods and vehicular fuels are sold at the retail level. Such a use may permit car washes as an accessory use, but shall not allow the installation of such automotive items as lubricants, tires, batteries, or minor automobile repair and maintenance work.

CUL-DE-SAC

A street designed with a closed end and does not intersect with another street that is terminated by a vehicular turnaround.

DAY CARE CENTER

A place where daytime care, supervision, and protection is provided to three (3) or more children or adults who are not the legal wards or foster children of the attendant adult within an occupied residence. This use includes all of the following:

Child day care center: An individual, agency, or organization providing supervision or care on a regular basis for children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adults; usually serving more than ten (10) children at a time; not an accessory to residential use.

Adult day care center: An individual, agency, or organization providing supervision or care on a regular basis; usually for more than six (6) adults in a place other than their usual place of abode; not an accessory to residential use.

Day care home (accessory use): Day care provided on a less than 24-hour basis for either children or adults, according to the following limiting definitions.

Child Day Care Home (accessory use): Supervision or care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for five (5) to ten (10) children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

Adult Day Care Home (accessory use): Care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for up to six (6) adults who do not reside in the dwelling.

DEDICATION

A fee simple transfer of land ownership to a homeowners association, governmental unit or agency, or non-profit land trust or conservancy for a specified purpose. Because a transfer of property rights is entailed, dedication must be made by written instrument, must be completed with an acceptance, and must be in a form acceptable for recording.

DETENTION

Means the collection and storage of surface water for subsequent gradual discharge.

DETENTION POND

Engineered facilities for storing or detaining rain water runoff from a site. Detention stores water on a site to allow time for pollutants precipitate out of the runoff. This cleans the water before it is allowed to flow to nearby surface waters. See "Watershed."

DEVELOPER

Any person who engages in development either as the owner or as the agent of an owner of property.

DEVELOPMENT

Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials. This term includes without limitation:

- (1) Construction, installation, alteration, demolition or removal of a structure, impervious surface, or drainage facility;
- (2) Clearing, scraping, grubbing, or otherwise removing or killing the vegetation of a site; and
- (3) Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or significantly disturbing the soil, mud, sand or rock of a site in any other manner.

DIRECT LIGHTING

Lighting in which the greater part of the light goes directly from the source to the area lit.

DISTRICT

An area delineated on the Official Zoning District Map for which this Ordinance sets forth standards and guidelines for development.

DISTURBED AREA

The portion of the lot that is allocated for land disturbing activities and construction of structures and associated improvements.

DISPOSAL

Defined as in G.S. 130A-290(a)(6).

DOUBLE FRONTAGE LOT OR THROUGH LOT

A lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets are referred to as "double frontage lots."

DRAINAGE FACILITY

Any component of the drainage system.

DRAINAGE SYSTEM

The system through which water flows from the land. It includes all watercourses, water bodies and wetlands.

DRIVEWAY

A private roadway providing ingress and egress from a street or thoroughfare to a property and for the off-street travel. Parking areas are separate from driveways, though the two (2) may be combined.

DUNE

A naturally placed mound of earth or sand, vegetated or un-vegetated, that can be independent or part of an incorporated system. The word "dune" shall include:

- (1) *Estuarine Frontal Dunes*: The first mounds of sand located landward of the estuarine waters of the Bogue Sound and having a minimum elevation equal to mean flood level plus six (6) feet;
- (2) *Frontal Dunes*: The first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity, and configuration to offer protective value;
- (3) *Interior Dunes*: All dunes located in the Town of Emerald Isle that are not considered frontal dunes;
- (4) *Primary Dunes*: The first mounds of sand located landward of the ocean beaches having an elevation equal to mean flood level for the area plus six (6) feet. Primary dunes extend landward to the lowest elevation in the depression behind the same mound of sand.

DUNES AND VEGETATION PROTECTION INSPECTOR (DVPI)

A Town employee of the planning and inspections department appointed to interpret, administer, and enforce the Dunes and Vegetation regulations in section 6.4.

DUPLEX

See "Dwelling, Two-Family, or Duplex."

DWELLING

A building or portion of a building designed, arranged or used, or that can be used for permanent living quarters for one (1) or more families. The term "dwelling" shall not be deemed to include a motel, hotel, tourist home, or any structures designed for transient residence.

DWELLING, MULTIFAMILY

A building or portion of a building used or designed as a residence for three (3) or more families living independently of each other and doing their own cooking in the building, including apartment houses.

DWELLING, SINGLE-FAMILY

A building used or designated as a residence for a single family.

DWELLING, TWO-FAMILY, OR DUPLEX

A building containing not more than two (2) structures physically connected on one (1) of the exterior walls by at least fifty (50) percent of the exterior area of the connecting wall, and used and designated as a residence for two (2) families living independently of each other and doing their own cooking in the building.

EASEMENT

A grant by the property owner to the public, a corporation, or persons of the right to use a specified portion of a tract or tracts of land for a specified purpose. All easements must be in a form suitable for recording, preferably as part of the plat.

EAVE

The projecting lower edges of a roof overhanging the wall of a building.

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. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines/operations or cybercafés. This use 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). This definition applies to all such uses whether they are a stand alone operation or as an accessory use to any lawfully permitted use.

ELEVATED BUILDING

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

ENCROACHMENT

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

ENFORCEMENT OFFICER

The enforcement officer, as the term is used herein, shall be the building official for the Town, or his designated representative.

ENVIRONMENTAL ASSESSMENT (EA)

An assessment of a project's environmental impact as defined in the National Environmental Policy Act of 1969.

