

ARTICLE II

INTERPRETATIONS AND DEFINITIONS

2-1 INTERPRETATION OF ORDINANCE

2-1.1 Minimum Requirements

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

2-1.2 Greater Restrictions Govern

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

2-1.3 Rounding of Numbers

All calculations that result in a part or fraction of a whole number shall be rounded up to the next highest whole number, except that in calculating density, all calculations that result in a part or fraction of a whole number shall be rounded down to the next lowest whole number.

2-1.4 Figures and Tables

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

2-1.5.1 Measuring Distance for Separation Requirements

Unless otherwise indicated in the text of this ordinance all measurements shall be made by drawing straight lines from the nearest point of the lot line where the existing/proposed use is located to the lot line of the closest use (or zoned property) from which the existing/proposed use is to be separated.

2-2 RULES OF CONSTRUCTION

2-2.1 Word Interpretation

Words not defined in this Ordinance shall be given their ordinary and common meaning.

2-2.2 Rules of Construction

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

- (A) **Tense:** Words used in the present tense include the future tense;
- (B) **Singular and Plural:** Words used in the singular number include the plural number, and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise;
- (C) **Mandatory Meaning:** The words 'shall', 'will', and 'must' are mandatory in nature implying an obligation or duty to comply with the particular provision;
- (D) **Gender:** Words used in the male gender include the female gender; and
- (E) **References:** Any reference to an Article or Section shall mean an Article or Section of this Ordinance, unless otherwise specified.

2-3 INTERPRETATION OF DISTRICT BOUNDARIES

2-3.1 Boundary Interpretation

Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply:

- (A) **Centerline:** Where a boundary line lies within and follows a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated street bed or utility easement.
- (B) **Edge Line:** Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated street bed or utility easement.
- (C) **Lot Line:** Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.
- (D) **Municipal Limits:** Boundaries indicated as approximately following municipal limits or extraterritorial boundary lines shall be construed as following the municipal limits or extraterritorial boundary lines.

- (E) **County Line:** Boundaries indicated as approximately following county lines shall be construed as following the county line.
- (F) **Watercourses:** Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- (G) **Extensions:** Boundaries indicated as parallel to, or as extensions of street or alley rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, municipal limits, county lines, or extraterritorial boundaries, shall be so construed.
- (H) **Scaling:** Where a district boundary does not coincide with any boundary line as delineated above and no distances are described by specific ordinance, the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Zones, Flood Hazard Boundary Maps, if available, shall be used for scaling.

2-3.2 Interpretation by Board of Adjustment

Where existing natural or man-made features on the ground are at variance with those shown on the Official Zoning Map, or are not covered by Section 2-3.1 (Boundary Interpretation), the Board of Adjustment shall interpret the district boundary.

2-3.3 Annexation

If any portion of the territory subject to county jurisdiction under this Ordinance shall be annexed by a municipality, or taken into a municipality's jurisdiction by act of the General Assembly, or in accordance with NCGS 160A, Article 4A or NCGS 160A-360, county regulations and powers or enforcement shall remain in effect until:

- (A) The municipality has adopted regulations for said annexed or extraterritorial area; or
- (B) A period of sixty days has elapsed following the effective date of annexation or extension of extraterritorial jurisdiction.

2-4 DEFINITIONS

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

Accessory Building. A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot therewith.

Accessory Dwelling Unit. A dwelling unit that exists either as part of a principal dwelling or as an accessory building, and is secondary and incidental to the use of the property as single-family residential.

Accessory Structure. A detached subordinate structure(s), the use of which is incidental to that of the principal structure and located on the same lot therewith.

Accessory Use. A use that: (1) is clearly incidental to and customarily found in connection with a principal use; (2) is subordinate to and serves a principal use; (3) is

subordinate in area, extent, or purpose to the principal use served; (4) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use served; and (5) is located on the same lot as the principal use served.

