

CHAPTER 12: RULES OF CONSTRUCTION, USE CLASSIFICATIONS, AND DEFINITIONS

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Chapter 12: RULES OF CONSTRUCTION, USE CLASSIFICATIONS, AND DEFINITIONS**12.1 INTERPRETATIONS**

The Planning Director has final authority to determine the interpretation or usage of terms used in this Ordinance. Any person may request an interpretation of any term by submitting a written request to the Director who shall respond in writing within 30 days.

12.2 RULES OF CONSTRUCTION AND INTERPRETATION

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

12.2.1 Meanings and Intent

All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to the general purposes set forth in Section 1.3 and the specific purpose statements set forth throughout this Ordinance. When, in a specific section of this Ordinance, a different meaning is given for a term defined for general purposes in this Chapter 12, the specific section's meaning and application of the term shall control.

12.2.2 Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

12.2.3 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 and are not exhaustive lists of all possibilities.

12.2.4 Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the Town. References to days are calendar days unless otherwise stated.

12.2.5 Computation of Density

Net available density is determined by dividing the gross parcel size by the minimum lot size of the zoning district where the parcel is located, and then rounding down to the whole number. This operation yields a certain number of units per acre with no decimals.

12.2.6 References to Other Regulations/Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

12.2.7 Delegation of Authority

Any act authorized by this Ordinance to be carried out by a specific official of the Town may be carried out by a designee of such official.

12.2.8 Technical and Non-Technical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

12.2.9 Public Officials and Agencies

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

12.2.10 Mandatory and Discretionary Terms

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

12.2.11 Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- (A) "And" indicates that all connected items, conditions, provisions or events apply; and
- (B) "Or" indicates that one or more of the connected items, conditions, provisions or events apply.

12.2.12 Tenses, Plurals, and Gender

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

12.3 USE CLASSIFICATIONS**12.3.1 General**

Use classifications are used to denote a group of similar and commonly-recognized uses which are grouped together under a single type or "classification" for the purposes of administration of Chapter 5 of this Ordinance. This Ordinance contains five types of use classifications: Residential, Public/Institutional, Commercial, Industrial, and Accessory uses in addition to Unlisted uses. Proposed developments within the Planned Development District, Major designation shall only be required to list general use classifications to denote the types of proposed uses.

(A) Purpose

Use classifications organize land uses and activities into general "use categories" and specific "use types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The use classifications provide a systematic basis for assigning present and future land uses into appropriate zoning districts. Use classifications describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification.

(B) Structure of This Section

- (1) Each subsection below first describes common characteristics of the use category. Principal uses are assigned to the category that most closely describes the nature of the principal use. Also listed are examples of common accessory uses, which generally are allowed in conjunction with a principal use unless otherwise stated in the regulations. Unless otherwise stated, accessory uses are subject to the same regulations as the principal use.
- (2) Each subsection also lists specific use types that are included in the respective use category. If there are no specific use types or if the list of specific use types is not all-inclusive, this subsection also lists common examples of other uses included in the respective category.

(C) Unlisted Uses

(1) *Procedure for Approving Unlisted Uses*

Where a particular use category or use type is not specifically allowed under this Ordinance and is also not prohibited or restricted by this Ordinance, the Planning Director may permit the use category or type if the criteria of subsection (2) below are met. The Planning Director shall give due consideration to the intent of this Ordinance concerning the district(s) involved, the character of the uses specifically identified, and the character of the use(s) in question.

(2) *Criteria for Approving Unlisted Uses*

In order to determine that the proposed use(s) has a impact that is similar in nature, function, and duration to the other uses allowed in a specific zoning district, the Planning Director shall assess all relevant characteristics of the proposed use, including but not limited to the following:

- (a) The volume and type of sales, retail, wholesale; size and type of items sold and nature of inventory on the premises;
- (b) Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; any dangerous, hazardous, toxic, or explosive materials used in the processing; and

- (c) The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders); and
- (d) The type, size and nature of buildings and structures; and
- (e) The number and density of employees and customers per unit area of site in relation to business hours and employment shifts; and
- (f) Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes and whether trip purposes can be shared by other uses on the site; and
- (g) Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses; and
- (h) The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation and fumes; and
- (i) Any special public utility requirements for serving the proposed use, including but not limited to water supply, waste water output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and
- (j) The impact on adjacent properties created by the proposed use will not be greater than that of other uses in the zoning district.

(3) *Determination by the Planning Director; Effects*

All determinations by the Planning Director made pursuant to subsection (2) above shall be in writing. In making the determination described in subsection (2) above, the Planning Director shall initiate an amendment to this Ordinance if the particular use or category of use(s) is likely to be common or to recur frequently, or that omission of specific inclusion and reference to this Ordinance is likely to lead to public uncertainty and confusion. Until final action has been taken on such proposed amendment, the determination of the Planning Director shall be binding on all officers and departments of the Town. If no amendment is initiated, the Planning Director's determination shall thereafter be binding on all officers and departments of the Town, without further action or amendment of this Ordinance.

(4) *Appeal of Determination of the Planning Director*

The determination of the Planning Director may be appealed to the Zoning Board of Adjustment pursuant to the procedures set forth in Section 3.21 of this Ordinance.

12.3.2 Residential Uses

(A) Group Living

This category is characterized by residential occupancy of a structure by a group of people who do not meet the definition of "Household Living." Tenancy is arranged on a monthly or longer basis. Generally, Group Living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may or may not also reside at the site. Accessory uses commonly include recreational facilities and vehicle parking for occupants and staff. Specific use types include:

(1) *Dormitory*

A building used principally to provide rooms for sleeping accommodations at an educational, public, or religious institution. Common kitchen, sanitary, and social gathering rooms may also be provided.

(2) *[Reserved]*

(3) *Life Care Community*

A building or group of buildings that contains dwelling units where the occupancy is restricted to persons who are at least sixty-two (62) years of age, or married couples in which one of the persons is at least sixty-two (62) years of age, and which provides nursing and/or medical care as well as support services, such as common dining facilities, retail stores, and personal service establishments, which are operated by the owner of the life care community or lessees of the owner. Life care communities are designed to meet the residents' basic needs for shelter, food, and health care, regardless of the level of independence of the individual resident and regardless of how these needs may change over time.

(4) *Nursing Home*

A licensed facility where three (3) or more elderly, chronically ill, infirm, or incurable persons are provided with food, lodging, and medical care for compensation. This definition includes congregate care facilities but not hospitals, clinics, or life care communities (even though a life care community may include a nursing home as one (1) of its components).

(5) *Boarding House*

A building arranged or used for lodging as compensation, as further defined in the NC Building Code, section 202.

(B) Household Living

This use category is characterized by residential occupancy of a dwelling unit, including occupancy by persons with handicaps, as such term is defined in the Federal Fair Housing Act, 42 U.S.C. § 3602, or persons with disabilities, as such term is defined in G.S. Chapter 168, Article 3. Tenancy is arranged on a month-to-month or longer basis (lodging where tenancy may be arranged for a period of less than thirty (30) days is classified under the "Visitor Accommodation" category). Common accessory uses include recreational activities, raising of pets, gardens, personal storage buildings, hobbies, and parking of the occupants' vehicles. Home Occupations, Accessory Dwelling Units, and Caretaker's Residence are accessory uses that are subject to additional regulations (see Section 5.3.4). Specific use types include, but are not limited to:

(1) Accessory Dwelling Unit

A dwelling unit that is accessory to and established on the same building lot as a principal detached dwelling. The unit can be a detached building or within, or attached to, the principal detached dwelling. An accessory dwelling unit contains the minimum living facilities required by the current North Carolina Building Code or applicable ordinance to be classified as a dwelling unit. Any dwelling meeting this definition shall be regulated as an accessory dwelling unit, and shall not be considered a Duplex, as defined in this Ordinance. Manufactured Homes, Recreational Vehicles, and Travel Trailers may not be used as accessory dwelling units.

(2) Bed and Breakfast

An operator-occupied single-unit residence where eight (8) or fewer rooms are rented on an overnight basis, for a period of no more than fourteen (14) consecutive days per guest stay.

(3) Caretaker's Residence

A dwelling unit on the site of a non-residential use and occupied only by a guard or the person who oversees the operation of the non-residential facility.

(4) Detached Dwelling

A building that is developed with open yards on all sides, contains one (1) dwelling unit not attached to any other building or dwelling unit, and is not on the same lot as any other dwelling unit.

(5) Duplex Dwelling

A building on one (1) lot that has open yards on all sides and contains two (2) dwelling units that share a common wall or ceiling/floor and have separate access from the outside.

(6) Family Care Home

A dwelling unit in which room and board, personal care and habilitation services, with the assistance of support and supervisory personnel, are provided for not more than six (6) persons with disabilities, as such term is defined in the Federal Fair Housing Act, 42 U.S.C. § 3602, or persons with handicaps, as such term is defined in G.S. Chapter 168, Article 3.

(7) Group Home

A dwelling unit in which persons with handicaps, as such term is defined in the Federal Fair Housing Act, 42 U.S.C. § 3602, or persons with disabilities, as such term is defined in G.S. Chapter 168, Article 3, live together as a single housekeeping unit without the assistance of support and supervisory personnel.

(8) Live/Work Unit

A type of structure combining residential (living) and non-residential (working) activities.

(9) Manufactured Home

A structure as defined in G.S. 143-145(7). (*Note: In 1985, the State of North Carolina officially changed the term "mobile home" to manufactured home.*)

(10) Manufactured Home Park

A parcel (or contiguous parcels) of land which has been so designed and improved on or before July 1, 2003 so that it contains two (2) or more manufactured home spaces available to the general public for the placement thereon of manufactured homes for occupancy; and such use was established prior to July 1, 2003. This use may include service buildings, areas, and customary accessory uses necessary to provide laundry, recreation, sanitation, storage, vending machines, and other similar services provided by the facility operator primarily for the use and convenience of occupants of the manufactured home park.

(11) Mid-Rise Multi-Family Dwelling

A building containing individual residential dwelling units (whether condominiums or apartments) stacked one over another. Such structures may include non-residential uses, and are generally more than two (2) stories, but less than six (6) stories in height.

(12) Modular Home

A manufactured building designed to be used as a single-unit dwelling which has been constructed in accordance with the North Carolina State Building Code and bears the North Carolina State Approved label. For the purposes of regulation, these types of dwellings are treated as site-built dwellings.

(13) Multi-Family Dwelling

A building, other than a townhouse, that contains three (3) or more individual dwelling units attached along and sharing one (1) or more common walls between any two (2) units and/or stacked one above the other, or one (1) or more dwelling units located in the same building as a non-residential use in a non-residential zoning district. None of the individual dwelling units within a multi-family dwelling are separated by property lines. This type of structure shall include any such building, regardless of the form of ownership (condominium or rental) of the individual dwelling units therein.

(14) Patio Dwelling

A single-unit detached or semi-detached dwelling built in groups of two (2) or more. Each dwelling unit is built on a small lot owned in fee simple by the owner of the dwelling unit. Each group of two (2) or more dwelling units with their appurtenant lots are located on a larger lot that is owned in common by the owners of dwelling units and fee simple lots. Some or all of this larger lot is common area used for private open space.

(15) Semi-Detached/Attached Dwelling

A building that contains two (2) to four (4) dwelling units that share one (1) or more common walls for no less than twenty-five (25) percent and no more than fifty (50) percent of the depth of the dwelling unit, with each dwelling unit located on a separate lot.

(16) Townhouse

A single-unit dwelling on its own lot owned in fee simple by the owner of the dwelling, with a private entrance that is part of a structure where the dwelling units are all joined side-by-side and separated by party walls, with no unit being located above or below another unit, and having totally exposed front and rear walls for access, light, and ventilation. This shall include any such dwelling, regardless of the form of ownership (condominium or rental) of the individual dwelling units therein.

(17) Detached Multi-Family Dwellings

Dwelling units, not including a manufactured home, located on a single lot that contains three (3) or more dwelling units, each developed with open yards on all sides, where none of the individual dwelling units are separated by property lines.

12.3.3 Public/Institutional Uses**(A) Aviation**

Improved or unimproved facilities for the landing and takeoff of flying vehicles, including loading and unloading areas and passenger terminals for aircraft. Accessory uses include freight handling areas, concessions, offices, parking and maintenance, and fueling facilities. Specific use types include:

(1) Airport/Landing Strip

An area designed, used, or intended for use for the landing and take-off of aircraft, and any supporting operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.

(2) Heliport

An area designed, used, or intended for use for the landing and take-off of helicopters, and any supporting operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.

(B) Cemetery

Land used or dedicated to the interment of human or animal remains, including columbarium, mausoleums, and maintenance facilities. May include crematorium as an accessory use.

(C) Cultural Facilities

Public or nonprofit facilities that display or preserve objects of interest or providing facilities for one (1) or more of the arts or sciences or provision of government services. Accessory uses may include parking, offices, storage areas, and gift shops. Specific use types include:

(1) Library

A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

(2) Museum

A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and designed to be used by members of the public for loaning or viewing, with or without an admission charge.

(D) Day Care

This use category includes facilities licensed by the North Carolina Department of Health and Human Services, Division of Child Development that provide care, protection, and supervision for children or adults on a regular basis away from their primary residence for less than twenty-four (24) hours per day. This category does not include public or private

schools or facilities operated in connection with an employment use, shopping center, or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity. Accessory uses include offices, recreation areas, and parking. Specific use types include:

(1) Day Care Center

A "stand-alone" commercial day care facility intended for the care of three (3) or more children of any age or more than six (6) adults.

(2) Day Care Home, Large

A day care facility established in a residential dwelling in which the occupant of the dwelling provides for the care and keeping of seven (7) to twelve (12) children not related to the care provider by birth, marriage or adoption or between four (4) and six (6) adults.

(3) Day Care Home, Small

A day care facility established in a residential dwelling for the care and keeping of up to six (6) children not related to the care provider by birth, marriage, or adoption or up to three (3) adults.

(E) Government Services

A building, structure, or facility owned, operated, or occupied by a governmental agency to provide a governmental service to the public. Specific use types include:

(1) Governmental Office

A building occupied by a governmental agency that provides direct services to the public such as employment, public assistance, motor vehicle licensing and registration, and similar activities.

(2) Public Safety Station

A use designed to protect public safety and provide emergency response services, often located in or near the area where the service is provided. Employees are regularly present on-site. Accessory uses include offices and parking. Examples include fire stations, police stations, and emergency medical and ambulance stations.

(3) Public Utility Facility

Buildings, structures, or other facilities used or intended to be used by any public agency or utility. (Private or non-governmental utility facilities are included under "non-governmental utility facilities," below.) This category includes buildings or structures that house or contain facilities for the operation of publicly-owned or publicly-licensed water, wastewater, waste disposal, or electricity services. This use also includes water storage tanks; radio, television, and microwave transmission or relay towers; and electric or gas substations, water or wastewater pumping stations,

or similar structures used as an intermediary switching, boosting, distribution, or transfer station of electricity, natural gas, water, wastewater, cable television, or telephone services. This category includes passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, water, sewage, communication signals, or other similar services on a local level. Additionally, a public utility facility means any energy device and/or system that generates energy from renewable energy resources including solar, hydro, wind, biofuels, wood, geothermal, or similar sources. Accessory uses may include control, monitoring, data, or transmission equipment.

(4) *Town Owned and/or Operated Facilities and Services*

Land, government offices, public safety stations, utility facilities, buildings, structures and other facilities owned and/or operated by the Town for providing typical and customary governmental services to citizens and owners of property within the corporate limits of the Town and its urban services area. This includes, but is not limited to, administration, recreation, public safety and protection, social and transportation services. Such services may or may not be delivered directly at the same site on which the buildings and facilities are located. Related activities and structures (above or below ground) typically associated with these uses and accessory to their operation include, but are not limited to, offices, utility facilities, indoor/outdoor storage and parking.