EROSION

The wearing or washing away of soil by the action of wind or water.

EVERGREEN

Shrubs and trees that retain their foliage throughout the year.

EXISTING CONDITIONS

The current conditions that exist at the site as a result of prior development of the site, including, but not limited to, any structures, impervious surfaces, drainage facilities, and other disturbances of the site. In cases in which no prior development of the site has occurred, the existing conditions are the predevelopment conditions, as defined in this Chapter 10.

EXISTING DEVELOPMENT

Structures, buildings, site specific plan or other projects that are completely built or that at a minimum have established a vested right at the time of consideration.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is pre-FIRM.

EXPANSION

An increase in the size of an existing structure or use, including physical size of the property, building, parking, and other improvements or structures.

FACADE

Front or principal face of a building, and any face of a building that faces any street.

FALL RADIUS

A physical radius prescribed by the total effective height of any tower that includes an area that theoretically could be penetrated by the collapse of that tower.

FAMILY

Means any number of individuals living together as a single housekeeping unit

FCC

The Federal Communications Commission.

FEDERAL AVIATION ADMINISTRATION

The Federal Agency responsible for regulating aviation in the United States.

FEDERAL COMMUNICATIONS COMMISSION (FCC)

The Federal Agency responsible for regulating telecommunications in the United States.

FEMA (FEDERAL EMERGENCY MANAGEMENT AUTHORITY)

The agency responsible for the promulgation and maintenance of official Flood Hazard Boundary Map and/or Flood Insurance Rate Maps.

FENCE

A structure used to delineate, enclose, screen, separate or define a boundary, particularly for privacy or to delineate the public or private realm of a property.

FLOOD OR FLOODING

A temporary rise in the level of any water body, watercourse or wetland that results in the inundation of areas not ordinarily covered by water, from (1) the overflow of inland or tidal waters; or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)

An official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

FLOOD HAZARD BOUNDARY MAP (FHBM)

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as Zone A.

FLOOD INSURANCE

The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM)

An official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

FLOOD INSURANCE STUDY (FIS)

An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by FEMA. The flood insurance study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

FLOODPLAIN OR FLOOD PRONE AREA

Any land area susceptible to being inundated by water from any source.

FLOODPLAIN MANAGEMENT

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

FLOODPLAIN ADMINISTRATOR

The individual appointed to administer and enforce the floodplain management regulations pursuant to section 2.2.4(5).

FLOODPLAIN REGULATIONS

All provisions of this Ordinance, applicable building codes, health regulations, special purpose ordinances, and other applications of police power that control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOODPROOFING

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

FLOOD PRONE AREA

See "Floodplain."

FLOODWAY

The channel of a stream, river, or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable surcharge (currently two (2) feet).

FLOOD ZONE

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

FLOOR AREA

The sum of the gross horizontal areas of each floor of the principal building' and any accessory buildings or structures, measured from the exterior walls or from the center line of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl space.

FREEBOARD

The additional amount of height added to the base flood elevation (BFE) to account for uncertainties in the determination of flood elevations. See "Regulatory flood protection elevation."

FRONTAGE

The lot boundary that coincides with a public thoroughfare or space. The facade of a structure facing the street.

FRONTAL DUNES

The dunes designated by the North Carolina Division of Coastal Management as the "frontal dunes"; otherwise, they are the first mounds of sand located landward of the waters of the Atlantic Ocean with sufficient vegetation, height, and configuration to offer protection from ocean storms.

GARAGE

An attached or detached structure to a residential building generally designed for the parking of motor vehicles.

GAZEBO

A free standing, roofed, open sided structure providing a shady resting place.

GRADE

The elevation of the land or land level at a specific point.

GRADE PLANE

A reference plane representing the average of the finished ground level adjoining the building at all exterior walls.

HAZARDOUS MATERIAL

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

HAZARDOUS WASTE MANAGEMENT FACILITY

A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in G.S. ch. 130A, art. 9.

HEIGHT

The vertical distance from the mean grade elevation taken at the fronting street side of a structure and measured as described in the notes to Table 5.1. Towers, spires, steeples, and enclosed roof top mechanical equipment are not counted in height measurements. Exceptions to this definition are listed within this Ordinance.

HIGH DEFINITION TELEVISION (HDTV)

Digital television signals transmitted in the very high frequency band by national and local television stations.

HIGHEST ADJACENT GRADE

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

HOLIDAY DECORATION

Decoration normally associated with the holiday season.

HOSPITAL

A health care facility the purpose of which is to provide for care, treatment, testing for physical, emotional, or mental injury, illness, or disability, and overnight boarding of patients, either on a for-profit or not-for-profit basis; but not including group homes.

HOTEL OR INN

See "Motel."

IMPERVIOUS SURFACE

A surface that has been compacted or covered with a layer of material that prevents or significantly impedes the infiltration of water into the soil. It includes semi-impervious surfaces such as gravel and compacted clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures, alterations, or improvements.

INCIDENTAL HOME OCCUPATION

Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the residence, and that meets all applicable requirements of this Ordinance.

INCIDENTAL OUTDOOR ENTERTAINMENT

Shall include music, dance, drama, or similar artistic programs that are clearly incidental and secondary to the primary commercial use of the property, do not change the primary commercial property use, and meet all applicable requirements of this ordinance.

INDIRECT LIGHTING

Lighting in which the light emitted by a source is reflected and diffused from direct line of sight, unobtrusive or unoffensive to adjoining properties and non-hazardous to the motoring public.