Address. The official house, building, or structure number assigned by the City for a specific lot, building or portion thereof.

Adult Bookstore. See Sexually Oriented Business definition.

Agricultural Production Crops. The production of (and activities relating or incidental to the production of) crops, fruits, vegetables, ornamental and flowering plants, and nursery products such as bulbs, trees, vines, shrubbery, flower and vegetable seeds and plants, and sod.

Agricultural Production, Livestock. The production of (and activities relating or incidental to the production of) dairy, livestock and poultry products. Livestock as used here includes cattle, sheep, goats, hogs, and poultry as well as animal specialties such as horses, rabbits, bees, fur-bearing animals in captivity, and fish in captivity. This definition does not include animal feeder/breeder operations nor the keeping of domesticated animals for pets.

Adult Theater. See Sexually Oriented Business definition.

Aircraft. Any machine supported for flight in the air by buoyancy or by the dynamic action of air on its surfaces, including, but not limited to, powered airplanes, gliders, helicopters, and dirigibles.

Alley. A roadway which affords only a secondary means of access to abutting property.

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

Antenna Support Structure. Any building or structure other than a tower that can be used for location of telecommunications facilities.

Arterial Street. A major street or highway designed primarily to carry heavy volumes of local and through vehicular traffic.

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

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

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

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

Bar, Night Club, Tavern. An establishment primarily engaged in serving alcoholic beverages and providing entertainment for patrons.

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

Bed and Breakfast. A residential dwelling in which sleeping and/or eating accommodations are provided or offered to fourteen or fewer persons per night.

Berm. A man-made mound of dirt with gently sloping sides and crown.

Best Management Practices (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Billboard or Outdoor Advertising Sign. See sign definitions in Section 12-1.1.

Block. The land lying within an area bounded on all sides by streets.

Board of Adjustment. A quasi-judicial body, appointed by the City Council, that is given certain powers under this Ordinance.

Boarding House. A dwelling or part thereof, in which lodging is provided by the owner or operator to more than fourteen boarders.

Bona Fide Farm. A tract of land devoted to agricultural purposes including activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market, but not including animal feeder/breeder operations. In addition, the tract must also be at least ten acres in size and meet the 'present use value' definition of NCGS 105-277.4 for farms.

Brewpub. An establishment where beer and malt beverages are made on the premises in conjunction with a restaurant or bar and where 40% or more of the beer produced on-site is sold on-site. Where allowed by law, brewpubs may sell beer "to go" and/or distribute to off-site accounts.

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

Buffer Yard. A strip of land which is established to separate one type of land use from another type of land use and which contains natural or planted vegetation, berms, walks, or fences in accordance with the provisions of this Ordinance.

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

Building. Any structure that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by a fire wall shall be considered a separate building.

Building Height. The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. Height of a building in stories does not include basements, except as specifically provided for in this Ordinance.

Building Line. The line, established by this Ordinance, beyond which the building shall not extend, except as specifically provided by this Ordinance.

Building Separation. The minimum required horizontal distance between buildings.

Built-upon Area. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. streets, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.) Built-upon area requirements for watershed overlay districts are delineated in Article X.

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

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

Caretaker Dwelling. A dwelling unit that exists either as part of a principal structure or as an accessory building, is secondary and incidental to the use of the principal structure, is occupied by a person (persons) that is (are) employed by the owner of the principal structure to provide domestic, maintenance, or security services.

Cemetery. Property used for the interring of the dead, including columbaria and mausoleums.

Certificate of Zoning Compliance. A statement, signed by the Zoning Administrator, setting forth either that a building or structure complies with the provisions of this Ordinance, or that building, structure, or parcel of land may lawfully be employed for specified uses, or both.

City. The City of Shelby, North Carolina.

City Council. The City Council of the City of Shelby, North Carolina.