(F) *Hospital*

A licensed public or private institution that provides in-patient primary health services and medical or surgical care to persons suffering from illness, disease, injury, deformity, or other physical or mental conditions, and including related facilities such as laboratories, outpatient, or training facilities.

(G) *Park and Open Space*

Uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses may include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking. Specific use types include:

(1) *Athletic Field, Public*

Land, often requiring equipment, owned by a unit of government and designed for outdoor games and sports such as baseball, football, and soccer.

(2) *Community Garden*

A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one (1) person.

(3) *Neighborhood Recreation Center, Public*

A common building or area, open to the public, that provides a focus for recreational, neighborhood, educational and cultural activities for the residents of that immediate neighborhood.

(4) Outdoor Amphitheater, Public

An outdoor stadium, theater, amphitheater or similar structure operated by and/or in conjunction with a school, college, university, or by the Town or other unit of government.

(5) Park, Public

A noncommercial, non-profit facility or land owned by the Town, the State of North Carolina, or another unit of government which is used or intended to be used by for recreation, education, or cultural use, including both active and/or passive recreation.

(6) Resource Conservation Facility

Fish hatcheries and fish ponds; game preserves; botanical and zoological gardens; water reservoirs and dams.

(H) Religious Assembly

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

(I) Educational Use

Public, private, and parochial institutions at the primary, elementary, middle, high school, or post-secondary level, other than trade or business schools, which provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

(1) College or University

A degree-granting institution, other than a trade school, which provides education beyond the high-school level, and which may provide lodging or dwelling units for students or faculty, and typically has programs resulting in an Associate's, Bachelor's, or Master's degree. In addition to classroom buildings, it may include offices, laboratories, lecture halls, athletic facilities, dormitories, and similar buildings.

(2) School

An elementary school, middle school, junior high school, or high school that does not provide lodging for students, including any accessory athletic fields and recreational facilities.

(3) Pre-School

A non-residential use operated for the purposes of care of pre-school-aged children. Employees of such uses are not teachers, and the primary purpose of the facility is not for education, though such uses may include educational aspects or activities.

(J) Non-Governmental Utility

Buildings, structures, or other facilities used or intended to be used by any private or non-governmental utility. (Public utility facilities are included under "public utility facilities," above.) This category includes buildings or structures that house or contain facilities for the operation of privately owned water, wastewater, waste disposal, or electricity services. This use also includes water storage tanks; radio, television, and microwave transmission or relay towers; and electric or gas substations, water or wastewater pumping stations, or similar structures used as an intermediary switching, boosting, distribution, or transfer station of electricity, natural gas, water, wastewater, cable television, or telephone services. This category includes passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, water, sewage, communication signals, or other similar services on a local level. Additionally, a private utility facility means any energy device and/or system that generates energy from renewable energy resources including solar, hydro, wind, biofuels, wood, geothermal, or similar sources. Accessory uses may include control, monitoring, data, or transmission equipment.

(1) Utility Facility, Major

A service of a regional nature that normally entails the construction of new buildings or structures, and that typically has employees at the site. Examples include water works, reservoirs, power or heating plants, or steam generating plants.

(2) Transportation Facility

A facility or location that receives and discharges passenger and at which facilities and equipment required for their operation are provided. Examples include terminals for bus, trolley, taxi, commuter/passenger railroad, shuttle van, or other similar vehicular services.

(3) Utility Substation, Minor

A service that is necessary to support development within the immediate vicinity and that involves only minor structures. Employees typically are not located at the site. Examples include electric transformer stations, gas regulator stations, telephone exchange buildings, and well, water, and sewer pumping stations.

12.3.4 Commercial Uses**(A) Agricultural Uses**

Activities that primarily involve raising, producing, or keeping plants or animals, or cultivation and management of other natural resources. Accessory uses may include dwellings for proprietors and employees, barns, storage of grain, animal raising, feed preparation, and wholesale sales of products produced on-site. Specific use types include:

(1) Agri-Tourism

An area of land used for the purpose of education and participation in an agricultural related business operation.

(2) Farming, General

An area of land used for the commercial production of agricultural products such as crops, dairy products, livestock, poultry, and beekeeping products.

(3) Forestry

The science, business, and art of creating, conserving, and managing forests or forestlands for the continuing uses of commodity and noncommodity benefits.

(4) Produce Stand

A structure and/or area devoted to the small scale retail and/or wholesale sales of agricultural goods or products which have been grown on the same site or property as the stand.

(B) Animal Service

Uses that involve the selling, boarding, or care of animals on a commercial basis. Accessory uses may include confinement facilities for animals, parking, and storage areas. Specific use types include:

(1) Kennel

An establishment where domesticated animals are kept, sold, boarded, or bred, typically with fenced or enclosed spaces, areas, or runs for individual animals. Kennels may be indoor only, or indoor/outdoor, depending on the zoning district in which they are located; see Table 5.1-1. Ancillary services may include pet grooming.

(2) Veterinary Hospital/Office

An establishment for the care and treatment of animals that are admitted for daytime and/or overnight stay in order to obtain veterinary treatment for illnesses, diseases, or injuries. Such facilities may be indoor only, or may have both indoor and outdoor facilities, depending on the zoning district in which they are located; see Table 5.1-1.

(C) Assembly

Buildings, facilities owned or operated by associations, corporations, or other persons for social, educational, or recreational purposes primarily for members and their guests as well as out-patient rehabilitation and counseling services. Accessory uses may include offices, meeting areas, food preparation areas, concessions, parking, and maintenance facilities. Specific use types include, but are not limited to:

(1) Club, Lodge, or Hall

An organization and its premises catering exclusively to members and guests for social, intellectual, recreational, or athletic purposes not intended for profit.

(2) *Special Event Center*

A facility or building used by individuals or groups for the purpose of hosting private assemblies and/or functions such as parties, weddings, banquets, business conferences and other similar types of events. Such facilities may include an on-site kitchen and/or food preparation areas. Food and beverages may be served to event guests, but are not served to the general public. This use does not include facilities that are part of a club, lodge or hall use as defined in this Ordinance.

Special event centers may include outdoor space for tables and/or seating to accommodate event guests.

(D) *Financial Institution*

Establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. This classification includes those institutions engaged in the on-site circulation of cash money and check-cashing facilities. Accessory uses may include automatic teller machines, offices, and parking. Financial institutions may or may not have drive-through service depending on the zoning district in which they are located; see Table 5.1-1.

(1) *Bank, with Drive-Through Service*

A financial institution with a drive-through window that is open to the public and engaged in deposit banking, and that performs closely related functions, such as making loans, investments, and fiduciary activities.

(2) *Bank, without Drive-Through Service*

A financial institution without a drive-through window that is open to the public and engaged in deposit banking, and that performs closely related functions, such as making loans, investments, and fiduciary activities.

(E) *Reserved*

(F) *Food and Beverage Service*

Businesses serving prepared food or beverages for consumption on or off the premises. Accessory uses may include food preparation areas, offices, and parking.

(1) *Nightclub/Bar*

An establishment where alcoholic beverages are sold at retail for consumption on the premises and where minors are usually excluded and where dancing and musical entertainment may also be provided. This shall include taverns, lounges, eating establishments and private clubs where gross receipts from alcoholic beverages exceed gross receipts from food, but shall not include restaurants as defined by G.S. 18B-1000(6). Nightclubs/bars may be indoor only, or may also have outdoor operations, depending on the zoning district in which the use is located; see Table 5.1-1.

(2) Restaurant

A commercial establishment whose principal purpose is the preparation and sale of food and beverages in a state that is ready to eat, either on the premises or off the premises. Restaurants may be indoor only, or may also have outdoor operations, depending on the zoning district in which the use is located; see Table 5.1-1.

(G) Office

Office uses are characterized by activities generally focusing on business, professional, health care, insurance, or financial services. Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building. Specific use types include:

(1) Office, Business, or Professional

A use or building where business is conducted that does not primarily involve the sale or transfer of goods by the business to the customer at that location. This includes, but is not limited to, general business offices, health care offices, insurance offices, law offices, and real estate sales and management offices. (Government offices are classified under "Government Services," above.)

(2) Radio or TV Broadcasting Studio

A programming origination studio of a television station, radio station, or cable television provider.

(3) Wellness Center

An establishment containing customized health services that may include fitness, personal training and nutrition consulting, incorporating an individualized program with specific goals. Clients are generally under the supervision of licensed staff which may include health care providers, nutritionists, personal trainers, and practitioners of medical and other specialties such as chiropractic, acupuncture and biofeedback. Clients may be enrolled in an individualized nutritional and fitness program and may exercise independently or in small group settings. Amenities often include limited weights and cardio machines.

(H) Parking**(1) Parking Lot**

An off-street, surfaced, ground level area where motor vehicles are stored for temporary, daily, or overnight parking.

(2) Parking Structure

A structure or facility designed with one (1) or more levels or floors partially or fully enclosed and used exclusively for the parking or storage of motor vehicles. The facility may be above, below, or partially below ground. Includes parking garages and parking decks.

(I) Public Accommodation

For-profit facilities where lodging, meals, and the like are provided to transient visitors and guests for a defined period. Specific use types include:

(1) *Hotel or Motel*

A building or a group of buildings primarily containing guest rooms for sleeping purposes, but also including accessory dining areas, meeting rooms, and recreational facilities.

(2) *Hotel or Motel, Extended Stay*

A hotel or motel typically rented or hired out for periods of one (1) week or more that also provides kitchen facilities with refrigerators, stoves, and ovens for food preparation in individual rooms.

(J) Recreation/Entertainment, Indoor

Uses that provide primarily indoor recreation or entertainment activities but may include associated outdoor activities. Accessory uses may include concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to:

(1) *Amusement Establishment*

An establishment offering sports, game playing, or similar amusements to the public within a fully enclosed building. This shall include bowling alleys, billiard parlors, and skating rinks. This shall not include neighborhood recreation centers or such amusements that are accessory to churches, schools, or colleges.

(2) *Neighborhood Recreation Center (Indoor/Outdoor)*

A building, structure, or facility available for recreational clubs and activities. Such uses commonly include clubhouses, restaurants, tennis courts and swimming pools for members and guests only, and gymnasiums. Such uses may be either public or private, but typically are intended only for the residents and guests of a particular residential development or neighborhood.

(3) *Commercial Recreational Facilities (Indoor/Outdoor)*

A recreational facility operated as a business, and which is open to members of the general public for a fee and provides instructional classes and/or equipment and practice area for sports-related or physical fitness activities. Such uses generally include, but are not limited to: gyms, health clubs, courts, pools, and group instruction classes such as dance, yoga, and martial arts.

(4) *Pool or Billiard Hall*

A business establishment with more than two (2) pool or billiard tables for the use of patrons, and whose primary use is for billiards, not a nightclub/bar.

(5) Theater

An indoor or outdoor structure or establishment used for showing motion pictures or for dramatic, operatic, dance, musical, or other live performances. May include food and beverage sales and similar concessions. Theaters may be small (up to two hundred (200) seats) or large (two hundred one (201) seats or more).

(K) Recreation/Entertainment, Outdoor

Uses that provide primarily outdoor recreation or entertainment activities but may include associated indoor activities. Accessory uses may include concessions, snack bars, parking, and maintenance facilities. Specific use types include, but are not limited to:

(1) Athletic Field, Private

Privately owned land, often requiring equipment, designed for outdoor games and sports such as baseball, football, and soccer.

(2) Commercial Outdoor Recreation Facility

Includes intensely developed, for-profit recreational uses such as amusement parks, miniature golf courses, batting cages, skateboard or skate courses, bicycle motocross courses, go-cart tracks, water slides, drive-in movie theaters, and courses for paramilitary games.

(3) Golf Course, Privately-Owned

A tract of land laid out with a course having nine (9) or more holes for playing the game of golf, including any accessory clubhouse, driving range, office, restaurant, concession stand, picnic tables, pro shop, maintenance building, restroom facility, or similar accessory use or structure. This term shall not include miniature golf courses as a principal or accessory use, nor shall it include driving ranges that are not accessory to a golf course.

(4) Golf Driving Range

A sports facility equipped with tee areas, distance markers, and related features for practicing golf, and which may include a pro shop, snack bar, but excludes miniature golf courses.

(5) Motor Vehicle Raceway

A for-profit facility designed or operated for racing trucks, tractors, automobiles, motorcycles or any other motorized vehicle.

(6) Outdoor Amphitheater, Commercial

An outdoor, for-profit facility or structure with tiers of spectator seats around a stage, court, or field not constructed or operated in conjunction with a bar, nightclub, lounge, restaurant, school, college, university, or the Town.

(L) Retail Sales and Service

Retail sales firms are involved in the sale, lease or rent of new or used products, or the provision of certain services, to the general public. No outdoor display is permitted unless specifically authorized by this Ordinance. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging or repair of goods for on-site sale. Specific use types include, but are not limited to:

(1) ABC Store

A store, licensed by the North Carolina Alcoholic Beverage Control Commission, for the retail sale of alcoholic beverages.

(2) Convenience Store

A retail establishment with a floor area of less than five thousand (5,000) square feet, which sells a limited line of groceries and household items, gasoline, and/or beer and wine generally intended for the convenience of the neighborhood, but not including an automobile service station.

(3) Farm Market

An area that is used by one (1) or more operators of bona fide farms for the direct sale to consumers of agricultural products that are not grown or raised on the same premises as the market.

(4) Funeral Home

A building, or portion thereof, used for funeral services in preparation of the dead for burial. Such uses may include a chapel or gathering area, facilities needed for cremation, storage of required materials, vehicles, or supplies, but not for the interment of remains.

(5) Crematorium

An establishment for the burning of human or animal remains.

(6) Postal Center, Private

A business not operated by the US Postal Service that provides facilities for mailing packages and letters, receiving packages and letters in post office boxes, and similar activities.

(7) Personal Service Establishment

A business that provides individual services related to personal needs directly to customers at the site of the business, or that receives goods from or returns goods to the customer which have been treated or processed at that location or another location. This includes businesses such as travel agencies, dry-cleaners, laundries, tailors, hair and nail salons, massage business and spa services, cosmeticians, toning or tanning salons, photocopy centers, shoe repair shops, appliance repair shops, interior design studios, tutoring services, one-on-one fitness instruction and pet

grooming establishments. This shall not include automobile service stations, wellness centers, or Commercial Indoor/Outdoor Recreation uses.

(8) *Retail Store*

A commercial enterprise that provides goods, products, or materials directly to the consumer. This includes clothing stores, appliance stores, bakeries, food stores, grocers, caterers, pharmacies, bookstores, florists, furniture stores, hardware stores, pet stores, toy stores, and variety stores. It does not include restaurants, personal service establishments, convenience stores, or amusement establishments.

(9) *Adult Business*

Any business or enterprise that has as one (1) of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in G.S. 14-202.10. The term "Adult Business" does not include "Massage Business" as defined in LDO Section 12.4.

(10) *Shopping Center, General*

A building or group of buildings, with common parking, pedestrian circulation, ingress and egress, either freestanding or connected and under unified or multiple ownership of land parcels, which contains two (2) or more commercial or retail uses, one (1) or more of which is a primary or anchor retail tenant occupying a minimum of twenty-five thousand (25,000) square feet of floor area. No more than forty percent (40%) of the cumulative building square footage (existing and/or proposed) of the center shall be allocated for uses other than retail sales and services (12.3.4(L)) and/or Food and Beverage Services (12.3.4(F)).