LAND DISTURBING ACTIVITY

Any use of land by any person that results in a change in the natural cover or topography and that may cause or contribute to sedimentation or soil compaction that affects the critical root zone.

LANDSCAPING

The installation and maintenance, usually of a combination of trees, shrubs, plant materials, or other ground cover, including grass, mulch, decorative stone and similar materials, but

excluding bare soil, uncultivated vegetation, impervious pavement materials, and gravel. Any live plant material such as trees, shrubs, ground cover, and grass areas left in their natural state.

LATTICE TYPE STRUCTURE

A self-supporting, three- or four-sided open steel frame structure used to support telecommunications equipment.

LICENSED HEALTH CARE PROFESSIONALS

Means those persons licensed by the State of North Carolina to practice in the health care field such as doctors, dentists, chiropractors, podiatrists, occupational therapists, nurses, acupuncturists, and massage therapists.

LOADING SPACE

An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

LOCAL AND STATE GOVERNMENT ADVISORY COMMITTEE (LSGAC)

An FCC-established group that works with both carriers and communities on antenna siting solutions.

LOT

Means a parcel of land in single ownership occupied or intended for occupancy by a principal building, together with its accessory buildings; including the open space required under this Ordinance. For the purpose of this Ordinance, the word "lot" shall be taken to mean any number of contiguous lots of record for location of one (1) principal building and its accessory buildings.

LOT, CORNER

A lot that occupies the interior angle at the intersection of two (2) street lines. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case, the owner shall be required to specify which is the front when requesting a building permit.

LOT DEPTH

The distance measured in the mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the rear lot line.

LOT, DOUBLE FRONTAGE

A lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets are referred to as "double frontage lots."

LOT, FINGER

See "Sawtooth lot."

LOT OF RECORD

A lot that is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Carteret County or a lot described by metes and bounds, the description of which has been recorded.

LOT, SAWTOOTH

See "Sawtooth lot."

LOT WIDTH

The distance between side lot lines as measured at the front building setback line.

LOWEST FLOOR

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

MANUFACTURED HOME

A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

MANUFACTURED HOME PARK

A parcel or subdivision of land to accommodate manufactured housing per the provisions of this Ordinance.

MANUFACTURED HOME SUBDIVISION

Any parcel of land that is subdivided, with utilities extended for the installation or placement of manufactured homes

MARINA

A facility for the storing, servicing, fueling, berthing, and securing of boats and that may include, docks, slips, ramps, eating, sleeping, and retail facilities for owners, crews, and guests. This use may include other structures used for commercial storage and related sales, service and provisioning of boats, watercrafts of all types and related facilities and activities including, but not limited to, selling, chartering, repairing, provisioning and servicing of boats, watercraft of all types, motors, engines, electronics and related marine, water sports and fishing apparel, tackle and equipment, providing restaurant and food service facilities and operation and other horizontally and vertically related operations and facilities. See "Water related structure, pier and pier facilities."

MARKET VALUE

The building value, excluding the land, as established by the tax assessment value in the current county tax records.. Market value can be established by independent certified appraisal or replacement cost depreciated by age of building (actual cash value).

MEAN ROOF HEIGHT

The average of the roof eave height and the height to the highest point on the roof surface, except that eave height shall be used for roof angles of less than or equal to ten (10) degrees.

MEAN SEA LEVEL

For purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988 or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

MENU-BOARD/SPECIALS BOARD

To be affixed to the building and shall be considered as a portion of the allowed temporary sign square footage.

MERCHANDISE

Goods and commodities bought and sold within a business not to be construed as signage or advertising.

MITIGATION

Actions taken on-site and/or off-site to offset the effects of temporary or permanent loss of a buffer.

MIXED USE

A mix of land uses on the same property or within a single development to include residential and non-residential uses.

MOBILE HOME

A detached residential dwelling unit designed, after fabrication, for transportation on streets or highways on its own wheels or on flatbeds or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations including, but not limited to, location on jacks or other temporary or permanent foundations. Connections to utilities are to be in accordance with local codes and ordinances. Recreation vehicles are not to be considered mobile homes.

MOBILE HOME AND RECREATION VEHICLE PARK CONSTRUCTION PERMIT

A permit issued by the enforcement officer to a developer for construction of a mobile home or recreation vehicle park.

MOBILE HOME LOT

A plot of land designed for the accommodation of one (1) mobile home.

MOBILE HOME PARK

Any site or tract of land upon which is located the minimum number of mobile home spaces required by this Ordinance that are to be occupied for dwelling or sleeping purposes regardless of whether or not a charge is made for such service. Mobile home subdivisions shall be subject to the subdivision regulations in this Ordinance.

MOBILE HOME PERMIT

A permit issued by the enforcement officer or his delegate to an owner for the placement of a mobile home to be occupied or leased by such owner.

MOBILE HOME SPACE

A plot of land within a mobile home park designed for the accommodation of one (1) mobile home.

MODULAR HOME

A dwelling unit that is constructed in compliance with the North Carolina Building Ordinance and composed of components substantially assembled in an off site manufacturing plant and transported to the building site for final assembly on a permanent foundation.

MONOPOLE

A style of free-standing antenna-supporting structure that is composed of a single shaft that is attached to a foundation. This type of antenna-supporting structure is designed to support itself without the use of guy wires or other stabilization devices. These structures are mounted to a foundation that rests on or in the ground or on a building's roof.