Cleaning and Restoration Contractor. A person or company that provides services primarily to the insurance claims industry which includes residential, commercial, and industrial cleaning, repairs, and restoration in buildings (including the building contents) that have been damaged by fire, smoke, water, and/or other means. Equipment and vehicles usually required to provide these services consists of van-mounted (portable) carpet steam cleaning equipment, air movers, dehumidifiers, ladders, normal household cleaning supplies, and equipment, etc. Often, after severe fire, smoke, or water damage,

some of the building contents are brought to the contractor's building for proper cleaning and storage until the client's building is restored.

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

Cluster Development. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this Ordinance, planned unit developments and mixed use development are considered as cluster development. General requirements are provided in Section 9-4.1(B) and for watershed overlay districts, Section 10-1.5.

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

Collocation/Site Sharing. The use of a common wireless communication facility (WCF) or common site with more than one wireless license holder or by one wireless license holder for more than one type of communications technology and/or placement of a WCF on a structure owned or operated by a utility or other public entity.

Combination Use. A use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permitted Uses. (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. See Section 9-3.4. In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.)

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

Community Development Department. The Community Development Department of the City of Shelby.

Conditional Use Zoning District. A zoning district that permits all of the uses allowed in the corresponding general use zoning district, unless specifically stated otherwise in the conditional use district ordinance. All conditions specified in the conditional use district ordinance shall be voluntarily submitted by all of the property owners of property included in the petition.

Conditional Use Permit. A permit issued by the Board of Adjustment that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance as well as any additional requirements imposed by the Board of Adjustment.

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

Convenience Store. A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a 'supermarket'). It is designed to attract and depends upon a large volume of 'stop and go' traffic. Illustrative examples of convenience stores are those operated by the 'Fast Fare', '7-11', and 'Pantry' chains.

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

Critical Area. The area adjacent to a water supply intake where risk associated with pollution is greater than for the remaining portions of the watershed. The critical area is defined as extending either (a) one-half 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 (b) one-half mile upstream from and draining to the intake located directly in the stream or river or the ridge line of the watershed, whichever comes first. The City of Shelby may extend the boundary of the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

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

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

DBA. The sound pressure level, in decibels, as measured using the impulse mode and 'A' weighting network on a precision sound level meter.

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

Day Care Center. A child day care facility as defined in NCGS 110-86(3) as well as a center providing day care on a regular basis for more than two hours per day for adults.

Declaration of Unit Ownership. A duly recorded instrument by which property is submitted to the provisions of NCGS 47A.

Dedication. A gift, by the owner, of the right to use or possess land for a specified purpose or purposes. This transfer of property rights requires a written document stating dedication and is completed with an acceptance.

Developer. A person engaging in development.

Development. Any man-made change to improved or unimproved real estate, including, but not limited, to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

Development, Density Of. The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new

streets, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks, shall be used for density calculations.

Domestic Wastewater Discharge. The discharge of sewage, non-process industrial wastewater, other domestic wastewater or any combination of these items. Unless specifically excepted by the NCDEM, domestic wastewater includes liquid waste generated by domestic water-using fixtures and appliances, from any residence, place of business, or place of public assembly even if it contains no sewage. Examples of domestic wastewater include once-through, non-contact cooling water; seafood packing facility discharges; and wastewater from restaurants.

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

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

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

Duplex. (See Two-Family Dwelling).

Dwelling Unit. One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided therein. Units in dormitories, hotels, motels, shelters for the homeless, or other structures designed for transient residents are not dwelling units.

Dwelling Unit, Attached. Any dwelling unit that shares one or more common walls with other similar units.

Dwelling Unit, Detached. Any dwelling unit that is freestanding and shares no common walls with any other dwelling unit.

Easement. A grant of one or more of the property rights, by the property owner, to, or for use by, the public, a corporation, or other entities.