(11) *Shopping Center, Small*

A building or group of buildings, with common parking, pedestrian circulation, ingress and egress, which are typically one (1) story tall and one (1) store deep, either freestanding or connected and under unified or multiple ownership of land parcels, which contains two (2) or more commercial or retail uses, with no individual use occupying more than twenty-five thousand (25,000) square feet of floor area. No more than forty percent (40%) of the cumulative building square footage (existing and/or proposed) of the center shall be allocated for uses other than retail sales and services (12.3.4(L)) and/or Food and Beverage Services (12.3.4(F)).

(12) *Trade School*

A school, other than a college, which provides specialized training and education beyond the high school level, principally in the business, commercial, or vocational arts, and does not provide lodging or dwelling units for students or faculty, and has programs which typically result in the awarding of a certificate.

(13) *Moped Sales/Rental*

A business establishment offering the sale and/or rental of mopeds as defined by G.S. 105-164.3.

(M) Vehicles and Equipment

Vehicle and Equipment facilities include a broad range of uses for the sale, rental, and/or maintenance of motor vehicles and related equipment. Large parking areas and outdoor storage areas may be included with these uses. Accessory uses may include incidental repair and storage, offices, and sales of parts and/or tires. Specific use types include:

(1) Motor Vehicle Sales/Rental

The storage, display, sale, lease or rental of motor vehicles as defined by G.S. 20-4.01, including automobiles, vans, and light trucks. Such businesses may also include sales and/or rental of mopeds. This shall not include salvage operation or scrap operations.

(2) Car Wash

A commercial establishment that washes, cleans, and/or waxes automobiles or other motor vehicles, whether or not in conjunction with other goods or services provided to customers.

(3) Heavy Equipment Sales/Rental

The storage, display, sale, lease or rental of vehicles or other apparatus commonly used in commercial, industrial, or construction enterprises, including trucks, trailers, bulldozers, cranes, backhoes, rollers, lifts, and loaders. This shall not include salvage operations or scrap operations.

(4) Towing/Storage Facility

A commercial establishment engaged in towing of vehicles or equipment from one (1) location to another. Such facilities may also include an indoor or outdoor storage component for such vehicles or equipment, but may not include junked, salvage or permanently inoperable vehicles or equipment.

(5) Vehicle Filling Station

A facility limited to retail sales of vehicle fuels, oils, and accessories where repair service, if any, is incidental to the activities on the site.

(6) Vehicle Repair, Heavy

The use of a site for the repair and maintenance of trucks, trailers, commercial and/or construction vehicles.

(7) Vehicle Service, Light

Any building, structure, or lot used for one or more of the following: (1) dispensing, selling, or offering for retail sale items such as gasoline, kerosene, lubricating oil, or grease for the operation and maintenance of automobiles, including the sale and installation of tires, batteries and other minor accessories and services for automobiles; or (2) the business of repairing automobiles. This shall not include car washes, the retreading and/or recapping of tires, or convenience stores which sell gasoline or lubricating oil, but not other automotive accessories or services.

(8) Private Transportation Service

A business that provides transportation services to move people from one (1) location to another location using passenger vehicles such as sedans, special utility vehicles, limousines, vans or buses. The business may include both an office component and a parking component, with the opportunity for the parking component to occur independently of the office component if certain conditions are met. This use does not include taxis or medical transportation vehicles.

(N) Electronic Gaming Operation

Any business or enterprise where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance or sweepstakes, and where cash, merchandise or anything else of value is redeemed or otherwise distributed or placed on an account or other record, 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, cybercafés, business centers, or by whatever other terminology such establishment might be known. Electronic gaming operation does not include any lottery approved by the State of North Carolina.

12.3.5 Industrial Uses**(A) Industrial Service**

Industrial Service firms are engaged in the repair or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking and storage. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop. Specific use types include:

(1) General Industrial Service

Manufacturing of finished parts or products, or storage and handling of such products and materials. Examples include, without limitation: welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage or wrecking of heavy machinery, metal, and building materials; building, heating, plumbing or electrical contractors with on-site storage; publishing and lithography; exterminators; janitorial and building maintenance services with on-site storage; fuel oil distributors; sawmills; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photo-finishing laboratories.

(2) Research Laboratory

A facility that is designed or equipped for basic or applied research or experimental study, testing, or analysis in the natural sciences or engineering, including any educational activities associated with and accessory to such research.

(B) Manufacturing and Production

This use category includes firms involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Custom industry is included (i.e., establishments primarily engaged in the on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets and caretaker's quarters. Specific use types include:

(1) *Manufacturing, Heavy*

The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, or that otherwise do not constitute "light manufacturing," or any use where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing exceeds twenty-five (25) percent of the floor area of all buildings on the lot. "Heavy manufacturing" shall include, but not be limited to, the following: enameling, lacquering, or the plating or galvanizing of metals; industrial chemical manufacture; mixing plants for concrete or paving materials, and manufacture of concrete products; pressure treating of wood; stonecutting. This shall not include resource extraction or recycling and salvage operations.

(2) *Manufacturing, Light*

The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing does not exceed twenty-five (25) percent of the floor area of all buildings on the lot. This shall not include uses that constitute "heavy manufacturing," resource extraction, or recycling and salvage operations.

(3) *Prototype Process and Production Plants*

A building or operation in which processes planned for use in production elsewhere can be tested, or in which goods are produced only in a quantity necessary for full investigation of the merits of a product, but not including the production of any goods on the premises primarily or customarily for sale or for use in production operations off the premises.

(4) *Resource Extraction*

Extraction of minerals, including solids like coal and other ores, including but not limited to quarrying, open-pit mining, drilling, tunneling, strip mining and any other such activities as defined in G.S. 74-49(7).

(5) ***Brewery***

A facility for the production of beer that may include a restaurant, tasting room, or retail space on the site.

(6) ***Distillery***

A facility for the distillation of spirituous liquor (as defined in G.S. ch. 18B) that may include a restaurant, tasting room, or retail space on the site.

(7) ***Winery***

A facility for the production of wine that may include a restaurant, tasting room, or retail space on the site.

(C) **Telecommunications Facilities**

Telecommunications facilities enable Federal Communications Commission licensed or authorized wireless communications between user equipment and a communications network. A telecommunications facility consists of a base station and accessory equipment, and the wireless support structure, if any, associated with the facility. Specific use types include:

(1) ***Concealed (Stealth) Telecommunications Facility***

Any antenna or wireless support structure that is camouflaged or concealed to look like something else (e.g., man-made trees, clock towers, bell steeples, light poles, water towers and similar alternative design) so that the purpose of the antenna or wireless support structure is not readily apparent to a casual observer.

(2) ***Non-Stealth Telecommunications Facility on Existing Building or Structure***

Any antennae or wireless support structure not defined in LDO Section 12.3.5(C)(1) that is mounted or attached to a structure.

(3) ***Freestanding Non-Stealth Wireless Support Structure***

Any non-stealth wireless support structure that is not mounted or attached to a building or structure.

(4) ***Collocation of Small Wireless Facility***

Any small wireless facility placed or installed on an existing structure capable of structurally supporting the attachment of wireless facilities in compliance with the North Carolina State Building Code or other applicable codes as defined in G.S. Chapter 160A, Article 3C.

(5) ***Utility Poles Associated with Small Wireless Facility***

Any utility pole upon which a small wireless facility is collocated.

(D) Warehouse and Freight Movement

Firms involved in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, and maintenance areas. Specific use types include:

(1) Mini-Storage

A building or group of buildings divided into separate spaces or compartments leased to individuals, organizations, or businesses on an individual basis for self-service storage of personal property. Also known as self-storage.

(2) Outdoor Storage

The keeping, in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. This shall not include the display of vehicles for sale in a new or used car sales lot.

(3) Railroad Stations and Yards

Heavy rail facilities for freight pick-up or distribution; may include intermodal distribution facilities for truck or shipping transport.

(4) Warehousing and Distribution Establishment

A use engaged in (1) the storage of goods, materials, vehicles, trailers, or boats, or (2) the distribution of goods and materials to another location for the purposes of resale or use at the place distributed to. At least fifty (50) percent of the gross floor area of the use shall be used for warehouse and distribution purposes. This shall include offices located on the same property in conjunction with such uses. This shall not include heavy manufacturing, resource extraction, scrap operations, or salvage operations.

(5) Wholesale Establishment

An establishment primarily engaged in the sale or distribution of goods and materials in large quantity to retailers or other businesses for resale to individual or business customers. This shall not include heavy manufacturing, resource extraction, scrap operations, or salvage operations.

(E) Waste-Related Uses

This category includes uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. Waste-Related uses also include uses that receive hazardous wastes from others. Accessory uses may include recycling of materials, offices, and repackaging and shipment of by-products. Specific use types include:

(1) *Recycling and Salvage Operation*

A facility, other than a recycling drop-off station, for the collection, handling, sorting, storage, processing, compaction, purchase, and/or resale of scrap or discarded material like paper, metal, rubber, plastic, glass, or cloth. The term includes facilities for separating trash and debris from recoverable materials such as paper products, glass, and metal cans which can be returned to a condition in which they may again be used for production.

(2) *Recycling Drop-Off Station*

A center or collection point with containers or facilities designed and intended for the depositing of clean, separated, and recyclable paper, cardboard, metal, glass, or plastic materials and the collection of such materials for processing at another location, but itself having no mechanical facilities for the processing of such materials.

(3) *Junkyard*

Any establishment or land used, in whole or in part, for commercial or industrial storage, dismantling, and/or sale of waste paper, rags, scrap metal, motor vehicles, machinery, tires, or other junk outside of an enclosed building. This shall not include a landfill, solid waste transfer facility, other public utility facility, or a recycling and salvage operation.

(4) *Landfill*

A facility for the disposal of solid waste in a sanitary manner in accordance with G.S. Chapter 130A Article 9. For the purpose of this Ordinance, this term does not include composting facilities.

(Ord. No. 04-001, 1-8-04; Ord. No. 04-007, 7-15-04; Ord. No. 05-001, 1-13-05; Ord. No. 2007-04, 3-22-07; Ord. No. 2008-LDO-01, 9-25-08; Ord. No. 2010-LDO-01, 1-14-10; Ord. No. 2010-LDO-02, 1-28-10; Ord. No. 2010-LDO-03, 2-25-10; Ord. No. 2010-LDO-05, 12-16-10; Ord. No. 2011-LDO-01, 1-11-11; Ord. No. 2011-LDO-05, 12-15-11; Ord. No. 12-LDO-01, 2-23-12; Ord. No. 2012-LDO-04, 5-24-12; Ord. No. 2012-LDO-08, 10-11-12; Ord. No. 2013-LDO-02, passed 6-13-13; Ord. No. 2013-LDO-04, 9-26-13; Ord. No. 2014-LDO-01, 1-9-14; Ord. No. 2015-LDO-001, 4-21-15; Ord. No. 2016-LDO-01, 7-25-16; Ord. No. 2017-ACT-01, 10-26-17; Ord. No. 2017-ACT-02, 12-14-17; Ord. No. 2018-LDO-01, 5-3-18; Ord. No. 2021-LDO-01, 6-24-21; Ord. No. 2022-LDO-02, 4-28-22; Ord. No. 2025-CODE-01, 4-10-25)

12.4 OTHER KEY TERMS DEFINED

When used in this Ordinance, the following words and terms shall have the meaning set forth in this section, unless other provisions of this Ordinance specifically indicate otherwise.

ACCELERATED EROSION

Any increase over the rate of natural erosion resulting from land-disturbing activities.

ACCESSORY USE

A use that is on the same lot as, and of a nature customarily incidental and subordinate to the principal use, structure, or building on the property.

ACTIVE CONSTRUCTION

On-site activities such as installation, erection, fabrication, alteration, demolition or removal of structures, facilities, or additions that contribute directly to the completion of improvements contemplated or shown on construction plans.

ADDITION (to an existing building)

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

ADJACENT

Lying near or close to; sometimes, contiguous; neighboring. Adjacent implies that the two (2) objects are not widely separated, though they may not actually touch.

ADMINISTRATIVE DECISION

Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Ordinance. These are sometimes referred to as ministerial decisions or administrative determinations.

AESTHETIC NUISANCE

A junked motor vehicle on private or public property that has been determined to be so offensive to the sight as to damage the community, neighborhood or area appearance. Aesthetic benefits must outweigh the burdens imposed on the private property owner. Other factors include the protection of property values, promotion of tourism, indirect protection of health and safety, community preservation, or promotion of the comfort, happiness and stability of area residents.

AFFORESTATION

The conversion of land lacking trees into forest land.

AGRICULTURAL PRODUCTS

Products obtained primarily through farming or agricultural activities, including, but not necessarily limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, firewood, and pine straw; bees and beekeeping products; seafood; and dairy products. For the purposes of this section, processed or prepared food products of any kind shall not be considered as agricultural products.

ALLEYS

Provide utility and vehicular access to developments as an alternative to local streets. They are narrower than local streets, provide access to the rear of a property, and are generally associated with residential areas.

AGRI-TOURISM

The act of visiting a working farm or any agricultural, horticultural or agri-business operation for the purpose of enjoyment, education or active involvement in the activities of the farm or operation.

ALTERATION OF A WATERCOURSE

A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ANTENNA

Any structure or device used to collect, receive, transmit, or radiate radio or electromagnetic waves, including but not limited to both directional antennas (such as panels, microwave dishes, satellite earth station antennas over two (2) meters in diameter) and omni-directional antennas (such as whips).

APARTMENT

One (1) or more rooms with a private bath and kitchen facilities comprising an independent dwelling unit which is not located upon its own piece of property.

APPROVED ACCOUNTING TOOL

The most recent version of the accounting tool for calculating nutrient loading and reduction approved by the North Carolina Division of Energy, Mineral, and Land Resources for the relevant geography and development type under review.

ARCADE

A walkway or passageway adjacent to a building that is covered by a roof but open to the outside air.

AREA OF SHALLOW FLOODING

An "AO" or "AH" zone designated on a Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD

The land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year. See "Special Flood Hazard Area (SFHA)"

ARTIFICIAL OBSTRUCTION

Any obstruction to the flow of water in a stream that is not a natural obstruction, including any that, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of the stream.

ASSISTED LIVING

A living arrangement where the elderly or other persons are provided assistance with daily activities such as dressing, grooming, and bathing.

ATTENTION-ATTRACTING DEVICE

Any device or object visible from any public right-of-way that is primarily designed to attract the attention of the public to a business, institution, sign or activity through such means, including but not limited to illumination, color, size, or location. Attention-attracting devices or objects oftentimes incorporate illumination, which may be stationary, moving, turning, blinking (including animation), flashing or laser. Attention-attracting devices may or may not convey a message and can include, but are not limited to, search lights, beacons, strobe lights, strings of lights, barber poles, internally illuminated translucent canopies or panels, electronically controlled message boards (time/temperature signs, gas price signs, public service announcements, etc.) banners, streamers, pennants, propellers and inflatable objects (including strings of balloons) or other device designed to attract attention. Any sign, which emits a sound, odor, or visible matter, is considered an attention-attracting device. Approved traffic-control devices are not considered to be attention-attracting devices.

AWNING

Any non-rigid material, such as fabric or flexible plastic, which extends from the exterior wall of a building and is supported by or attached to a frame.

BANNER

Any sign, except an awning sign, applied to or made of cloth, paper, fabric, flexible plastic or other fabric-like material that only uses such non-rigid material for backing or background.