MOTEL

A building containing furnished sleeping accommodations commonly available for overnight lodging by the owner/operator thereof to short-term or transient guests for compensation that has a registration desk, on-site management services, daily cleaning services and other convenience services for guests. Restaurant and similar facilities may or may not be provided on site. The term shall also include condominium hotel or condotel which is operates as a commercial transient hotel even though the rooming units and/or lodging are individually owned. The term does not include condominiums use as the principal or secondary residence of the owner where the owner of the condominium unit has the right of residential occupancy in any respect other than as a transient quest similar to a nonowner transient guest. As use here, "rooming units or lodging" is defined as a compartment within a building containing no facilities other than bedrooms, a bathroom, a sitting area and cooking and/or kitchen equipment therein. Provided that, in no case may the number of bedrooms per "rooming units or lodging" exceed two (2) bedrooms.

NATURAL AREA

The portion of the lot that is required to remain undisturbed in its natural state and retain its natural vegetation. Disturbance of the natural area and the removal of natural vegetation shall be permitted only as specifically authorized in this Ordinance.

NATURAL SYSTEMS

Systems that predominantly consist of or use those communities of plants, animals, bacteria and other flora and fauna that occur indigenously on the land, in the soil or in the water.

NEPA

The National Environmental Policy Act of 1969.

NEW CONSTRUCTION

Structures for which the "start of construction" commenced on or after the effective date of the relevant provision of this Ordinance, or from the regulation from which it arises, and includes any subsequent improvements to such structures.

NONCONFORMING BUILDING OR STRUCTURE

A structure occupied by an existing use that does not conform or comply with the dimensional regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or the regulation from which it derives, or as a result of one (1) or more

subsequent amendments to them, or as a result of some act or condition occurring to the structure or the lot on which the structure is located, which makes the structure nonconforming.

NONCONFORMING SIGN

Any sign lawfully existing on the effective date of this Ordinance or of the regulations from which it arises, or amendment to them, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended Ordinance or regulation.

NONCONFORMING USE

The use of a building or land that does not conform or comply with the permitted or special uses for the district in which the same is located, either at the effective date of this Ordinance or the effective date of the regulation from which it derives, or as a result of subsequent amendments to this Ordinance or those regulations

NON-RESIDENTIAL DEVELOPMENT

All development other than residential development or agriculture.

NUISANCE

An interference with the enjoyment and use of property.

OBSTRUCTION

For purposes of flood prevention and stormwater management, this term includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse that may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

OCCUPANCY PERMIT

A permit issued by the enforcement officer or his delegate after final inspection of a mobile home has been completed and the mobile home is found by the officer to be in compliance with the terms of this Ordinance.

OFF-PREMISES DIRECTIONAL SIGN

A free standing sign that displays only the name of a business and directional arrow Intended to note the direction of the business from the location of the off-premises directional sign that is located at a place other than the property on which such sign is located and is applicable only to those businesses located more than one thousand (1,000) feet from Emerald Drive.

OFF-STREET PARKING

Parking that occurs on a lot and not on a street or other public right-of-way.

OPEN SPACE

An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

OUTDOOR RECREATION

Swimming pools, tennis courts, ball fields and ball courts that are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. "Outdoor recreation" shall include any accessory uses, such as snack bars, pro shops, and club houses that are designed and intended primarily for the use of patrons of the principal recreational use.

OUTDOOR STORAGE

The storage of goods, products, or vehicles by their owner or on a commercial basis for others outside of a permanently constructed building. This includes auto and boat sales and storage areas. The keeping of any goods, material, merchandise, or vehicles in an unenclosed area or in the same place for more than twenty-four (24) hours.

OVERLAY DISTRICT

A zoning district that encompasses one (1) or more base zoning district(s) and that imposes additional or different requirements from those required in the base zoning district(s).

OWNER

The person in whom is vested the fee ownership, dominion, or title of real or personal property, including but not limited to a mobile home. This term may also include a tenant, if chargeable under his lease or occupancy agreement for the maintenance of the property, and any designated agent of the owner or tenant including a developer acting on an owner's behalf.

PARAPET

A low wall encircling the perimeter of a flat building roof, generally used to screen roof-mounted mechanical equipment.

PARCEL

Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from other parcels that are designated by its owner or developer as land to be used or developed as a unit, or that has been used or developed as a unit.

PARKING AREA OR PARKING LOT

All the area in square footage of land designated for the storage of cars. The parking area also includes all areas for storage and trash facilities. Any public or private area, under or outside of a building or structure, designed and used for parking or storing motor vehicles including parking lots, garages, private driveways, and legally designated areas of public streets.

PARTY WALL

A common shared wall between two (2) separate structures, buildings or dwelling units and lacking cross access between structures without exiting each structure.

PAVED

Any surface area covered by crushed compacted gravel, concrete, asphalt, brick or stone pavers, or similar material in durability, appearance, and permeability.

PERMITTED USES

Uses allowed to occur by right within a designated zoning or other planning district.

PERSON

Any and all persons, natural or artificial and includes any individual, firm, corporation, government agency, business trust, estate, trust, partnership, association, limited liability company, two (2) or more persons having a legally recognized joint or common interest, or other legal entity.

PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION (PCIA)

A trade group that represents PCS, SMR, private radio and other wireless users and carriers.

PERVIOUS SURFACE

Any material that permits full or partial absorption of stormwater into previously unimproved land.