Emergency Shelter. A facility providing, without charge, temporary sleeping accommodations, with or without meals, for individuals and/or families displaced from their residences as a result of sudden natural or man-made catastrophe including, but not limited to, earthquake, fire, flood, tornado, hurricane, or the release of hazardous or toxic substance(s) into the environment. Such a natural or man-made catastrophe must be designated by the responsible local, state, or federal official, or an emergency agency such as the American Red Cross or the Emergency Management Assistance Agency.

Existing Lot (Lot of Record). See Lot of Record.

Existing Development. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this Ordinance based on at least one of the following criteria:

- (A) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or

- (B) Having an outstanding valid building permit as authorized by NCGS 160A-385.1, or
- (C) Having an approved site specific or phased development plan as authorized by NCGS 160A-385.1.

Extraterritorial Jurisdiction (ETJ) or Planning Area. That portion of a municipal planning jurisdiction that lies outside of the corporate limits of the City of Shelby.

Family. One or more persons, related by blood, marriage or adoption, occupying a dwelling unit and living as a single household or a group of not more than four persons, one or more of whom is not related by blood, marriage, or adoption.

Family Care Home. A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for six or less resident handicapped persons, pursuant to NCGS 168-21. A family care home can be no closer than a one half mile radius of another family care home.

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

Financial Guarantee. Any form of security, including a cash deposit, collateral, property, or instrument of credit, in an amount and form approved by the City of Shelby for use in place of actual construction of required subdivision improvements. Also referred to as 'surety'.

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

Flood Hazard Area. See Section 10-2.1 for flood hazard-related definitions.

Floor. The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Floor Area Ratio. The numerical value obtained by dividing the gross floor area of the building(s) by the net lot area on which the building(s) is/are located.

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

Front Setback. A setback from a street, road, or lane right-of-way. In cases where no right-of-way exists, setbacks are determined in accordance with the requirements of Section 9.6.8.

Frontage. The side(s) of a lot abutting a legally accessible public or private street right-of-way.

Fuel Service Pump Islands. A raised pad of concrete or similar material, which serves as a base for a device or group of devices used for dispensing motor fuel or similar petroleum products to the general public.

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

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

General Use Zoning District. A zoning district that shall permit all of the general uses allowed in that district and shall permit conditional and special uses allowed in that district, if all of the specified conditions are met.

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

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

Group Development. A development in which, in lieu of division of a tract of land into separate lots of record for separate principal buildings, a tract of land is divided into two or more principal building sites for the purpose of building development (whether immediate or future), and occupancy by separate families, firms, businesses, or other enterprises. Examples include multifamily developments, shopping centers, and office and business parks.

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

Halfway House. A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in NCGS 35-17(30)), or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

Handicapped Person. A person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in NCGS 122C-3 (11) b.

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

Hazardous Waste Treatment Facility. A facility which is established and operated for the recovery, recycling, treatment, storage during collection and prior to treatment, short-term storage after treatment, collection, processing, volume reduction, source separation, or transportation used exclusively in connection with the facility, of hazardous waste; and

which facility includes several of the following equipments and processes: incinerators, rotary kilns, drum handling, washing and crushing facilities, raw waste tank storage, reduction, neutralization, detoxification, wastewater treatment facilities, including settling systems, aerobic digesters, anaerobic digesters, clarifiers, neutralization facilities, solidifying facilities, evaporators, reactions to facilities 'reuse' or recycling, analytical capabilities, and other similar appropriate technologies, activities and processes as may now exist or be developed in the future.

Home Occupation. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof nor adversely impact the surrounding neighborhood. See Section 11-1.40 for specific regulations concerning home occupations.

Homeless Shelter. A facility operating year-round which provides lodging and supportive services including, but not limited to, a community kitchen; assistance in obtaining permanent housing; medical counseling, treatment, and/or supervision; psychological counseling, treatment, and/or supervision; assistance in recuperating from the effects of or refraining from the use of drugs and/or alcohol; nutritional counseling; employment counseling; job training and placement; and child care for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements: (1) the facility shall be contained within the building and operated by a government agency or nonprofit organization; (2) a minimum floor space of fifty square feet shall be provided for each individual sheltered; and (3) the facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.