BASE FLOOD

The flood having a one percent (1%) chance of being equaled or exceeded in any given year based on current conditions hydrology. Also known as the "100-year flood."

BASE FLOOD ELEVATION (BFE)

A determination of the water surface elevations of the base flood based on current conditions hydrology as published in the Flood Insurance Study. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Regulatory Flood Protection Elevation in Special Flood Hazard Areas.

BASEMENT

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

BEDROOM

A room designated as a sleeping or bedroom on the plan and permit application.

BERM

Any elongated earthen mound designed or constructed on a site to separate, screen or buffer adjacent land uses.

BEST MANAGEMENT PRACTICES (BMP)

Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

BILLBOARD

Any outdoor advertising sign erected and maintained by an advertising business or service, upon which advertising matter may be displayed and that generally advertises firms and organizations that, along with their goods and services, are not located on the same premises as the sign; and whose surface is sold, rented or leased for display of advertising material.

BONA FIDE FARM

A parcel of land used for agricultural activities as set forth in G.S. 160D-903.

BORROW MATERIAL

Fill material required for on-site construction that is obtained from other locations.

BREAKAWAY WALL

Any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material, which is not part of the structural support of a building and which is designed to break away during floods without damage to the structural integrity of the building on which it is used or any buildings to which they might be carried by flood waters.

BUFFER, INTERIOR

Buffers required within the interior of the overall development (for example, buffers along property lines of an outparcel interior to a shopping center).

BUFFER, PERIMETER

A unit of land and any plants and structures (i.e., walls, fences) thereon which is used to separate land uses from each other as required by this Ordinance, including but not limited to the Type A Opaque, Type B Semi-Opaque, and Type C Aesthetic described in Section 7.2.3. These buffers are typically undisturbed buffers; however, they may be supplemented to meet the performance objectives of each buffer type.

BUFFER, STREAM

The area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants (see Section 7.3). The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams, rivers, or lakes.

BUFFER, UNDISTURBED

A unit of land containing existing healthy vegetation that shall be left in its natural state excluding noxious weeds and plants. Such buffer shall not be graded, nor shall any development occur within such buffer unless otherwise allowed in this Ordinance.

BUILDING

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

BUILDING, ACCESSORY

A building or structure that is on the same lot as, and of a nature customarily incidental and subordinate to, another building or structure, and the use of which is clearly incidental and subordinate to that of the other building or structure.

BUILDING, EXISTING

For purposes of Sections 3.12 and 14.7 only, any building for which the "start of construction" commenced before May 10, 2001, the initial effective date of the floodplain management regulations adopted by Cary.

BUILDING, PRINCIPAL

A building in which is conducted the principal use of the lot on which it is situated. A multi-occupant property may have more than one principal building, but only structures regularly used for human occupancy may be considered principal buildings. Not an accessory building.

BUILDING FOOTPRINT

The outline of the total area of a lot or site that is surrounded by the exterior walls of a building or portion of a building, exclusive of courtyards. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the roof.

BUILDING PERMIT

An official document issued by Cary pursuant to this Ordinance and the State building code authorizing the erection, construction, reconstruction, restoration, alteration, enlargement, conversion, remodeling, demolition, moving, or repair of a building or structure.

BUILDING SETBACK LINE

A line establishing the minimum allowable distance between the nearest portion of any building and a property line, measured perpendicularly between the building and the property line.

BUILDING WALL

An exterior load-bearing or non-load-bearing vertical structure, which encompasses the area between the final grade elevation and the eaves of the building, and used to enclose the space within the building. A porch, balcony, or stoop is part of the building structure and may be considered as a building wall.

BUILT-UPON AREA

See "Impervious Surface Area".

CALIPER

A horticultural method of measuring the diameter of a tree trunk for the purpose of size grading. The caliper of the trunk is measured six (6) inches above the ground for trees up to and including four (4) inches in diameter, twelve (12) inches above the ground for trees greater than four (4) inches up to twelve (12) inches in diameter, and at breast height (four and one-half (4.5) feet) for trees greater than twelve (12) inches in diameter. The following measurements of caliper may be used when appropriate: vertically growing tree on a slope - measure diameter four and one-half (4.5) feet from the ground on the upper side of the slope; tree leans - measure four and one-half (4.5) feet up the stem in the direction of the lean; tree forks below DBH - measure at the narrowest part of the main stem below the fork (if the circumference measurement below the lowest fork places the measurement on the ground, the trees shall be considered separately).

CANOPY

A roof structure constructed of rigid materials, including but not limited to, metal, wood, concrete, plastic, canvas or glass, which is attached to and supported by a building, or which is freestanding and supported by columns, poles, or braces extended to the ground. Unlike a marquee, a canopy generally has very limited vertical surface area; and unlike an awning, a canopy is generally supported by vertical elements rising from the ground at two (2) or more corners.

CERTIFICATE OF EROSION CONTROL COMPLIANCE

A certificate issued by the Stormwater Manager following inspection of sedimentation and erosion control measures installed at a construction site following issuance of a grading permit.

CHAMPION TREE

Any single tree other than a sweet gum that measures: (a) forty (40) caliper inches or greater for pines; (b) thirty-two (32) caliper inches or greater for all upper story trees other than pines; or twelve (12) caliper inches or greater for dogwood, horticultural cherry, redbud, silverbell, and serviceberry. A tree that meets the indicated size above but is dead or dying from a disease, or has an abnormal form that is not characteristic of its species (for example the habit is one-sided, or the crown is significantly misshapen or missing) as determined by a certified arborist, shall not be considered to be a Champion Tree.

CHEMICAL STORAGE FACILITY

A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

CHICKEN COOP

An enclosed structure for housing or sheltering chickens which contains nesting boxes for the chickens to sit in while laying their eggs as well as perches for the chickens to use while sleeping. Sometimes called a "henhouse."

CHICKEN PEN

An open-air, outdoor area connected to or surrounding the coop which is surrounded with wire or mesh screening to cage and protect chickens from predators as they range outside the coop.

CHICKEN TRACTOR

A small, movable chicken coop used to allow chickens to forage on fresh grass daily.

CLEAN WATER ACT

The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CLUSTER DEVELOPMENT

A development technique that concentrates or groups buildings in specific areas on a development site to conserve land resources and provide for innovation in the design of the project.

COMMERCIAL MESSAGE

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

COMMISSARY

A permitted food establishment where a food truck returns daily for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and loading of food ingredients or prepared food.

COMPATIBLE

A term used to describe how the visual aspects of a structure (including signage) are similar to or consistent with the other structures on the same parcel, site, or in the immediate vicinity. Visual aspects include, but are not limited to: color, texture, materials, scale, size, form and aspect.

COMPREHENSIVE TRANSPORTATION PLAN

The official plan, as adopted by the Town of Cary, which identifies major road, pedestrian, bicycle, and transit improvements necessary to serve projected growth. The Town's Comprehensive Transportation Plan consists of Chapter 7, "Move," and its associated appendices from the Cary Community Plan, together with the 2012 Greenways Master Plan Map and Chapter 6, "Greenways & Trails," from the 2012 Parks, Recreation and Cultural Resources Master Plan and any associated appendices and updates.

CONDOMINIUM

A development containing individually owned dwelling units and jointly owned and shared areas and facilities that is subject to the North Carolina Unit Ownership Act (G.S. Ch. 47A) and/or the North Carolina Condominium Act (G.S. Ch. 47C).

CONSERVATION EASEMENT

The voluntary granting of a right or interest in real property by a property's owner which stipulates that the described land will remain in its natural state, and which precludes any future or additional development on a parcel or portion of a parcel.

CONSTRUCTION

Any act or process that requires a building permit for on-site fabrication, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or any part thereof, which provides, adds to, repairs, or increases the floor area of a residential or non-residential use.

CONSTRUCTION ACTIVITY (for purposes of NPDES PhII Permit)

Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

CONSTRUCTION DRAWINGS

A set of drawings that depict design and implementation of improvements required for development plans under this Ordinance.

CONTIGUOUS

Next to, abutting directly, adjoining, or touching and having a common boundary or portion on the boundary of, or separated by a street, railroad, public utility right-of-way, or body of water.

CONTROLLED-ACCESS HIGHWAY

A roadway which, in accordance with State and Federal guidelines, is designed to give preference to through traffic by providing access connections at interchanges or selected public roads only, with no

direct access from private roads or driveways and with no crossings at grade, including any interstate, State, U.S. Route.

COPING

The finished edge of a roof.

COSMETIC AMENDMENT TO THE COMPREHENSIVE PLAN

A cosmetic amendment to the Comprehensive Plan is an amendment that affects the appearance, style, wording, or presentation of the Plan, but that does not alter its meaning, interpretation, or recommendations. Examples of cosmetic amendments include, but are not limited to: revising map or document style, format, or layout to enhance clarity; revising map or text content to accurately reflect additions to Town facilities or revisions to adjoining jurisdictions' adopted plans; adding explanatory text or labels; and correcting spelling or grammar. All other amendments to the Comprehensive Plan shall be considered substantive.

CRITICAL ROOT ZONE

An underground circular area extending from the base of a tree's trunk a distance of at least one and one-quarter (1.25) feet from the tree for each inch of caliper.

CUL-DE-SAC

A local street in which accessibility is limited to only one (1) means of ingress and egress and with a vehicular turnaround at the end.

CURRENT CONDITIONS HYDROLOGY

The flood discharges associated with the land-use conditions existing within the drainage area of a watercourse at the time a flood study of the watercourse was conducted. Current conditions flood discharges and historical flood study information are published in the Flood Insurance Study.

DEAD END STREET

A street in which accessibility is limited to only one (1) means of ingress and egress.

DECK

A structure without a roof, either freestanding or attached to a building, which is supported by posts or pillars.

DENSITY, GROSS

The total number of dwelling units theoretically allowed on a particular parcel based upon its size and zoning designation while not taking into account the portions of unbuildable land.

DENSITY, NET

The total number of dwelling units on a particular tract or parcel of land, not taking into account portions of the tract or parcel which contain rights-of-way for collector or larger streets, Flood Hazard Area, lakes, other water bodies, or wetlands falling under the regulatory jurisdiction of the U.S. Army Corps of Engineers.

DESIGN FLOOD

See “Regulatory Flood Protection Elevation.”

DETACHED

Not physically connected to another building or structure.

DETENTION

The temporary, on-site restraining of stormwater.

DETENTION FACILITY

A natural or artificial facility that provides temporary storage of excess stormwater runoff for the purpose of releasing it at a controlled rate. A detention facility normally drains completely between storm events. May also be known as a detention basin.

DETERMINATION

A written, final, and binding order, requirement, or determination regarding an administrative decision.

DEVELOPER

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

DEVELOPMENT

Any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land. This definition does not alter the scope of regulatory authority granted by G.S. Chapter 160D.

DEVELOPMENT, EXISTING

For the purposes of Sections 4.4.6 and 7.3 only, existing development includes those projects meeting at least one (1) of the following criteria:

- Development having a common law vested right, which is a substantial expenditure of resources (e.g., time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;
- Having a current building permit issued by the Town;

- Having an approved development plan issued by the Town as authorized by the G.S. 160D-108; 108.1; or
- In Watershed Protection Overlay district only, conforming single-unit lots of record that received final plat approval before July 1, 1993.
- Development in the Neuse River Basin prior to March 1, 2001.

DEVELOPMENT ACTIVITY

For purposes of Sections 3.12 and 14.7 only, any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

DEVELOPMENT AGREEMENT

A contract or legally-binding arrangement between one (1) or more private entities and the Town which specifies the rights and obligations of all parties with respect to a single development, project, or proposal.

DEVELOPMENT APPROVAL

An administrative or quasi-judicial approval made pursuant to G.S. 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, development plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to G.S. 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.

DEVELOPMENT PLAN

A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The development plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the development plan review. "Development Plan" is synonymous with "site plan" as defined in G.S. 160D-102. Unless the context clearly indicates otherwise, any reference to a "site plan" or "subdivision plan" in this Ordinance is a reference to a development plan.

DEVELOPMENT REGULATION

A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other Town regulation, act or charter that regulates land use or development.

DIAMETER AT BREAST HEIGHT (DBH)

The measurement of the diameter of a tree trunk taken at a height of four and one-half (4.5) feet above the ground.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)

The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

DIRECTOR OF PARKS, RECREATION, AND CULTURAL RESOURCES

The Director of the Town of Cary Department of Parks, Recreation, and Cultural Resources.

DISPOSAL

As defined in G.S. 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

DRIVE AISLE

An area in a parking lot in between parking spaces so that vehicles can drive into and out of the spaces.

DRIVE-THROUGH FACILITY

A business or facility which is designed or intended to enable a customer to transact business without exiting a motor vehicle parked on or moving through the premises.

DWELLING

Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

DWELLING UNIT

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

EASEMENT

A grant by a property owner to the public, a corporation, or other person or persons of the right to use an identifiable piece of land for specified purposes, such as for access or utilities.

ELECTRONIC GAMING MACHINE

An electronic machine, including but not limited to computers and gaming terminals, used to conduct games of chance or sweepstakes in which cash, merchandise or anything else of value is redeemed or otherwise distributed or placed on an account or other record, whether or not the value of such distribution is determined by electronic games played or by predetermined odds.

ELEVATED BUILDING

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

ENCROACHMENT

The projection or intrusion of a building, structure, or other land-disturbing activity into an area where such projections are typically prohibited.

ENCROACHMENT (for the purposes of floodplain management)

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

ENERGY DISSIPATOR

A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow of water.

ENFORCEMENT OFFICIAL

A person charged by the Town Manager or Manager's designee with enforcement of the provisions of this Ordinance. May also be referred to as a Zoning Compliance Officer.

ENGINEER

A professional engineer registered by the State of North Carolina.

ENGINEERED STORMWATER CONTROL MEASURE

A physical device designed to trap, settle out, filter, or otherwise remove pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Engineered stormwater control measures include physical practices such as constructed wetlands, vegetative practices, vegetated conveyances, filter strips, grassed swales, and other methods installed or created on real property. "Engineered stormwater control measure" is synonymous with "structural practice," "Primary SCM", "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measure," "structural stormwater treatment system," and similar terms used in this ordinance. It is a broad term that may include practices that do not require design by a professionally licensed engineer.

EROSION

The wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

EROSION CONTROL MEASURE, STRUCTURE, OR DEVICE

A measure, structure, or device that controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

EVIDENTIARY HEARING

A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this Ordinance.

EXTRATERRITORIAL JURISDICTION

The area adjacent to and beyond the municipal limits of the Town over which Cary has been granted an exercise of municipal governmental powers, including but not limited to the power to regulate development, in accordance with G.S. 160D-202.

FARM MARKET

An area that is used by one (1) or more operators of bona fide farms for the sale of agricultural products not grown on the same premises as the market.

FENCE

A structure used to delineate a boundary or act as a barrier or means of protection, confinement, or screening.

FENESTRATION

Architectural treatment over, around, or near a window, door, or other feature of relief on the elevation of a building.

FLAG

Any fabric or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision, corporation, lodge, fraternity or sorority, political party, nonprofit organization, charity, club, association or other entity.

FLAG LOT

An irregularly shaped lot in which the buildable section is connected with an arm that fronts a street and the width of the arm does not meet the minimum lot width standards in the zoning district in which it is located.

FLOOD OR FLOODING

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or 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 FEMA, 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 FRINGE

That part of an area of special flood hazard that is not located in the floodway.

FLOOD HAZARD AREA

The flood hazard area is comprised of the special flood hazard area and the future conditions flood hazard area.