PIER

A water-related structure extending into the water from the shore, whether floating or fixed to the bottom, for use as a boat landing place or promenade, constructed of pylons and decking for mooring and access to a boat or watercraft. May also include structures designed and constructed to serve as a means of recreational access (fishing, etc.) to the ocean and sound waters.

PLANNED UNIT DEVELOPMENTS

A residential development composed of townhouses, condominiums, single-family dwellings, or a combination thereof, and providing for the ownership of streets, drives, areas, open spaces, or other facilities in the association of property owners within the association.

PLANNING BOARD

The Emerald Isle Planning Board.

PLANNING DIRECTOR

The Planning Director of the Town of Emerald Isle or his or her designee.

PLAT

A map or plan of a parcel of land that is to be, or has been subdivided.

PLAT, FINAL

A map of all or a portion of a subdivision of land that is the legal instrument for recordation.

PLAT, PRELIMINARY

A map indicating the proposed layout of the subdivision that is submitted to the approving authority for preliminary approval.

PLATTED LOT

A lot that is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Carteret County or a lot described by metes and bounds, the description of which has been recorded.

PLAYGROUND

An active recreational area with a variety of facilities, including equipment for younger children as well as court and field games.

POST-FIRM

Construction or other development that started on or after January 1, 1975 or on or after the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

PREDEVELOPMENT CONDITIONS

Those conditions that existed before alteration, resulting from human activity, of the natural topography, vegetation and rate, volume or direction of surface or ground water flow, as indicated by the best available historical data.

PRE-FIRM

Construction or other development that started before January 1, 1975 or before the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

PRIMARY FRONTAL DUNE

A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and over-topping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

PRINCIPAL BUILDING

The structure in which the principal use on the property is located.

PRINCIPAL USE

The primary purpose or function that a lot serves or is proposed to serve.

PRIVATE DRIVEWAY

A privately maintained roadway serving two (2) or fewer lots, building sites or other division of land and not intended to be public ingress or egress.

PRIVATE STREET

A street that has not been accepted by the Town or the State for public maintenance and serves as the principal means of access to abutting properties.

PROJECT AREA

Any area of land and/or water, regardless of the number of individual parcels contained in the area, on which development is proposed under these regulations.

PROPERTY

Real property and fixtures subject to the provisions of this Ordinance.

PROVIDER

As used in connection with telecommunications services or structures, any business, corporation, partnership, or other entity licensed by the FCC to provide wireless services in the Town.

PUBLIC HEARING

A meeting open to the public advertised in advance in the local printed media, or as otherwise required by statute, concerning proposed ordinances, amendments or other official Town business that require public participation and input.

PUBLIC STREET

A street that has been dedicated for use and maintenance by the Town or the State and serves as the principal means of access to abutting properties.

PUBLIC UTILITIES

Above ground or underground publicly licensed utilities including water, sanitary sewer collection and distribution line, natural gas, cable television, stormwater drainage, transit or transportation, or electrical services and any associated structures such as pumping stations, treatment plants, transformer stations for providing to the public a utility service deemed necessary for the public health, safety, and welfare. Utility service to the public has been defined broadly to mean all consumers-industrial, commercial, or residential.

RECEIVING BODIES OF WATER

Any water bodies, watercourses or wetlands into which surface waters flow either naturally, in manmade ditches, or in a closed conduit system.

RECREATIONAL FACILITIES

An area of land or combination of land and water resources for public use that is developed for active and/or passive recreational pursuits with various manmade features that accommodates such activities. Such areas shall be designed in the form of playgrounds, parks, squares, greenbelts, and parkways. They shall be designed to serve the immediate neighborhood in which they are located, or can be regional in scope, serving several neighborhoods. A place or an area of land or combination of land and water resources designed and equipped for the conduct of sports and leisure-time activities that is developed for active and/or passive recreational pursuits. Such areas shall be designed in the form of playgrounds, parks, squares, greenbelts, and parkways. They shall be designed to serve the immediate neighborhood in which they are located, or can be regional in scope, serving several neighborhoods.

RECREATION VEHICLE

A vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use, and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes. All recreation vehicles must be classified mobile and bear a current license plate; and be able to evacuate in a timely manner in case of emergency.

RECREATION VEHICLE PARK

Any site or tract of land upon which is located the minimum number of recreation vehicle spaces or land area required by this Ordinance, regardless of whether or not a charge is made for such service.

RECREATION VEHICLE SPACE

A plot of land within a recreation vehicle park designed for the accommodation of one (1) recreation vehicle.

REDEVELOPMENT

The acquisition, clearance, rehabilitation, or rebuilding of an area for residential, recreational, commercial, industrial, or other purposes, including the provision of streets, utilities, parks, recreational areas, or other open spaces.

REFERENCE LEVEL

The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance of such building. Within special flood hazard areas designated as zones A1-A30, AE, A, A99, AO, or AH, the reference level is the top of the lowest floor. Within special flood hazard areas designated as zones VE or V1—V30, the reference level is the bottom of the lowest horizontal structural member.

REGULATORY FLOOD

A flood representative of large floods reasonably characteristic of what can be expected to occur on a particular stream, with an average recurrence interval of 100 years, determined from an analysis of floods on a particular stream and other streams in the same general region.

REGULATORY FLOOD PROTECTION ELEVATION

The elevation to which all structures and other development located within the special flood hazard areas must be elevated or floodproofed, if non-residential. Within areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In areas where no BFE has been established, all structures and other development must be elevated or floodproofed, if non-residential, to two (2) feet above the highest adjacent grade.