Homeowners Association. A private, nonprofit corporation of homeowners formally constituted for the purpose of owning, operating, and maintaining common properties. Also known as a Declaration of Unit Ownership in a condominium development.

Horse Show. A temporary equestrian activity that is not conducted in conjunction with a riding academy.

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

- (A) Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- (B) Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;
- (C) Stormwater will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or
- (D) Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

Intensive Livestock Operation. Commercial and/or industrial operations primarily engaged in the production, feeding, or fattening of cattle, hogs, chickens, or turkeys in a confined area for a period of at least 45 days on a contract or fee basis. Examples of this

use include feedlots, feeding farms, cattle ranches, hog farms, chicken farms or ranches, and turkey farms or ranches. This definition does not include the keeping of domesticated animals for pets.

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

Junk/Salvage Yard. Any land or area used, in whole or in part, for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. For purposes of this Ordinance, (1) the storage, keeping, or accumulation of more than three junked motor vehicles, manufactured homes, recreational vehicles, boats, and similar vehicles and (2) the use of 600 or more square feet of the area of any lot for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials shall constitute a junk/salvage yard.

Junked Motor Vehicle. A motor vehicle that does not display a current license plate and is one or more of the following: (1) is partially dismantled or wrecked; or (2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or (3) more than five years old and appears to be worth less than one hundred dollars.

Kennel. A commercial operation that: (1) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (2) engages in the breeding of animals for sale.

Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the NC General Statutes. For the purpose of this Ordinance, this term does not include composting facilities.

Landfill, Demolition and Construction Debris. A disposal site for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth. Disposal of any other types of waste must be approved by the NC Division of Health Services.

Landfill, Discharging. A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

Landfill, Sanitary/Solid Waste. A site for solid waste disposal from residential, industrial or commercial activities.

Large Brewery. An establishment where beer and malt beverages are made on the premises at an annual beer production rate of over 15,000 barrels.

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

Lot. A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership, or for development or both. The word 'lot' includes 'plot', 'parcel', or 'tract'.

Lot Area. The total area circumscribed by boundaries of a lot except that when the legal instrument creating a lot shows the boundary of the lot extending into a public street or private right-of-way, then the lot boundary for purposes of computing the lot area shall be

the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the street.

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

Lot Depth. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

Lot, Double Frontage. See definition of Through Lot.

Lot Line, Front. The boundary line of a lot running along a street right-of-way. If a lot has two or more property lines which are also street right-of-way lines abutting different streets, then the street side to which the property address has been assigned shall constitute the front lot line. If no property address has been assigned, the front lot line shall be determined by the property owner if the front property line has not been designated on a final plat (minimum building lines are construed to designate the front lot line).

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

Lot Width. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Machine Welding Shop. A workshop in which small metal articles are machined to shape using machine tools.

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

Major Variance. A variance from the watershed overlay district requirements that result in any one or more of the following:

- (A) The complete waiver of any of the management requirements outlined in Sections 10-1.2, 10-1.3, 10-1.4, 10-1.7, 10-1.8 and 10-1.11.
- (B) The relaxation, by a factor of greater than ten percent, of any of the above-referenced management requirements.
- (C) Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

Note: *This definition is applicable only to variances from requirements delineated for watershed protection overlay districts.*

Manufactured Home. A dwelling unit that: (1) is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended, (2) is designed for use as a permanent residence, and (3) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed for installation or assembly and installation on the building site.