FLOOD HAZARD BOUNDARY MAP (FHBM)

An official map of a community, issued by the Federal Emergency Management Agency (FEMA), where the boundaries of the areas of special flood hazard have been designated as zone "A."

FLOOD INSURANCE

The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM)

The most recent officially adopted map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas, the future conditions flood hazard areas, and the risk premium zones applicable to the community are delineated. (see also DFIRM)

FLOOD INSURANCE STUDY

The most recent officially adopted report, provided by the Federal Emergency Management Agency, which contains an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

FLOODPLAIN

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

FLOODPLAIN ADMINISTRATOR

The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT

Any type of permit that is required in conformance with the provisions of the floodplain management regulations of this ordinance, prior to the commencement of any development activity.

FLOODPLAIN MANAGEMENT

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

FLOODPLAIN MANAGEMENT REGULATIONS

This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which 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.

FLOODPLAIN, ONE PERCENT (1%) ANNUAL CHANCE OR BASE FLOODPLAIN

The special flood hazard area.

FLOODPROOFING

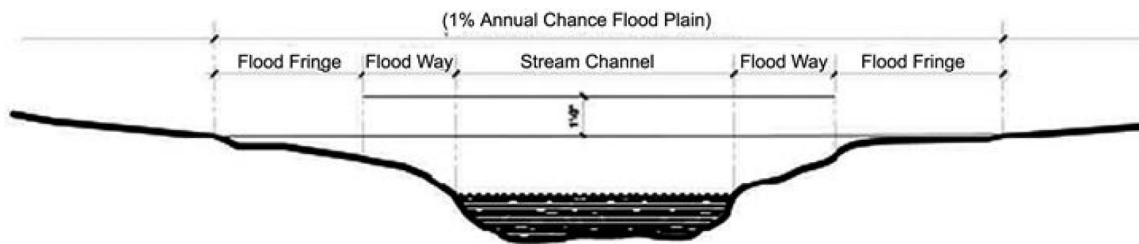
Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

FLOOD-RESISTANT MATERIAL

Any building product [material, component, or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are flood resistant flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not flood-resistant. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

FLOODWAY

The channel of a river, stream, or other watercourse including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one (1) foot.

**FLOODWAY ENCROACHMENT ANALYSIS**

An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

FLOOD ZONE

A geographical area shown on a Flood Hazard Boundary Map, Flood Insurance Rate Map, or Digital Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

FLOOR AREA

The gross total horizontal area of all floors including:

- (a) usable basements and cellars;
- (b) the portion of attics accessible by fixed stairs where the distance between floor and ceiling is at least five (5) feet; and

- (c) below the roof and within the outer surface of the main walls of principal or accessory buildings, or the centerlines of a party wall separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roofline of any building or portions thereof without walls.

In the case of non-residential facilities, floor area calculations shall not include arcades, porticos, and similar areas open to the outside air which are accessible to the general public and which are not designed or used as areas for sales, display, storage, service, or production.

FLOOR AREA RATIO (FAR)

The ratio of the gross floor area on a lot to the area of such lot.

FOOD TRUCK

A specialized unit mounted on, or pulled by, a self-propelled vehicle where food or beverage, including prepackaged food, is prepared, cooked, served, or dispensed, for individual portion service. Such vehicle is self-contained with its own drinking water tank and waste water tank; is designed to be readily movable; is located on an allowed site for more than thirty (30) minutes; and is moved daily to return to its commissary. May also be referred to as a "mobile food vending unit." This definition shall include a mobile farmers market for the sale of locally grown fresh produce which is in its original form and not altered or processed. This definition shall not include mobile canteen, coffee, or ice cream trucks that move from place to place and remain stationary in the same location for no more than thirty (30) minutes at a time, or food vending push carts that are allowed at the front of retail establishments in accordance with Section 5.4.6(C).

FOOT-CANDLES

The amount of light that falls onto a surface.

FOOT-CANDLES, AVERAGE

The average of a number of points of foot-candle calculations or foot-candle readings in a given area.

FOOT-CANDLES, INITIAL

Foot-candles that are calculated with no adjustment for dirt build-up in the fixture of lamp lumen depreciation. Initial foot-candles should be measured when a lighting system is new and after one hundred (100) hours of lamp burn-in time.

FOOT-CANDLES, MAINTAINED

Foot-candles that are calculated with an adjustment for a maintenance factor to include dirt build-up in the luminaire (fixture) and lamp lumen depreciation. The system is in effect over designed initially and then over time allowed to reach a maintained foot-candle level.

FOR GOOD CAUSE SHOWN

For the purposes of considering a request for an extension of time to perform a certain action or requirement, the phrase "for good cause shown" shall generally refer to situations or circumstances in which the time to perform the act has not expired and in which the entity seeking the extension does not have direct and/or complete control of a related aspect of the project that is essential, and contributes, to performance of the particular action or requirement that is the subject of such request. Examples of such situations shall include, but are not limited to:

- Appeal of an approval, permit or other similar decisions brought about by an entity other than the applicant and filed in accordance with all applicable procedures and requirements; and
- Inaction or delay by another governmental agency or approval authority with respect to the review/approval of a related or component aspect of the project.

For the purposes of considering a request to waive the minimum required waiting period for submitting subsequent application for a property following certain actions (as further described in this Ordinance) on the initial request, the phrase "for good cause shown" shall generally refer to situations or circumstances in which there has been substantial/significant change to one or more aspects of the project at the time of initial application or request.

FOREST OR FOREST STAND

Areas or stands of trees, the majority of which are greater than ten (10) inches caliper, covering an area greater than one-quarter (0.25) acre; or groves of mature trees without regard to minimum area consisting of substantial numbers of individual specimens (Substantial numbers represents more of a visual impression as opposed to a specific number).

FOUNDATION PLANTINGS

Vegetative material typically consisting of shrubs and/or ground cover which is planted proximate to the exterior wall or walls of a structure.

FREEBOARD

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

FUTURE CONDITIONS FLOOD

The flood having a one percent (1%) chance of being equaled or exceeded in any given year based on future conditions hydrology.

FUTURE CONDITIONS FLOOD ELEVATION

A determination of the water surface elevations of the one percent (1%) annual chance flood based on future conditions hydrology as published in the Flood Insurance Study. This elevation, when combined with the freeboard, establishes the Regulatory Flood Protection Elevation in Future Conditions Flood Hazard Areas.

FUTURE CONDITIONS FLOOD HAZARD AREA

The land area that would be inundated by the one percent (1%) annual chance flood based on future conditions hydrology.

FUTURE CONDITIONS HYDROLOGY

The flood discharges associated with projected land-use conditions based on Cary's comprehensive land-use plans and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway such as bridge and culvert construction, fill, and excavation. Future conditions flood discharges are published in the Flood Insurance Study.

GLARE

The reflection or harsh, bright light and the physical effect resulting from high luminances or insufficiently shielded light sources to cause annoyance, discomfort, or loss in visual performance and visibility.

GREENWAY

A linear open space, either privately-owned or owned by the Town or another unit of government, which contains trails for activities such as walking, bicycling, or horseback riding, or provides areas for passive recreation, but not for use by vehicles for purposes other than maintenance.

GREENWAY EASEMENT

A permanent easement dedicated to the Town for the purpose of providing public greenway access at a greenway access location. The greenway easement provides public access to the greenway access location; and allows construction, installation, operation, and maintenance of greenway amenities by the Town.

GROUND COVER

Any natural vegetative growth or other material that renders the soil surface stable against accelerated erosion.

HAZARDOUS MATERIAL

Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or the environment. Such materials are listed SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

HAZARDOUS WASTE FACILITY

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

HEALTH CARE OFFICE

Offices and laboratory facilities for the use of physicians, health care providers, and other support personnel. Such use typically involves the dispensing of medical or health-related advice and prescriptions and performance of minor medical procedures.

HIGH DENSITY DEVELOPMENT

For purposes of the Watershed Protection Overlay district, development that contains an amount of impervious surface area that requires engineered stormwater control measures.

HIGHEST ADJACENT GRADE (HAG)

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

HISTORIC BUILDING OR STRUCTURE

Any building or structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or (d) certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program". Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980. For purposes related to Session Law 2007-66, historic building or structure also includes those individually listed on the North Carolina inventory of historic places or individually listed on a Wake County, Cary or other local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of Interior.

HOLIDAY DECORATIONS

Displays erected on a seasonal basis in observance of religious, national, or state holidays which are not intended to be permanent in nature and which contain no advertising material.

HOME OCCUPATION

An occupation or profession that involves the rendering of a service in exchange for monetary fees or other remuneration or administrative support for a business where services are rendered off-site, is conducted wholly within a dwelling unit, does not change the character of the dwelling unit, and is limited in extent and clearly incidental and secondary to the use of the dwelling unit for residential purposes. Home occupation businesses do not exchange goods or products on site though services may be delivered on site.

ILLEGAL DISCHARGE

Any direct or indirect non-storm water discharge to the storm drain system.

ILLICIT CONNECTION

An illicit connection is defined as either of the following:

- (a) Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that

allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

- (b) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

IMPERVIOUS SURFACE AREA

Any hard-surfaced, man-made area that allows little or no infiltration of precipitation into the soil. Impervious surface areas include that portion of a development project that is covered by buildings; areas paved with concrete, asphalt or brick; gravel road; recreation facilities such as tennis courts; patios, driveways, and streets. "Impervious surface area" does not include slatted decks; the water surface area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle.

IMPROVEMENT

Any building, structure, bridge, work of art, area, parking facility, public facility, fence, gate, wall, landscaping, or other object, or any part thereof, constituting physical addition to real property.

INACTIVE APPLICATION

Any application for an entitlement, procedure, or approval outlined in Chapter 3 of this Ordinance which has not been withdrawn, approved, or tabled; and which has not maintained the associated review schedule and/or which lacks any written correspondence between the applicant and the Town for a period of ninety (90) days or more.

INDEPENDENT LIVING UNIT

A dwelling unit that is part of a life care community that includes complete facilities for independent living, including cooking and sanitary facilities. The occupants are presumed to be able to function independently of the support facilities of the life care community.

INDUSTRIAL DEVELOPMENT

For the purposes of stormwater management, any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

INDUSTRIAL DISCHARGE

The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

Wastewater resulting from any process of industry or manufacture, or from development of any natural resource;

Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;

Stormwater will not be considered to be industrial wastewater unless it is contaminated with industrial wastewater; or

Wastewater discharged from a municipal wastewater treatment plant requiring a pre-treatment program.

INOPERABLE VEHICLE

Any motorized vehicle incapable of immediately being driven and not properly licensed or inspected for safety in accordance with state law.

INSTITUTIONAL USE

For the purpose of determining allowable signage, a school, religious institution, or other use operated by a public agency or non-profit organization and permitted as a use in one (1) or more residential zoning districts in the Town. A day-care facility shall be considered an institution regardless of ownership or operation.

INTERSTATE HIGHWAY

A controlled access highway that is part of the federal interstate highway system.

JUNKED MOTOR VEHICLE

A motor vehicle that does not display a current license plate lawfully upon the vehicle and: is partially dismantled or wrecked; or cannot be self-propelled or moved in the manner in which it was originally intended to move; or is more than (5) five years old and appears to be worth less than one hundred dollars (\$100).

LAKE OR NATURAL WATERCOURSE

Any stream, river, swamp, canal, or other waterway, and any reservoir, lake, or pond, natural or impounded.

LAND-DISTURBING ACTIVITY

Any use of the land by any person for residential, industrial, educational, institutional, or commercial development, or for highway and road construction and maintenance, that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Within watershed management areas, land-disturbing activity shall include the clear cutting of trees unless specifically exempted by this Ordinance.

LANDOWNER

The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

LANDSCAPED AREA

A portion of a site or property containing vegetation to exist after construction is completed. Landscaped areas primarily include natural areas, buffers, streetscapes, lawns, and plantings; but may also include organic and inorganic mulch, decorative planters, irrigation systems, and elements of ornamentation such as lamps, sculptures, and the like.

LEGISLATIVE HEARING

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

LETTER OF MAP CHANGE (LOMC)

An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. LOMC include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

LIGHT, CUTOFF

An artificial outdoor lighting fixture designed to ensure that no light is directly emitted above a horizontal line parallel to the ground.

LIGHT, NONCUTOFF

An artificial outdoor lighting fixture designed to allow light to be directly emitted above a horizontal line parallel to the ground.

LOAD

Means the mass quantity of a nutrient or pollutant released into surface waters over a given time period. Load in this ordinance refers to pounds of nitrogen or phosphorus per year.

LOADING RATE

Means the mass quantity of a nutrient or pollutant released from a given area into surface waters over a given time period. Loading rate in this ordinance refers to pounds of nitrogen or phosphorus per acre per year.

LOCAL STREETS

Provide the highest degree of access and the least mobility. They are generally associated with residential areas and permit direct access to abutting land (examples include cul-de-sacs, loop streets, residential local streets, non-residential local streets).

LOGO

The graphic or pictorial presentation of a message, including, but not limited to, the use of shapes, designs, decorations, emblems, trademarks, symbols, or illustrations, or the superimposition of letters or numbers or any other use of graphics or images other than the sequential use of letters and numbers.

LOT

A portion of a subdivision established by some legal instrument, such as a recorded deed or plat, and which is recognized as a separate legal entity for purposes of transferring title.

LOT, CORNER

A lot located at the intersection and abutting two (2) or more streets.

LOT, NONCONFORMING

A lot that met all legal requirements when it was platted or otherwise recorded but which does not comply with the minimum lot area or minimum lot width requirements of this Ordinance, or a subsequent amendment hereto, for the zoning district in which it is located.

LOT OF RECORD

A lot that is recorded by the county register of deeds.

LOW DENSITY DEVELOPMENT

For purposes of the Watershed Protection Overlay district, development that contains less than the amount of impervious surface area that is allowed without the requirement for engineered stormwater control measures.

LOWEST ADJACENT GRADE (LAG)

The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR

The lowest floor of the lowest enclosed (including the basement). An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a structure'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.

MAJOR TRANSIT TRIP GENERATORS

Sites that consist of any of the following uses: Mixed use or activity centers, large commercial centers, midrise multi-family, hospitals, college or universities, outdoor amphitheaters.

MANUFACTURED HOME OR MOBILE HOME

A structure as defined in G.S. 143-145(7). The term "manufactured home" or "mobile home" does not include a "recreational vehicle."

MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION, EXISTING

For purposes of Sections 3.12 and 14.7 only, a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before May 10, 2001, the initial effective date of the floodplain management regulations adopted by Cary.

MANUFACTURED HOME PARK OR SUBDIVISION

A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home spaces for rent or sale.

MANUFACTURED HOME SPACE

A portion of a manufactured home park which is rented or leased for the permitted placement of one (1) manufactured home and permitted accessory structures or buildings for use by the occupant.

MAP REPOSITORY

For purposes of Sections 3.12 and 14.7 only, the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products has the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

MARKET VALUE

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

MARQUEE

A roof-like structure that cantilevers from the wall of a building over its principal entrance, that has no vertical supports other than the wall from which it cantilevers, and that provides a wall surface at least four (4) feet high.

MASSAGE BUSINESS

A commercial establishment where massage or similar treatment is administered by a person licensed by the State and meeting the ethical and educational requirements specified by the American Massage Therapy Association, or equivalent national or state standards.

MASTER SIGN PLAN (formerly known as a Uniform Sign Plan)

A plan establishing requirements for the size, location and design of signs on a property that was part of a planned development or is being constructed and/or managed as a single development.

MECHANICAL AND UTILITY EQUIPMENT

Heating, ventilation, air conditioning, and other mechanical and utility equipment, including but not limited to, hoses, pipes, vents, fans, compressors, pumps, and heating and cooling units associated with buildings and accessory structures.