REMEDY A VIOLATION

As used in connection with flood damage prevention, to bring the structure or other development into compliance with state or Town floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the flood damage prevention regulations, or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

RESERVATION

The setting aside of parcels of land for a specific purpose. Reservations of land are encouraged for future development of streets, parks, and civic buildings. A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

RESIDENTIAL DEVELOPMENT

Buildings for residential use such as attached and detached single-family dwellings, apartment buildings, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. Residential development includes group homes and family care homes.

RESIDENTIAL USE

Means any use permitted by this Ordinance that involves the housing of families or groups of individuals, and is grouped in Table 4.1 as a residential use.

RESTAURANT

An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

RETAIL SALES

Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RETAIL SALES, INDOOR, NOT LISTED ELSEWHERE

Any retail sales use conducted inside a building and not listed as a separate land use in this Ordinance, including without limitation retail sales uses such as appliance sales, bakery shop, confectioners, bicycle sales, drug store, electrical item sales, hardware sales, jewelry and watch sales, music store, newsstand, office equipment and supplies sales and service, photographic studios and camera supply, and seafood market. May include incidental repairs to items sold.

RETENTION

The collection and storage of runoff without subsequent discharge to surface waters.

ROOF LINE

The highest point of a flat roof and mansard roof and the highest point of a pitched roof, excluding any cupolas, chimneys or other minor projections.

RIGHT-OF-WAY (R-O-W)

An area of land dedicated for public or private infrastructure such as streets, sidewalks, railroads, sewer lines, water lines, electric lines, and gas lines.

SA WATERS

Means all waters classified by the NC Department of Environment and Natural Resources for commercial shellfish harvesting, including Bogue Sound and Archer's Creek.

SB WATERS

Means all waters classified by the NC Department of Environment and Natural Resources for recreation, including the Atlantic Ocean and Bogue Inlet.

SALVAGE YARD

Property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including but not limited to vehicles, appliances and related machinery.

SANITARY SEWAGE SYSTEM

A complete system of sewage collection, treatment and disposal including approval privies, septic tank systems, connection to public or community sewage systems, sewage reuse or recycle systems, mechanical or biological treatment systems, or other such systems.

SAWTOOTH OR FINGER LOT

Means an irregular shaped lot the majority portion of which meets the dimensional requirements for a subdivision lot under the unified development ordinance, but that has a finger or extension thereon primarily for access to a street or body of water, and with the width of the extension or finger being more narrow than the width of the lot at the required building setback line

SCHOOL

A public or private institution for education or learning including athletic or recreational facilities, which does not include lodging. This institution includes any school licensed by the state and that meets the state requirements for elementary and secondary education.

SCREENING

A fence, wall, hedge, landscaping, buffer area or any combination of these provided to create a visual separation between certain land uses. A screen may be located on the property line or elsewhere on the site, as determined by the use to be screened.

SEDIMENT

Fine particulate material, whether mineral or organic, that is in suspension or has settled in a water body.

SEPTIC TANK SYSTEM

A ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field.

SETBACK

The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the structure or its supporting member whichever is nearest to the property line or right-of-way.

SEWAGE

The waste water, and its contents from kitchen, bathroom, toilet, lavatory and laundry of any residence, business establishment, industrial plant, institution, or any public building.

SIGN

Includes every billboard, freestanding ground sign, wall sign, roof sign, illuminated sign, projecting sign, temporary sign and shall include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any persons, or business, when the same is placed out of doors in view of the general public.

SIGN, ADVERTISING

A sign, other than a directional sign, that directs attention to or communicates information about a business, commodity, service, or event that exists or is conducted, sold, offered, maintained or provided at a location other than the premises where the sign is located. Any advertising sign allowed under this Ordinance may display either a commercial or noncommercial copy.

SIGN, AWNING

A sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by Ordinance. For the purposes of the Ordinance, the permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

SIGN, CONSTRUCTION

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

SIGN COPY

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

SIGN, DIRECTIONAL

A sign that is located off-premises, and indicates the location of public buildings, parks, schools, hospitals, and scenic or historic places.

SIGN, FREESTANDING

A sign that is supported by a sign structure placed in the ground and that is wholly independent of any building, fence, vehicle or object other than the structure for support.

SIGN, GANG

Any sign with two (2) or more tenants.

SIGN, HOME OCCUPATION

Permitted in association with a legitimate home occupation conducted on the premises of a single-family dwelling occupied by the operator of the business.

SIGN, IDENTIFICATION

A sign that displays only the name, address, and/or crest, or insignia, trademark, occupation or profession of an occupant or the name of any building on the premises.

SIGN, OFF-PREMISES

A sign that identifies, advertises, and/or directs the public to a business, merchandise, service, entertainment or product that is located at a place other than the property on which such sign is located. See "Billboard."

SIGN, ON-PREMISES

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

SIGN, POLITICAL

Refers only to the issues or candidates involved in a religious, charitable, civic, fraternal, political and similarly organized elections.

SIGN, PORTABLE

A sign that is designed or intended to be readily relocated. This shall include signs on wheels, or on portable structures, tent signs, A-frame signs, and similar devices and any signs not secured or securely affixed to the ground on a permanent structure.

SIGN, PROJECTING

A sign that is mounted or attached to an exterior wall of a building or structure and that projects out from the wall more than twelve (12) inches.