Manufactured Home, Class A. A dwelling unit that: (1) is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site, and (2) meets or exceeds the construction standards of the US Department of Housing and Urban Development, and (3) conforms to the following appearance criteria:

- (A) The manufactured home has a minimum width, as assembled on the site, of twenty feet;
- (B) The pitch of the manufactured home's roof has a minimum nominal vertical rise of three inches for each 12 inches of horizontal run and the roof is finished with asphalt or fiberglass shingles;
- (C) A continuous, permanent curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home; and
- (D) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

Manufactured Home, Class B. A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction, but that does not satisfy all of the criteria necessary to qualify as a Class A manufactured home but meets the following standards:

- (A) Skirting or a curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home and may consist of brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation and
- (B) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the NC Department of Insurance and attached firmly to the primary structure and anchored securely to the ground.

Manufactured Home, Class C. Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home but meets the following standards:

- (A) Skirting or a curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home and may consist of brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation and
- (B) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the NC Department of Insurance and attached firmly to the primary structure and anchored securely to the ground.

Manufactured homes that do not meet the definitional criteria of Class A, B, or C manufactured homes are classified as recreational vehicles.

Manufactured Home Park. A residential use in which two or more Class A, B, or Class C manufactured homes are located on a single lot or tract.

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

Manufactured Home Subdivision. A subdivision containing two or more building lots that are specifically designed to be sold for residential occupancy by manufactured home owners.

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

Microbrewery. An establishment where beer and malt beverages are made on the premises and then sold or distributed, and which produces less than 15,000 barrels (a barrel is approximately 31 gallons) of beer per year. Microbreweries sell to the public by one or more of the following methods: the traditional three-tier system (brewery to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and directly to the consumer.

Mining. The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of mineral, ores, soils, and other solid matter from its original location; and/or the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

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

Minor Variance. A variance from the watershed overlay district requirements that results in a relaxation, by a factor of up to five percent, of any buffer, density or built-upon area requirements delineated in Section 10-1.11 or that results in a relaxation, by a factor of up to ten percent, of any management requirement in Sections 10-1.2, 10-1.3, 10-1.4, 10-1.7, 10-1.8 and 10-1.11. **Note:** *This definition is applicable only to variances from requirements delineated for watershed protection overlay districts.*

Modular Home. A dwelling unit constructed in accordance with the standards set forth in the NC State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the NC State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

Multifamily Dwelling. A building or portion thereof used or designed as a residence for three or more families living independently of each other with separate housekeeping and cooking facilities for each, and includes apartments, townhouses and condominiums.

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

Neighborhood Food and Beverage Service. A use limited to the serving of ice cream, yogurt, coffee, juices, and similar items along with items such as bagels, muffins, and pastries provided the following restriction apply: The use will be limited to one thousand eight hundred (1,800) square feet and provides no on-premises cooking of food.

Non-process Discharge. Industrial effluent not directly resulting from the manufacturing process. An example would be non-contact cooling water from a compressor.

Nonconforming. A lot, structure, sign, or use of land, which is now prohibited under the terms of this Ordinance, but was lawful at the date of this Ordinance's enactment, or any amendment or revision thereto.

Nonconforming Lot(s). A lot of record that does not conform to the dimensional requirements of the zoning district in which it is located. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

Nonconforming Project. Any structure, development, or undertaking that is incomplete at the effective date of this Ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

Nonconforming Situation. A situation that occurs when, on the effective date of this Ordinance, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this Ordinance, because signs do not meet the requirements of this Ordinance, or because land or buildings are used for purposes made unlawful by this Ordinance.

Nonconforming Structure(s). A structure that does not conform to the requirements of this Ordinance. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

Nonconforming Use. A use which once was a permitted use on a parcel of land or within a structure, but which is not now a permitted use. The nonconformity may result from the adoption of this Ordinance or any subsequent amendment.

Nonconformity, Dimensional. A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Nonresidential Zoning District. The following general use and conditional use zoning districts: RO, Residential-Office; NB, Neighborhood Business; CB, Central Business; GB, General Business GB2, General Business II; CPD, Corridor Protection District; LI, Light Industrial; GI, General Industrial.

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

Open Space. An area of land and/or water which is generally unimproved and is reserved for recreation, resource protection, amenity, or buffer purposes.