MINIMUM DESIGN CRITERIA OR "MDC"

The requirements for siting, site preparation, design and construction, and post-construction monitoring and evaluation necessary for the issuance of stormwater permits that comply with State water quality standards adopted pursuant to G.S. 143-214. As defined in 15A NCAC 02H.1002(24).

MINOR ENTRANCE

A street entrance or entrances leading from collector streets or marginal access streets to subdivisions, multifamily developments, industrial, commercial, office and institutional uses, and planned unit developments.

MODEL SALES HOME

A permanent building intended for ultimate use as a residential dwelling unit that is typical of the dwellings in the residential development where it is located and which is temporarily used by the builder for the purpose of display and sales associated with residential property where the builder has other homes for sale in the same development or subdivision.

MULTI-OCCUPANT NON-RESIDENTIAL DEVELOPMENT

A building or group of buildings under unified ownership or management that contains more than one (1) non-residential establishment or occupant.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the Town of Cary and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT

A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NATURAL EROSION

The wearing away of the earth's surface by water, wind, or other agents under natural environmental conditions undisturbed by man.

NATURAL OBSTRUCTION

Any rock, tree, gravel, or other natural matter that is an obstruction and has been located within the one percent (1%) annual chance floodplain by a nonhuman cause.

NET RESIDENTIAL ACREAGE

As used in the Cluster Subdivision development option, the amount of land which can be utilized for the placement of dwelling units and associated appurtenances.

NEW CONSTRUCTION

For purposes of Sections 3.12 and 14.7 only, structures for which the "start of construction" commenced on or after May 10, 2001, the effective date of Cary's initial floodplain management regulations and includes any subsequent improvements to such structures.

NONCONFORMITY

Any use, building, structure, lot, or sign that was lawful at the time it was constructed or established but which fails to comply with one or more of the applicable regulations or standards of this Ordinance.

NON-ENCROACHMENT AREA

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

NON-EROSIVE

The ability of a ground cover to withstand the velocity of stormwater runoff during the design storm.

NON-RESIDENTIAL

Used or intended for purposes other than as a dwelling unit.

NON-RESIDENTIAL CENTERS

Shopping centers and other non-residential developments where buildings are arranged in close proximity to each other.

NON-STORMWATER DISCHARGE

Any discharge to the storm drain system that is not composed entirely of stormwater.

NORTH AMERICAN VERTICAL DATUM 1988 (NAVD 1988)

For purposes of Sections 3.12 and 14.7 only, 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.

NOT-FOR-PROFIT BUSINESS

A business or corporation whose activities and endeavors are not motivated by or funded by profit-making motives.

NUISANCE VEHICLE

A motor vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance or unlawful, including a vehicle found to be any of the following: A breeding ground or harbor for mosquitoes, other insect, rats or other pests; a point of heavy growth of weeds or other noxious vegetation over eight inches (8") in height; a point of collection of pools or ponds of water; a point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor; one which has areas of confinement which cannot be operated from the inside, such as hoods, trunks, etc.; so situated or located that there is a danger of it falling or turning over; used by children in play activities; one which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; one which has sharp parts which are jagged or contain sharp edges of metal or glass; and other vehicle specifically declared a health and safety hazard or a public nuisance by the Town Council.

OFF-SITE

For the purpose of Sections 5.2.4(D) and (H), "off-site" location shall mean any site not owned or leased by the owner or operator of the telecommunications facility. However, this definition shall not include any property contiguous to the property on which the telecommunications facility is physically located if said property is:

- Owned or leased by the owner or operator of the telecommunications facility; or
- Directly associated with the operation, maintenance or ownership of the telecommunications facility; or
- Owned by the lessor of the property on which the telecommunications facility is located.

OFFICE PARK

A development containing more than one (1) office building and supporting ancillary uses designed, planned, constructed, and managed on an integrated and coordinated basis.

OFFSET

A reduction in transportation development fees in accordance with this Ordinance.

ONE YEAR, TWENTY FOUR HOUR STORM

The surface runoff resulting from a twenty-four (24)-hour rainfall of an intensity expected to be equaled or exceeded, on average, once every twelve (12) months and with a duration of twenty-four (24) hours.

OPEN SPACE

Any portion of a parcel or area of land or water which is maintained in a natural and undisturbed character. However, open space may include recreational facilities such as swimming pools, golf courses, greenways and tennis courts.

OPEN SPACE, BONUS

As used in Section 4.4.3 Conservation Residential Overlay District and Section 8.4 Alternative Development: Cluster Residential Subdivisions, is defined as non-regulatory open space that is voluntarily provided within a cluster subdivision or conservation residential overlay subdivision that meets the requirements set forth in the relevant sections of this ordinance.

OPEN SPACE, COMMON

Open space owned by a homeowner's association as part of a development, with its use limited by private covenant or other deed restriction.

OPEN SPACE, REGULATORY

As used in Section 4.4.3 Conservation Residential Overlay District and Section 8.4 Alternative Development: Cluster Residential Subdivisions, is defined as open space that is required to be preserved pursuant to other provisions of the Land Development Ordinance, and includes, but is not limited to, regulatory floodplains, Urban Transition Buffers/stream buffers, streetscapes, American Tobacco Trail buffer, and other required areas.

OUTDOOR DISPLAY OF GOODS

The display and sale of products outside of a building or structure including garden supplies, clothing, toys, play equipment, agricultural products, building and landscape materials, food and beverages.

OUTDOOR DISPLAY/SALES AREA

A specific area located adjacent to the principal entrance of a retail structure which is intended for the sales and/or display of goods and products.

OUTFALL

A point at which stormwater enters surface water or exits the property of a particular owner.

OUTPARCEL

A portion of land in a subdivision, shopping center, or other development which does not contain the primary building or buildings associated with the development, and which is intended for development of one (1) or more smaller independent buildings usually located adjacent to a development's street frontage. Such outparcels are typically smaller than the parent parcel and may not be contiguous to the parcel containing the primary building or buildings.

OVERLAY DISTRICT

A zoning district that includes supplementary or replacement regulations to the requirements of the underlying, base zoning district.

PARAPET WALL

That portion of a building wall that extends above the level of the roofline.

PARCEL

A piece of property that has not been approved as a portion of a subdivision of land.

PARENT

As used in Section 7.3, Stormwater Management, "parent" is an affiliate that directly or indirectly, through one (1) or more intermediaries, controls another person.

PARKING SPACE, OFF-STREET

A space which is designed for the parking or temporary storage of one (1) motor vehicle located outside of a dedicated street right-of-way.

PARKING SPACE, TANDEM

A parking space within a group of two (2) or more parking spaces arranged one behind the other.

PEAK HOUR TRIPS

The greatest number of vehicle trips generated by a unit of new development during any sixty (60) minute period in a given day.

PEAK STORMWATER RUNOFF

The maximum amount of stormwater runoff passing over a designated point or area during or after a storm event.

PENNANT

Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, which is suspended from a rope, wire, string, or pole, usually in series, and which is designed to move in the wind.

PERSON

Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

PET GROOMING ESTABLISHMENT

A personal service establishment at which domesticated animals are bathed, clipped, trimmed or shorn, or other such non-medical treatment is administered indoors, and no animals are kept on the premises overnight.

PHASE OF GRADING

One (1) of two (2) types of grading: rough or fine.

PHOTOVOLTAIC SYSTEM

The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems that are accessory to a principal use. Such systems include, but are not limited to, ground-mounted, roof-mounted, building-mounted, and building-integrated photovoltaic systems.

PLAN, AS-BUILT

A reproducible mylar plan showing the true and actual location and nature of buildings, structures, plant materials, underground utility lines, and other features or improvements that have been installed on or

off the property pursuant to a development plan approved under this Ordinance, to be used to determine compliance with the requirements of this Ordinance.

PLAN, CONCEPT

A graphical depiction of one (1) or more potential development alternatives for one (1) or more parcels of land which includes less detail than a development plan, but which is intended to convey information such as, but not limited to: various general types of land uses or use classifications, their general arrangement, and their general appearance within the plan's boundary.

PLAN, LANDSCAPING

A plan, drawn to scale, showing dimensions and details of the portion of a site devoted to planting materials and their maintenance.

PLAN, MASTER

The maps, illustrations, and supporting text associated with a planned development which conveys the allowable uses, densities, non-residential intensities, and arrangement of uses within the boundaries of the planned development along with any associated conditions, phasing schedules, and other agreements.

PLAN, PLOT

A map identifying the outer extents of a single unit or parcel of land which can be referenced to a recorded plat or map.

PLAN, SKETCH

A preliminary development plan that represents a concept of a proposed project of sufficient accuracy and details to receive preliminary approval under this Ordinance. Such plan must be followed by construction drawings to receive final approval before actual development may commence.

PLANNED DEVELOPMENT

A tract of land that is planned and developed as an integral unit in accordance with a master plan, detailed engineering and design plans, and flexible development standards that illustrate and address land uses, circulation, utilities, parking, setbacks, housing densities, land coverage, landscaping and buffers, open space, and similar features of the project.

PLANNED TRANSIT ROUTE

A transit route identified in the Town's adopted Comprehensive Plan, the Wake County Transit Plan, or any other local or regional plan applicable to the Town.

PLANNING AND DEVELOPMENT REGULATION JURISDICTION

The geographic area within which the Town of Cary may undertake planning and apply the development regulations authorized by G.S. 160D.

PLAT

A map document prepared by a registered surveyor or engineer representing a tract of land showing the boundaries and location of individual properties, streets, and other related items for identifying property.

PLAT, FINAL

A map indicating the final layout of a residential or non-residential subdivision which illustrates lots, easements, dedications, and other similar aspects, which have been approved by the Town, and is intended for recording with the Register of Deeds.

PLAT, RECOMBINATION

A map which depicts the joining of two or more individual units of land into a new configuration which complies with the required standards and which is intended for recording with the Register of Deeds.

POD

As used in planned developments, smaller areas inside a planned development boundary intended to contain similar and/or complimentary uses typically accessed by the same primary roadways, and generally intended for development at or around the same time.

POLLUTANT

Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard

wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PORCH

An unenclosed exterior appendage to a building, forming a covered or uncovered approach to a doorway.

PORTICO

A porch or walkway, open to the outside air, which is covered by a roof that is supported by columns or pillars, typically leading to the entrance of a building. A portico is considered a "canopy" for purposes of determining signage.

POST-FIRM

Construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

POSTER BOX

A box installed on a wall for the purpose of displaying posters of shows at a theater.

PRE-FIRM

Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

PREMISES

Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

PRESENT USE VALUE STANDARD

A designation used by a County Property Appraiser to denote land which is being used for agricultural purposes.

PRIMARY SCM

A wet pond, stormwater wetland, infiltration system, sand filter, bioretention cell, permeable pavement, green roof, rainwater harvesting, or an approved new stormwater technology that is designed, constructed and maintained in accordance with the MDC.

PRIMARY TRAVEL WAY

Vehicular route that connects a street (public and/or private) to a drive aisle. Vehicles access drive aisles from primary travel ways.

PRINCIPAL ENTRANCE

An entrance or entrances leading from collector streets, major thoroughfares, or highways to subdivisions, multi-family uses, planned developments, industrial, commercial, or office and institutional subdivisions.

PRINCIPALLY ABOVE GROUND

At least fifty-one percent (51%) of the actual cash value of the structure is above ground.

PROJECT

For the purposes of Sections 4.4.6 and 7.3 only, the proposed development activity for which an applicant is seeking a stormwater permit from the state or other entity in accordance with this Section. "Project" shall exclude any land adjacent to the area disturbed by the project that has been counted as pervious by any other development regulated under a federal, State, or local stormwater regulation. Owners and developers of large developments consisting of many linked projects may consider developing a master plan that illustrates how each project fits into the design of the large development.

PROPERTY

All real property subject to the provisions of this Ordinance. The term includes any improvements or structures customarily regarded as a part of real property.

PUBLIC ART

Items expressing creative skill or imagination in a visual form, such as painting or sculpture which are intended to beautify or provide aesthetic influences to public areas or areas which are visible from the public realm.

PUBLIC SAFETY and/or NUISANCE

For the purposes of Illegal Discharges to the storm sewer system, anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.

PUBLIC UTILITIES

Any Town-approved water and/or sanitary sewer system, including collection and distribution lines, which is constructed to Town standards, sizes, and specifications, conforms to the requirements of this Ordinance, and has been dedicated to and accepted by the Town for operation and maintenance.

PUBLIC VEHICULAR AREA

Privately owned or maintained drives, driveways, roads, roadways, streets and alleys ("non-public streets"):

- Upon the grounds and premises of any public or private institution;
- Upon the grounds and premises of any business establishment providing access and parking space for customers, patrons, or the public; and
- Within a subdivision that has been offered for dedication to the public by the filing of a map, plat or written instrument in the office of the register of deeds; provided, however, a public authority has not accepted the dedication of the street or assumed control over the street.

QUALIFIED PROFESSIONAL

A person licensed by the State of North Carolina in the fields of engineering, architecture, landscape architecture, or land surveying who is allowed by the qualifications of their professional certification to perform the prescribed duties of this Ordinance.

QUASI-JUDICIAL DECISION

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

RADIO AND T.V. TRANSMISSION TOWERS

A structure of wires, poles, rods, reflecting discs or similar devices used for transmitting or receiving television, radio, telephone communication and/or telecommunications, excluding satellite dish antennas.

REAL ESTATE SALES OFFICE

A building or structure that is located on the site of a development or subdivision and temporarily used for the purpose of selling or leasing properties located within that development or subdivision.

RECREATION LAND, ACTIVE

An area located within an existing or proposed residential or mixed use development which is intended for utilization by residents as an area for organized or unorganized team sports, and/or higher intensity outdoor activities including running, swimming, or other forms of play.

RECREATION LAND, PASSIVE

An area located within an existing or proposed residential or mixed use development which is intended for utilization by residents as an area for owner intensity enjoyment of the outdoors including walking, seating, or other low impact recreational uses.

RECREATIONAL VEHICLE (RV)

A vehicle which is:

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

REFERENCE LEVEL

The top of the lowest floor for structures within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas designated as Zone AE, A, A99 or X (Future).

REGULATORY FLOOD PROTECTION ELEVATION

The elevation to which the reference level of all structures and other development located within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas must be protected.

- (a) In Special Flood Hazard Areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard.
- (b) In Special Flood Hazard Areas where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.
- (c) In Future Conditions Flood Hazard Areas this elevation shall be the Future Conditions Flood Elevation plus two (2) feet of freeboard.

REMEDY A VIOLATION

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

RESERVOIR WATERSHED

A drainage basin that is tributary to a reservoir intended as a source for public water supply.

RESIDENTIAL

Used or intended for use as a dwelling unit.

RETENTION FACILITY

Any type of detention facility that is not provided with a positive outlet.

RIGHT-OF-WAY

An area owned or maintained by the Town, the State of North Carolina, a public utility, a railroad, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities, or railroads.

RIVERINE

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

ROOF DECK

The flat portion of a roof.

ROOF DECK, ACTIVATED

Functional roof deck used to support sustainability features, such as, green roofs and solar panels, and/or to provide outdoor amenity, entertaining or hospitality facilities as an accessory use to the building.

ROUGHLY PROPORTIONAL

A close relationship between the impacts from a proposed use or designation and the various conditions or other limiting factors considered necessary by a decision-making body to ensure that these impacts do not negatively affect other properties, goals, or Town policies.