SIGN, REAL ESTATE

A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

SIGN, ROOF

A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

SIGN, TEMPORARY

A sign that is an advertising display constructed of plastic, wood, metal, vinyl, or other rigid material intended to be displayed to inform the public of an unusual or special event sponsored by a non-profit, public, charitable, or religious organization. The sign wording, message, or contents advertising or promoting the special event shall be completed using stencil, commercially fabricated letters or numbers, or other methods that result in a professional appearance as opposed to free hand, expedient, awkward, and unartful appearance or display. Each such event shall be limited to a maximum of eight (8) signs. Three (3) of these signs shall not exceed twenty four (24) square feet in area per display surface. The other five (5) of these signs shall not exceed six (6) square feet in area per display surface. The signs may be erected not more than thirty (30) days prior to the event and must be removed within three (3) days following the completion of the event. Such signs may be placed in a street right-of-way; provided that the property owner directly adjacent to the street right-of-way where the sign is placed does not object to the sign, and provided that the sign is placed in such a manner as to not obstruct driver vision of any vehicle entering a roadway from any street, alley, driveway, or parking lot.

SIGN, WALL

A sign that is attached flat to a wall, or facade facing of a building and projecting not more than twelve (12) inches from a wall.

SIGN, WINDOW

Any sign attached to or directly applied onto a window or glass door of a building intended for viewing from the exterior of the building.

SITE

Any tract, lot or parcel of land or combination of tracts, lots, or parcels of land that are in one (1) ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project.

SITE PLAN, SITE SPECIFIC PLAN

A diagram to scale showing the development plans for a project and containing all information required of Site Plans and/or Subdivision Plats.

SITE SPECIFIC DEVELOPMENT PLAN

A plan of land development submitted to the Town for purposes of obtaining one (1) of the following zoning or land use permits or approvals:

- (1) A preliminary plat, prepared and approved in accordance with this Ordinance;
- (2) A special use permit, obtained in accordance with the provisions of this Ordinance;
- (3) A planned unit development (PUD), prepared and approved in accordance with this Ordinance; and
- (4) A site plan that requires prior approval by the Town under this Ordinance and is submitted to and approved by the Town according to this Ordinance.

Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

SPECIAL FLOOD HAZARD AREA (SFHA)

The land in the floodplain subject to a one (1) percent or greater chance of being flooded in any given year as determined in section 6.2.3(2).

SPECIAL USE

A use subject to specific conditions and that requires the approval of the Board of Commissioners before the issuance of a zoning permit for such use.

START OF CONSTRUCTION

Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STORMWATER MANAGEMENT PLAN

The analysis required to meet the standards outlined in section 6.3.3 for each activity described in section 6.3.2(1). The elements to be included in a stormwater management plan are described in section 6.3.2(2)(C).

STORMWATER RUNOFF

Rain that falls onto impervious surfaces and is not absorbed into the ground immediately. Storm water runoff carries pollutants off of paved surfaces into streams and rivers, and causes flooding by speeding up the rate of water flow into streams and rivers.

STORY

Means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A flood resistant enclosure designed to break away so as not to cause collapse, an access stair enclosure of less than three hundred (300) square feet, and an elevator shaft shall not be considered as a story when determining building height.

STORY HEIGHT

The vertical distance from top to top of two (2) successive tiers of beams or finished floor surfaces; and for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

STREAM

A drainage feature on the land surface for conveying water.

STREET

Means a roadway, whether dedicated as public or platted as private, that affords the principal means of access to abutting property.

STREET, PRIVATE

A street that has not been accepted by the Town or the State for public maintenance and serves as the principal means of access to abutting properties.

STREET, PUBLIC

A street that has been dedicated for use and maintenance by the Town or the State and serves as the principal means of access to abutting properties.

STRUCTURAL ADDITIONS

Any roofed, canopied, enclosed porch and/or room or structure that is used in connection with a mobile home. A concrete slab porch, with no roof shall not be considered a structural addition.

STRUCTURE

Anything that is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. Includes without limitation a walled and roofed building, a manufactured home, a gas or liquid storage tank that is principally above ground, any construction enclosed and isolated by exterior walls, lunch wagons, dining cars, trailers, and unattached carports consisting of a roof and supporting members, and similar built items, whether stationary or movable, but shall not include fences or signs.

SUBDIVIDE

To divide the ownership of a parcel of land, whether improved or unimproved, into two (2) or more contiguous lots or parcels of land, whether by reference to a plat, by metes and bounds or otherwise, or, if the establishment of a new street, easement, or right-of-way is involved, any division of a parcel of land. Subdivision includes a re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided.

SUBDIVIDER

Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein described.

SUBDIVISION

All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale, or building development (whether immediate or future) shall include all divisions of land involving the dedication of a new street or a change in existing streets, unless exempted by section 7.1.3.

SUBDIVISION, MOBILE HOME

A subdivision designed and intended for residential use where residence is in mobile homes exclusively.

SUBSTANTIAL DAMAGE

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

SUBSTANTIAL IMPROVEMENT

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

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

TELECOMMUNICATIONS ACT OF 1996 (ACT)

A broadscoped federal act that regulates the placement of wireless communications antennae and their facilities, and that provides certain mandates on local authorities while preserving considerable local zoning authority.

THROUGH LOT

See "Double frontage lot or through lot."

TOWAIR

Landing facility slope calculations designed to avoid obstruction by towers to aircraft.

TOWN

Town of Emerald Isle, North Carolina.

TOWNHOUSE DEVELOPMENT

Means one (1) or more residential structures, comprised of three (3) or more attached single-family residences, with each townhouse or rowhouse unit occupying an individual land area, and providing for streets, drives, and recreational areas, open spaces, and other facilities for ownership by the association of property owners within the development.