Outdoor Religious Event. An activity of a religious organization that is conducted outdoors as a free-standing use and is not an accessory use to a principal use such as a church or other place of worship. An example of an outdoor religious event would be a tent revival.

Overlay Zoning District. A zoning district which overlaps one or more general and/or conditional use districts. Overlay zoning districts impose additional regulations on property located within general and/or conditional use districts.

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

Parking Lot. Part of a development that is designed and designated as a place to park motor vehicles.

Parking Space. A specific site within a parking area designed to accommodate a single motor vehicle.

Perennial Waters. Waters as identified on recent USGS topographic maps which are free flowing for the entire year.

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

Permit-issuing Authority/Board. The person or board authorized by this Ordinance to issue a permit in accordance with the requirements of this Ordinance. The term applies to the Zoning Administrator when issuing a zoning or sign permit, to the Board of Adjustment when issuing a conditional use permit, and to the City Council when issuing a special use permit.

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

Personal Grooming Establishment. An establishment engaged primarily in providing services to a person's grooming needs (hairdressing, makeup, and similar cosmetic treatments). Such establishments include, but are not limited to: barber shops, beauty shops, tanning salons, and nail salons. Tattoo studio shall NOT be included under this definition.

Planned Unit Development (PUD). An area of land under unified ownership or control to be developed and improved as a single entity under a Unified Development Plan in accordance with and subject to the requirements of this Ordinance.

Plan, Construction. The map and accompanying text, prepared and submitted under the prescribed conditions set forth in this Article, which details required improvements such as roads, fire hydrants, and street lighting.

Plan, Drainage. The portion of a construction plan that illustrates the proposed system designed to provide adequate surface and subsurface drainage for a proposed development.

Plan, Erosion and Sedimentation Control. A plan that outlines the procedure designed to control accelerated erosion and sedimentation resulting from certain land disturbing activities.

Plan, Plot. The map and accompanying text required for the review of a single-family or two-family dwelling. The information required to be included on a plot plan is delineated in Appendix A.

Plan, Site. The map and accompanying text required for the review of the proposed installation of improvements for all uses, other than a single-family or two-family dwelling, as well as for the review of a change of use. The information required to be included on a site plan are delineated in Appendix A.

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

Plat, Final. The final map of all or a portion of a subdivision or site, showing the boundaries and location of lots, streets, easements and any other requirements of Appendix A, which is presented for City approval and subsequent recordation in the Cleveland County Register of Deeds Office.

Plat, Preliminary. A map indicating the proposed layout of the subdivision or site showing lots, streets, water, sewer, storm drainage, and any other requirements of Appendix A, which is presented for preliminary approval.

Principal Building. A building in which is conducted the principal use of the zone lot on which it is located or, in a group development, of the building site on which it is located. Any dwelling is considered a principal building unless it is an accessory dwelling in compliance with Section 11-1.3 (Accessory Dwelling Units on Single-Family Lots); farm tenant dwelling; or a residence for a pastor; or caretaker dwelling accessory to a nonresidential use (limited to one such residence per lot).

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

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

Private Dormitory. A multiple unit residential accommodation which is established directly or indirectly, in association with a college, business college, trade school or university, for the purpose of housing students registered and attending such an institution. A private dormitory may contain food preparation and eating facilities primarily for the use of its occupants.

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

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

Private Street. A vehicular travelway not dedicated or offered for dedication as a public street, but resembling a cul-de-sac or a local street by carrying traffic from a series of driveways to the public street system. Private streets must comply with the requirements of Section 15-7.3(G).

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

Protected Area. The area adjoining and upstream of the watershed critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

Public Hearing. A legally required, advertised meeting at which an appointed or elected board accepts public comment about matters relating to this Ordinance.

Public Safety Communications Tower. A telecommunications tower utilized by the federal government, state government, or local government engaged in public safety activities. Public safety activities shall include only, homeland security, law enforcement, emergency management, fire protection, and emergency medical services.