SALVAGE YARD

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

SANDWICH BOARD

A temporary A-frame sign, not secured or attached to the ground or any building or structure, composed of a sign panel and supporting structure or one or more panels that form both the structure and sign face, and that is intended to be placed in a sidewalk or pedestrian way.

SECURED

Placed in a concrete footing, holes with compacted earth or gravel, or other approved support, so as to be adequately affixed to the ground as a permanent structure.

SEDIMENT

Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

SEDIMENTATION

The process by which sediment resulting from accelerated erosion has been or is being transported away from a land-disturbing activity or into a lake or natural watercourse.

SETBACK

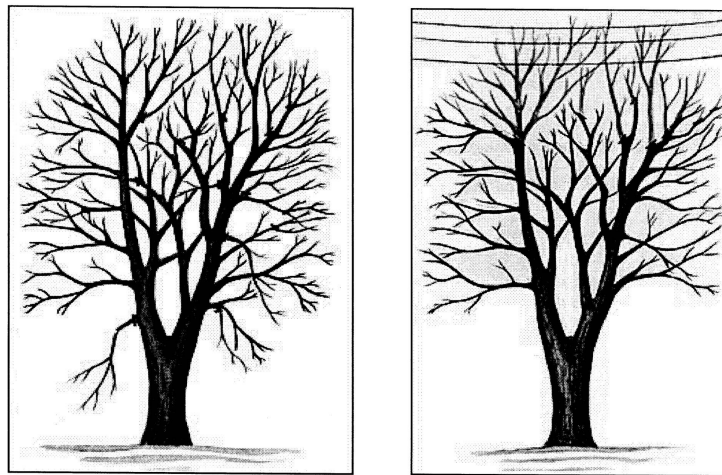
The minimum distance required between any building or structure and a street right-of-way or lot line.

SETBACK, BUFFER

An area adjacent to a required buffer where encroachments by structures are prohibited.

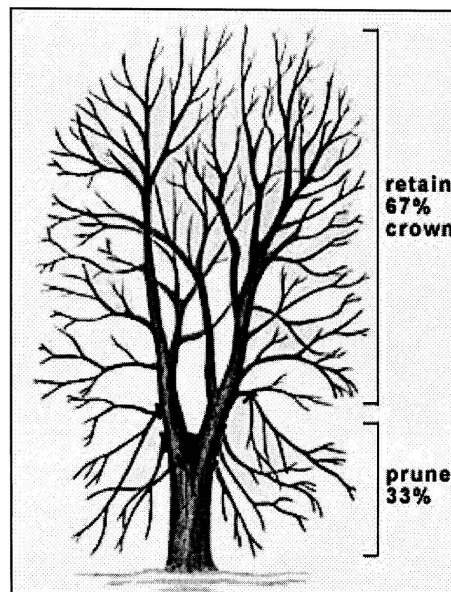
SETBACK, ROADWAY

The minimum distance required between the ultimate street right-of-way boundary and the closest portion or side of a building or improvement adjacent to that right-of-way.



Removing diseased or storm-damaged branches

Reducing the height of a tree



Removing obstructing lower branches

SEVERE PRUNING

Severe pruning of trees shall be defined as the removal of more than one-third of the tree canopy or cutting back limbs to a point which prevents the natural growth of the tree. Severe pruning of shrubs shall be defined as the cutting back of branches to the point where the shrub does not meet the intent of the streetscape or buffer requirements. See examples below.

SIGHT TRIANGLE

The horizontal and vertical areas at the intersections of streets and/or driveways which must remain unobstructed, as set forth in the Town's *Standard Specifications and Details Manual*, in order to ensure that drivers can see traffic and pedestrians around the corner of the intersection, entrance or driveway.

SIGN

Any device, fixture, placard or structure, that uses any color, form, graphic, illumination, symbol, or writing to advertise, attract attention, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. The following shall not be considered signs subject to the regulations of Chapter 9 of this Ordinance: artwork, cemetery markers, machinery or equipment signs, lighting used to accentuate architectural or landscaping features, and holiday and seasonal decorations. See *Chapter 9 for additional definitions related to signs*.

SIGN, POLE

A sign which is mounted on a freestanding pole or poles, or other support structure such that the bottom edge of the sign face is forty-two (42) inches or more above the adjacent grade or roadway crown height.

SIGNIFICANT RESOURCE

A type of land attribute on a piece of land which has been identified as a historic or natural feature which should be protected and preserved from a proposed development or redevelopment.

SIGNIFICANT TREES/VEGETATION

Any upper-story tree, greater than ten (10) inches in diameter at breast height (DBH) or understory tree greater than two (2) inches in caliper, which displays a root zone, canopy and limb structure characteristic of the particular species, and is in good health and vigor.

SIGNIFICANT WORK

In reference to vesting rights under the provisions of Section 3.17 of this Ordinance, the placement of permanent evidence of an improvement on a site pursuant to a duly issued building or environmental permit, such as the pouring of slabs or footings, the cost for which represents a major part of the total cost of construction of the project.

SILTATION

Sediment which results from accelerated erosion, which has been deposited or is in suspension in water, which may be settled or removed by properly designed, constructed, and maintained control measures, and which has been transported from its point of origin within the site of a land-disturbing activity.

SINGLE-UNIT DWELLING

A building containing one (1) dwelling unit and not located on the same lot as any other principal use.

SINGLE-UNIT RESIDENTIAL DEVELOPMENT

Any development where: (1) no building contains more than one principal dwelling unit, (2) every principal dwelling unit is on a separate lot, and (3) where no lot contains more than one principal dwelling unit.

SITE

A lot, tract or parcel of land considered as one (1) land unit for the purposes of this Ordinance. For a single-unit residence, the site shall be the subdivided lot on which it is located. For multi-family projects, the site shall be all land occupied by the buildings in the project and adjoining such property and under common ownership with it. For vacant land, the site shall be all of the adjoining vacant land under single ownership. For single-occupancy, non-residential properties, the site shall be the subdivided lot that is occupied. For multiple-occupancy properties, the site shall be all land included under the original development plan approval under the LDO or all land included under the original "master sign plan" approval under this Ordinance or its predecessor, whichever land area is larger.

SITE DESIGN GUIDELINES

A policy document that provides specifications, criteria, and guidance relating to issues typically addressed in a development plan, potentially including but not limited to items such as: building placement and orientation; dimensional standards; the roadway circulation network; roadway cross-sections, driveways, and parking lots; landscaping treatments and themes; sidewalks and pedestrian ways; streetscape treatments including elements such as upper-story trees, street lights, and street furniture; signage and site entryway features; locations for public art; public spaces such as public squares, village greens, and pedestrian plazas; minimum or maximum individual building or tenant space sizes; minimum or maximum block lengths; connectivity principles or requirements; and block frontage coverage.

SLOPE

A term used to express the amount of change in vertical elevation of the land over a given horizontal distance.

SOLID WASTE DISPOSAL FACILITY

As defined in NCGS 130A-290(a)(35), any facility involved in the disposal of solid waste.

SOLID WASTE DISPOSAL SITE

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

SPECIAL EVENT

Any organized event, specifically including, but not limited to, a temporary sales event accessory to a principal use, or a circus, carnival, cultural event, fair, party, communal camping, or celebration, which reasonably may be expected to attract more than one hundred (100) persons at any one (1) time, or which otherwise may reasonably be expected to increase the risk of:

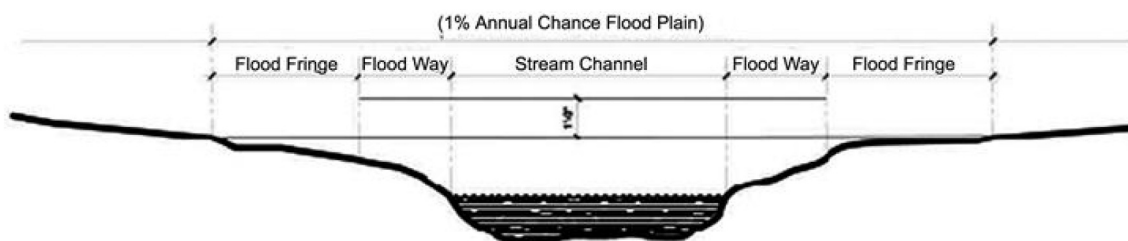
- Damage to public or private property, beyond normal wear and tear;
- Injury to persons;
- Public or private disturbances or nuisances;
- Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel;
- Significant additional police, fire, trash removal, maintenance, or other public services demands;
or
- Other significant adverse effects upon the public health, safety, or welfare.

The term "special event" shall not include any organized activities conducted at sites and facilities that are legal uses and structures under this Ordinance and that are typically intended and used for such activities. Examples of such activities include, but are not necessarily limited to, sporting events such as 10K runs not held on public rights-of way, golf, soccer, softball, and baseball tournaments conducted on courses or fields intended and used for such activities; wedding services conducted at reception halls or similar facilities; funeral services conducted at funeral homes or cemeteries; religious services, wedding services, and funeral services conducted at places of worship; or noncommercial activities occurring within, or upon the grounds of, a private residence or upon the common areas of a multi-family residential development.

SPECIAL FLOOD HAZARD AREA (SFHA)

The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year based on current conditions hydrology. The SFHA is identified by the Federal Emergency Management Agency (FEMA) or produced under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Hazard Boundary Map (FHBM) or Flood Insurance Study (FIS) and its accompanying flood maps such as the Flood Insurance Rate Map(s) (FIRM) associated Flood Insurance Rate Map (FIRM) or DFIRM panels and/or the Flood Boundary Floodway Map(s) (FBFM) for Wake, Chatham, and Durham Counties dated July 19, 2022 and any revision thereto, which are adopted by reference and declared to be a part of this ordinance.

The SFHA also includes those areas defined as SFHA or floodplain through standard engineering analysis for private developments or by governmental agencies, including those studies required by LDO Section 14.7.2(C).



SPECIAL USE

A land use listed in Chapter 5 of this Ordinance as a "special use" in the zoning district in which it is located, and which is subject to the approval procedures set forth in Section 3.8 of this Ordinance.

SPECIAL USE PERMIT

A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards.

SPECIMEN TREES

Any upper-story tree, greater than eighteen (18) inches in diameter at breast height (DBH) or understory tree greater than four (4) inches in caliper, which displays a root zone, canopy and limb structure characteristic of the particular species, and is in good health and vigor.

START OF CONSTRUCTION

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement including substantial improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include the 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 effects the external dimensions of the building.

STATEMENT OF ARCHITECTURAL COMPATIBILITY (SAC)

A legal document which depicts how the features of a proposed or existing development addresses or will address the compatibility requirements with adjacent and surrounding buildings or structures.

STOOP

A covered or uncovered porch, platform, or entrance stairway at a house door.

STOP PAD

A concrete pad located adjacent to a roadway required at transit access locations to allow passengers to board a bus and onto which passengers alight a bus.

STORM DRAINAGE FACILITIES

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

STORM DRAINAGE SYSTEM

Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORM SEWER SYSTEM

The system of catch basins, pipes (excluding residential rain gutters and downspouts), sewers, drains, culverts, open ditches, creeks and rivers which carry surface water and unpolluted water. A "storm sewer system" may be located on public or private property or both. See "Storm Drainage Facilities."

STORM, TEN-YEAR

The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten (10) years, and of a duration which will produce the maximum peak rate of runoff for the watershed under average antecedent wetness conditions.

STORM, TWENTY-FIVE YEAR

The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in twenty-five (25) years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

STORMWATER DESIGN MANUAL

The State Stormwater Design Manual approved by the Department for the proper implementation of the State Minimum Design Criteria for engineered stormwater controls. All references herein to the Design Manual are to the latest published edition or revision.

STORMWATER MANAGER

An official or officials of Cary responsible for administration and enforcement of Cary's ordinances pertaining to sedimentation and erosion control, floodplain management, and stormwater management.

STORMWATER MANAGEMENT PLAN

A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater drainage systems, and/or receiving waters to the maximum extent practicable.

STORMWATER RUNOFF

Surplus water resulting from precipitation in any form that cannot percolate into the earth or be accommodated satisfactorily by the existing drainage system and which therefore travels overland to the nearest channel or body of water.

STREAM

A perennial or intermittent body of water running over the earth's surface in a channel or bed and is shown on the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geological Survey (USGS) and the most recent version of the Soil Survey of Wake County, North Carolina, Soil Survey of Durham County, North Carolina, or Soil Survey of Chatham County, North Carolina.

STREET

A public or private right-of-way that is designed, dedicated, or used principally for vehicular traffic.

STREET, ARTERIAL

Higher order streets with controlled access which are intended for through or regional traffic moving between urban centers and not intended for local or residential neighborhood traffic. These streets have multiple travel lanes, provide access to regional travelways, and carry high volumes of traffic.

STREET, COLLECTOR

Streets that penetrate various land use classifications to provide both land access and mobility within neighborhoods and commercial areas. Their primary function is traffic service, collecting traffic from intersecting streets and funneling it to major thoroughfares. A major collector roadway/street has limited direct access from individual lots/parcels. A minor collector roadway/street allows direct access of individual lots/parcels.

STREET, LOOP

A street that originates and terminates at intersections with the same street.

STREET, MAJOR COLLECTOR

Streets which collect and distribute traffic from local roadways and urban centers. These streets are intended to provide mobility and access within neighborhoods and commercial areas and carry moderate amounts of traffic.

STREET, MINOR COLLECTOR

Streets which collect and distribute traffic from local roadways and urban centers. These streets are intended to provide mobility and access within neighborhoods and commercial areas and carry smaller amounts of traffic than a major collector.

STREET, PRIVATE

A road owned and maintained by a private individual, organization, or company rather than by a government.

STREET, PUBLIC

Any street or road owned or maintained by a unit of government.

STREET, RESIDENTIAL

A street whose primary function is to serve the immediately abutting residential land uses (that is, only local traffic generated by the residents near the street), with traffic volumes flowing from other intersecting residential streets not exceeding the traffic volumes generated by the land uses abutting the street.

STREET, THOROUGHFARE

A street which serves as a primary traffic artery serving major centers of activity and carrying traffic between such centers at moderate speeds, which primarily has the function of carrying traffic which has an origin and destination removed from that street itself, and access to which is primarily provided by at-grade intersections which may be signal-controlled.

STREET FRONTAGE

The distance for which a lot line adjoins a public or private street from one lot line intersecting said street to the furthest lot line intersecting the same street.

STREETSCAPE

An area along a street that may be required by this Ordinance to provide special landscape plantings or other treatment.

STREET-SIDE TRAILS

Street-side trails are pedestrian trails located adjacent to roadways and provide supporting linkage to the off-road greenway system.

STRUCTURE

Any improvement upon land that requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. This includes buildings, signs, decks and enclosed decks, manufactured homes, a gas, liquid, or liquefied gas storage tank that is principally above ground, and impervious surfaces. Building setbacks shall not apply to certain structures which do not require issuance of a building permit, and/or which may by necessity pass through or encroach into setbacks, including driveways, walkways, sidewalks, fences, private recreational equipment like swing sets or basketball goals, fences and retaining walls less than eight (8) feet in height, greenways, and similar features.

STRUCTURE, ACCESSORY (or Appurtenant Structure)

For purposes of Sections 3.12 and 14.7 only, a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

STRUCTURE, EXISTING

For purposes of Sections 3.12 and 14.7 only, any or structure for which the “start of construction” commenced before May 10, 2001, the initial effective date of the floodplain management regulations adopted by Cary.

STRUCTURE, NONCONFORMING

A building or structure that met all legal requirements when constructed but that does not comply with this Ordinance or a subsequent amendment hereto.