TRACT

All contiguous land and water bodies under single or diverse ownership being developed as a unit consisting of one (1) or more parcels or lots.

TREE

Any woody plant with a caliper of three (3) inches or greater at a height of thirty-six (36) inches above the ground.

UNDERPINNING

The skirting around the base of a manufactured home or temporary structure that forms a continuous wall around the structure from the foundation or grade level, to the base, or bottom floor level, of the structure. Underpinning material is prescribed by this Ordinance.

UNIT OWNERSHIP

Means the provision for separate ownership of an enclosed space consisting of one (1) or more rooms occupying all or part of a floor or floors in a building of one (1) or more floors or stories designed for residence, and shall include such accessory spaces and areas as may be described in the declaration creating unit ownership pursuant to G.S. ch. 47A, such as garage space, storage space, balcony, terrace, patio, or other use accessory space.

USED OR OCCUPIED

The terms include the words intended, designed or arranged to be used or occupied.

VARIANCE

A grant of relief from the requirements of this Ordinance.

VEGETATION

The natural species of flora and plant life that exists on parcels of property within the Town of Emerald Isle. The word "vegetation" as used within this Ordinance shall include:

- (1) *Existing Vegetation.* Vegetation that is currently located on a parcel of property prior to any earth-disturbing activity;
- (2) *Natural Vegetation.* The originally occurring, indigenous plant life that exists on the lot;
- (3) *Nuisance Vegetation.* Vegetation that causes or creates a situation that can be classified as a general nuisance as defined in section 9-21 of the Town Code and includes, but is not limited to, the following types of vegetation: Noxious weeds, choking vines, poisonous plants, briars, dead trees, and other similar harmful vegetation.

VESTED RIGHT

The right to undertake and complete a development or use of property under the terms and conditions of an approved Site Specific Plan currently in effect or as otherwise allowed by North Carolina law and this Ordinance.

VIOLATION

As used in connection with flood damage prevention regulations, the failure of a structure or other development to be fully compliant with the Town's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Ordinance is presumed to be in violation until such time as that documentation is provided.

WASTEWATER TREATMENT FACILITY

A facility operated by a licensed utility, in compliance with all applicable state, county, and City regulations, and intended or used for the treatment and surface or subsurface disposal of wastewater and that serves more than one (1) use or more than four (4) dwelling units; or a facility intended or used for the treatment and subsurface disposal of wastewater that serves only one (1) use or up to four (4) dwelling units.

WATER BODY

Any natural or artificial pond, lake, reservoir or other area that ordinarily or intermittently contains water and that has a discernible shoreline.

WATER SURFACE ELEVATION (WSE)

The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE

Any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, swale, or wash in which water flows.

Ephemeral watercourse: A watercourse that flows only during and for short periods following precipitation and flows in low areas that may or may not have a well defined channel.

Intermittent watercourse: A watercourse that flows in a well defined channel during wet seasons of the year but not the entire year.

Perennial watercourse: A watercourse that flows in a well-defined channel throughout most of the year under normal climatic conditions.

WATERS

Any and all water on or beneath the surface of the ground. It includes the water in any watercourse, water body or drainage system. It also includes diffused surface water and water percolating, standing or flowing beneath the surface of the ground, as well as coastal waters.

WATERSHED

A drainage area or drainage basin contributing to the flow of water into a receiving body of water.

WATER-RELATED STRUCTURE

Any structure for which the use requires access to or proximity to or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, marine railways, piers, floats and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water related structures.

WETLANDS

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

WIRELESS COMMUNICATIONS

Any personal wireless service, radio or television broadcast services, and any other radio frequency signals, including amateur radio. Wireless communications does not include signals transmitted to or from a satellite earth station.

WIRELESS TELECOMMUNICATIONS SUPPORT STRUCTURE (WTSS)

All freestanding monopole, self-supported, guyed, or similar structures whose primary design is to provide for support and placement of wireless telecommunications antennae.

WIRELESS TELECOMMUNICATIONS ATTACHMENTS (WTA)

Devices mounted onto a support structure, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and accessory equipment related to broadcast services, including but not limited to private radio services, cellular or digital telephone services, pagers, beepers, wireless data repeaters and common carriers (as regulated by the FCC), including AM, FM, two-way radio, fixed point microwave dishes, commercial satellite, high definition television (HDTV), cellular and PCS communication systems. The term WTA does not include electrical or telephone transmission lines or supporting distribution structures, antennae of amateur radio (ham) operators, and amateur club services licensed by the FCC.

YARD

An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Development Ordinance.

YARD, FRONT

A yard across the full width of the lot, extending from the front building setback line, to the street upon which the lot fronts.

YARD, REAR

A yard extending across the full width of the lot from the rear building setback line to the rear lot line.

YARD, REQUIRED

The open space between a lot line and the yard line and the facade of a building within which no structure may be located except as permitted in this Development Ordinance.

YARD, SIDE

An open unoccupied space on the same lot with a principal building, situated between the side building setback line and the adjacent side line of the lot.

ZONING PERMIT

Written permission issued by the Town for the construction, or enlargement of a structure, including signs, or the grading or excavation of a site in preparation of construction or for the installation of underground utilities

ZONING VESTED RIGHT

A right pursuant to G.S. 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.

([Ord. of 7-10-12\(1\), § 3](#); [Ord. of 7-14-15\(1\)](#); Ord. of [3-8-16\(1\)](#), § 1; Ord. of [6-14-16\(1\)](#), § 2)