STRUCTURE, PRINCIPAL

A structure, or in some cases, group of structures, which contain or from which the primary use of the property is conducted. The area of a principal structure is considered the gross square footage contained within the exterior walls of the structure.

SUBDIVIDER

Any person, firm, or corporation who commences proceedings to effect the subdivision of land.

SUBDIVISION

All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one (1) or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include 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 authorized by G.S. 160D, Article 8:

- (1) 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 standards set forth in this Ordinance's subdivision regulations.
- (2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- (4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards set forth in this Ordinance's subdivision regulations.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

See also LDO Section 3.9.3(B).

SUBSTANTIAL DAMAGE

- (a) Damage of any origin sustained by a structure during any one (1)-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; or, See definition of substantial improvement.
- (b) Flood-related damage sustained by a structure on two (2) separate occasions during a 10 (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 percent (25%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

For purposes of Section 3.12 and 14.7 only, any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any five (5)-year period for which the cumulative cost 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 which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (a) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,

- (b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved pursuant to this ordinance.

SUBSTANTIALLY COMMENCED

For the purposes of G.S. 160D-108, "substantially commenced" means one or more of the following construction activities toward the completion of a development plan has occurred:

- Obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or
- Installation and approval of on-site infrastructure; or
- Obtaining a building permit for the construction and approval of a building foundation.

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

Where the repair, reconstruction, rehabilitation or improvements of the streets, utilities and pads exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

SURFACE WATER

Runoff from rainfall or ground watering that finds its way naturally into ditches and creeks.

SURVEY

An official stamped or sealed document prepared by a licensed and registered North Carolina Land Surveyor which graphically denotes the precise area, boundaries, dimensions, location, and important attributes of a parcel or portion of a parcel.

SWALE

A depression in the ground or below the surrounding grade which is intended to channel stormwater runoff.

SWEEPSTAKES

Any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, including cash, merchandise, or anything else of value, the determination of which is based on chance.

SWIMMING POOL

Any receptacle or artificial basin of water, either above or below grade level, intended for swimming or recreational bathing having a depth of eighteen (18) inches or greater at the deepest point. This includes hot tubs and spas.

TABLED APPLICATION

Any application for an entitlement, procedure, or approval outlined in Chapter 3 which has been temporarily removed from consideration by a decision-making body. Such removal may or may not have an associated time limitation.

TASTING ROOM

A room that is ancillary to the production of beer, wine, or spirituous liquor at a brewery, distillery, or winery where the public can purchase and/or consume the beer, wine, or spirituous liquor.

TECHNICAL BULLETIN AND TECHNICAL FACT SHEET

A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

TEMPERATURE CONTROLLED

Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

THEATER

An establishment offering to the public movies or live performances.

THOROUGHFARE, LIMITED ACCESS

A thoroughfare whose sole function is to carry large volumes of traffic safely and expediently through developed areas, and access to which is controlled to occur only at intersections with other thoroughfares or streets, with such intersections spaced at intervals which promote traffic progression with the absolute minimal delays incurred. Speeds on limited access thoroughfares are typically limited to no greater than forty-five (45) miles per hour.

TOWN

The Town of Cary, North Carolina.

TOWN-RECOGNIZED EVENT

A celebration, festival, activity, or other event which is sponsored wholly or in part by the Town, or which is recognized or proclaimed as a Town-recognized Event by the Town Council. A list of such events is maintained in the Town Clerk's office.

TOWN-RECOGNIZED HOMEOWNER'S ASSOCIATION

A formally constituted non-profit association or corporation with an elected or appointed board made up of property owners and/or residents.

TOWNHOUSE DEVELOPMENT

One or more townhouses located on a single property.

TOXIC SUBSTANCE

Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

TRACT

All contiguous land under one (1) ownership or under multiple ownership either undeveloped or developed as a single unit or recorded as a single unit.

TRAFFIC CONTROL DEVICES

These devices include but are not limited to rumble strips, raised pavement markers, pavement undulations, and speed bumps as defined in the current edition of the *Standard Specifications and Details Manual*.

TRAIL, MULTI-PURPOSE

An access way, whether paved or unpaved, which is intended to serve multiple modes of travel including walking, jogging, bicycling, or other forms of non-motorized transport.

TRANSIT ACCESS LOCATION

A designated place along a transit route typically in the street right-of-way where a public transit vehicle stops to load and unload passengers, usually consisting of, at a minimum, a stop pad. Also called a "bus stop."

TRANSIT EASEMENT

A permanent easement dedicated to the Town for the purpose of providing public transit access at a transit access location. The transit easement provides public access to the transit access location; and allows construction, installation, operation, and maintenance of transit amenities by the Town.

TRANSPORTATION FACILITIES

Stations and related facilities intended for the transportation of the general public, including bus and railroad passenger stations.

TRANSPORTATION IMPROVEMENT

Any improvement to any highway, road, or street designated on the Transportation Plan.

TRAVEL TRAILER

A device intended for human habitation on a short term or temporary basis which lacks its own source of locomotion and is intended to be towed behind a motor vehicle.

TREE, NATIVE

A tree species that naturally occurs within Wake County or the Piedmont area of North Carolina in which the Town of Cary is located.

TREE, ORNAMENTAL

Woody Plants that are two (2) inches in caliper or larger and one of the following species and other native specimens as specified in the Standard Specifications and Details Manual, including native species of the following: *Amelanchier* (Serviceberry), *Ostrya* (Hophornbeam), *Halesia* (Silverbell), *Chionanthus* (Fringe Tree), *Ilex* (Holly), *Cornus* (Dogwood), *Cercis* (Redbud), and *Carpinus* (Ironwood).

TREE, UNDERSTORY

A tree with a canopy that covers at least two hundred (200) square feet at maturity but less than nine hundred (900) square feet under urban conditions, with a crown diameter of at least fifteen (15) feet and a height at maturity not exceeding forty (40) feet. For the purpose of Sections 7.2.5 and 7.2.10, understory trees include only dogwood (native *Cornus species*), horticultural cherry (*Prunus species*), redbud (*Cercis canadensis*), ironwood (*Carpinus caroliniana*), and silverbell (*Helesia carolina*).

TREE, UPPER-STORY

A tree with a canopy that covers at least sixteen hundred (1,600) square feet at maturity under urban conditions, with a crown diameter of at least forty (40) feet and a height at maturity of at least sixty (60) feet.

TREE SURVEY

A map or plan identifying certain trees in accordance with the requirements of Section 7.2.5 to assist in the preservation and protection of trees.

TRUCK, LIGHT DUTY

Any motor vehicle rated at eight thousand five hundred (8,500) pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of six thousand (6,000) pounds or less and which has a basic vehicle frontal area of forty-five (45) square feet or less as defined in 40 CFR 86.082-2 and is: (a) designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or (b) designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or (c) available with special features enabling off-street or off-highway operation and use.

TRUNKLINE

A measured line between existing tree trunks greater than four (4) inches in caliper.

UNCOVERED AREA

As used in Section 7.4 of this Ordinance, an area having no ground cover on or above the soil surface.

UNDERDEVELOPED LAND

A parcel or site which contains some form of structure or other land-disturbing activity, but which is developed substantially less than that otherwise allowable under the area's zoning designation or as otherwise controlled by public or private utilities.

URBAN TRANSITION BUFFER (UTB)

A buffer established along streams within the Cary Planning Jurisdiction effective at protecting private and public investment, buffering incompatible uses, promoting conservation, balancing the built environment with preservation of natural resources and open spaces, and preserving the identity and character of Cary.

USE, ANCILLARY

A use located on the same lot as a principal use which provides necessary support to the activities occurring within the principal use.

USE, INCIDENTAL

A use located on the same lot as a primary use, but which is subordinate and minor in significance to the principal use, but which bears a reasonable relationship with the principal use.

USE, NONCONFORMING

The use of a building or land that met all legal requirements when first established but which this Ordinance, or a subsequent amendment hereto, does not allow in the zoning district in which it is located.

USE, PERMITTED

A land use allowed in a zoning district without the need for special administrative review and approval, but in accordance with the standards and requirements of this Ordinance.

USE, TEMPORARY

A land use or structure this [that] is needed or in place only for short periods.

UTILITY TRAILER

A container on wheels which is intended to be towed or hauled by another motorized vehicle used for the transport of products, equipment, and/or other vehicles.

VARIANCE, MAJOR

For the purposes of the Watershed Protection Overlay district only, a variance that constitutes:

- The complete waiver of any requirement; or
- The increase by ten percent or more of any numerical requirement. (For example, raising an impervious surface limit for a development from 70 percent to 77 percent.)
- The reduction of any requirement under the High Density Development Option.

VARIANCE, MINOR

For the purposes of the Watershed Protection Overlay district only, any other variance that does not qualify as a major variance.

VEGETATION USE AREA

An area which has been set aside for the sole use of vegetation or other planted materials which includes the below-ground area occupied by the roots, the area on the surface covered by mulch or other ground cover, and the area above the ground which is occupied by the trunk, branches, and leaves of the vegetation.

VEHICULAR GATE

A gate or similar structure across a drive, driveway, road, roadway, street or alley that may be used to block the entrance or passage of motor vehicles. This term includes all forms of gates, including automatic and manual gates and gates manned by attendants.

VEHICULAR SECURITY GATE

A vehicular gate for a non-residential use that provides safety and security yet is operated such that emergency service providers can pass through at any time.

VEHICULAR USE AREA

Any portion of the site or property, paved or unpaved, designed to receive or accommodate vehicular traffic, including the driving, parking, temporary storage, loading, or unloading of any vehicle.

VELOCITY, FLOW

The average velocity of flow through the cross-section of the main channel of a watercourse at the peak flow of the storm. The cross-section of the main channel is that area defined by the geometry of the channel, plus the area of flow below the flood height, which is defined by vertical lines at the banks of the main channel. Overload flows shall not be included for the purpose of computing velocity of flow.

VIOLATION, FLOOD DAMAGE PREVENTION

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

WALL, EXTERIOR

A vertical structural component of a building that encloses habitable or usable space; a parapet extending not more than twelve inches above a flat roof shall be considered part of the exterior wall for purposes of determining signage.

WALL, FIRE

A common or shared wall between two separate structures, buildings, or dwelling units which has a minimum rating related to its ability to withstand the impacts of fire or intense heat for a specified period of time.

WALL, PARTY

A common or shared wall between two separate structures, buildings, or dwelling units.

WASTE

Surplus materials resulting from on-site construction that is disposed of at other locations.

WASTEWATER

Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATER SURFACE ELEVATION (WSE)

The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

WATERCOURSE

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

WATERSHED

The entire land area, also known as a drainage area, which collects precipitation and contributes surface runoff to a receiving body of water or specific point along a watercourse.

WATERSHED CRITICAL AREA

The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half (0.5) mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half (0.5) mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first).

WATERSHED OVERLAY

That land area of a watershed that is defined on the Official Zoning Map on file in the Planning Department, provided that more precise boundaries may be established by topographic data from actual site surveys.

WATERSHED PROTECTED AREA

The land area lying adjacent to a water supply watershed and extending to a point five (5) miles from the shoreline at normal pool level.

WETLANDS

Those areas that inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that 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.

WINDBLOWN DEVICE

Any banner, pennant, spinner, streamer, propeller, disc, moored blimp, gas balloon, or flag (that is not of local, state, federal, corporate, nonprofit or religious origin) designed to inform or attract attention, whether or not such device carries a message, all or part of which is set in motion by wind, mechanical, electrical or any other means.

WORKING DAYS

Days exclusive of Saturdays, Sundays, and legal holidays observed by the Town.

YARD

An open space on a lot which is generally unoccupied and unobstructed by any building or structure, except as otherwise allowed in this Ordinance.

YARD, FRONT

The area located between the front of the principal building or structure (or use in the absence of a principal building or structure) and the boundary of the lot upon which the principal building or structure is located. The front of a principal building or structure is the one typically containing the primary entrance.

YARD, REAR

The area located between the rear of the principal building or structure (or use in the absence of a principal building or structure) and the boundary of the lot upon which the principal building or structure is located. The rear of a principal building or structure is typically the side immediately opposite the primary entrance.

YARD, SIDE

The area located between the side of the principal building or structure (or use in the absence of a principal building or structure) and the boundary of the lot upon which the principal building or structure is located. The side of a principal building or structure typically does not contain the primary entrance.

YARD SALE

The sale or offering for sale to the general public of over five (5) items of personal property on any portion of a lot in a residential zoning district, whether within or outside any building. Also known as a yard sale, tag sale, or rummage sale.

ZONING DISTRICT

A section or portion of the Town within which certain zoning regulations and requirements governing the use of buildings and land apply under the provisions of this Ordinance.

ZONING DISTRICT, NON-RESIDENTIAL

A zoning district established under this Ordinance that primarily allows uses that are not residential in nature but are intended to serve commercial, office, institutional or similar uses and activities.

ZONING DISTRICT, OVERLAY

A zoning district established under this Ordinance that prescribes special regulations to be applied to a site in combination with the underlying or base district.

ZONING DISTRICT, RESIDENTIAL

A residential zoning district established under this Ordinance that primarily permits uses that are intended for household or group living.

(Ord. No. 04-007, 7-15-04; Ord. No. 04-013, 10-28-04; Ord. No. 05-001, 1-13-05; Ord. No. 05-002, 1-13-05; Ord. No. 05-007, 5-12-05; Ord. No. 06-005, adopted 3-23-06; eff. 3-23-06; Ord. No. 06-009, 4-27-06; Ord. No. 2007-04, 3-22-07; Ord. No. 2007-21, 12-13-07; Ord. No. 2008-LDO-01, 9-25-08; Ord. No. 2009-LDO-01, 2-12-09; Ord. No. 2009-LDO-02, 3-26-09; Ord. No. 2009-LDO-03, 5-14-09; Ord. No. 2010-LDO-01, 1-14-10; Ord. No. 2010-LDO-03, 2-25-10; Ord. No. 2010-LDO-05, 12-16-10; Ord. No. 2011-LDO-01, 1-11-11; Ord. No. 2011-LDO-02, 4-14-11; Ord. No. 12-LDO-01, 2-23-12; Ord. No. 2012-LDO-06, 8-9-12; Ord. No. 2012-LDO-07, 8-23-12; Ord. No. 2012-LDO-08, 10-11-12; Ord. No. 2013-LDO-02, 6-13-13; Ord. No. 2013-LDO-04, 9-26-13; Ord. No. 2013-LDO-07, 12-19-13; Ord. No. 2014-LDO-03, 8-14-14; Ord. No. 2014-LDO-04, 8-28-14; Ord. No. 2015-LDO-001, 4-21-15; Ord. No. 2015-LDO-003, 7-23-15; Ord. No. 2016-LDO-01, 7-25-16; Ord. No. 2016-LDO-02, 12-8-16; Ord. No. 2017-LDO-01, 1-24-17; Ord. No. 2017-LDO-02, 3-30-17; Ord. No. 2018-LDO-01, 5-3-18; Ord. No. 2018-LDO-03, 11-15-18; Ord. No. 2019-LDO-03, 10-10-19; Ord. No. 2019-LDO-02, 11-21-19; Ord. No. 2019-LDO-04, 12-12-19; Ord. No. 2020-LDO-01, 5-7-20; Ord. No. 2021-LDO-01, 6-24-21; Ord. No. 2022-LDO-01, 1-13-22; Ord. No. 2022-LDO-02, 4-28-22; Ord. No. 2022-LDO-03, 10-27-22; Ord. No. 2023-LDO-02, 3-23-23; Ord. No. 2023-LDO-03, 6-22-23)

CARY LAND DEVELOPMENT ORDINANCE