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

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

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

Rear Setback. A setback from an interior property line lying on the opposite side of the lot from the front street setback. For a through lot, there are front and side setbacks but no rear setback.

Recreational Vehicle. A vehicle which is built on a single chassis, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

Recreational Vehicle Park. Any site or tract of land, of contiguous ownership, upon which fifteen or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in this Ordinance.

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

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

Residential District or Residential Zoning District. The following general and conditional use districts: R-20, Residential; R-10, Residential; R-8, Residential; R-6, Residential; and RR, Rural Residential.

Residuals. Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission.

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

Retreat/Conference Center. A use primarily intended for transient guests where the primary attractions are generally conference and meeting facilities and recreational activities and features. A retreat/conference center may include a mixture of such uses as (1) conference centers; (2) assembly halls; (3) indoor and outdoor recreational facilities, including but not limited to golf courses, swim and tennis clubs, and physical fitness centers; (4) hotel and motels; (5) restaurants; and (6) incidental support retail businesses.

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

Rezoning. The procedure whereby the zoning designation of a certain parcel or portion thereof is changed following the procedures set forth in this Ordinance.

Riding Academy. A commercial facility or school that is open to the general public and offers such activities as riding lessons, horse training, and boarding of horses. For purposes of this ordinance, riding academy does not include the keeping of horses for personal use.

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

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

Rural Family Occupation. A nonresidential use allowed by conditional use permit as an accessory use to a residential use in certain designated residential zoning districts. Rural family occupations must comply with the requirements of Section 11-1.59.

Salvage Yard, Auto Parts. Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5015. Also, any land or area used, in whole or part, for the storage, keeping, accumulation, dismantling, demolition, or abandonment of inoperable vehicles or parts therefrom.

Salvage Yard, Scrap Processing. Any establishment listed in the Standard Industrial Classification Manual under Industry Number 5093. Also, any land or area used, in whole or part, for the storage, keeping, accumulation of scrap or waste materials, including scrap metals, waste paper, rags, building materials, machinery, or other scrap materials.

Satellite Dish Antenna. A parabolic or dish-shaped antenna that is designed for the purpose of receiving electronic signals. Satellite dish antenna that are less than two meters in diameter and located within commercial or industrial zoning districts and less than one meter in diameter and located within residential or residential-office districts are not included in this definition.

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

Setback. The minimum required horizontal distance between a structure or activity and the property line or the street right-of-way line.

Sexually Oriented Business. An adult arcade, adult bookstore or adult video store, adult cabaret, adult massage parlor, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, lingerie studio, sexual encounter studio, or any combination of the foregoing. As used in this Ordinance, the following definitions shall apply:

- (1) **Adult Arcade** (also know as 'peep show'). Any place to which the public is permitted or invited, wherein coin-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe specified sexual activities and/or specified anatomical areas.
- (2) **Adult Bookstore or Adult Video Store.** A commercial establishment which as one of its principal business purposes offers for sale or rental, for any form of consideration, any one or more of the following:
 - (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe specified sexual activities and/or specified anatomical areas; or
 - (b) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
- (3) **Adult Cabaret.** A nightclub, bar restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes:

- (a) Persons who appear nude or semi-nude; or
 - (b) Live performances which are characterized by the exposure of specified anatomical areas and/or by specified sexual activities; or
 - (c) Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe specified sexual activities and/or specified anatomical areas.
- (4) Adult Massage Parlor.** A commercial establishment where, for any form of consideration, massage, alcohol rub, fomentation, electrical or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State of North Carolina. This definition does not include an athletic club, physical fitness center, school, gymnasium, reducing salon, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
- (5) Adult Motel.** A hotel, motel, or similar commercial establishment that:
- (a) Offers accommodations to the public, for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe specified sexual activities and/or specified anatomical areas as one of its principal business purposes; or
 - (b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - (c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.
- (6) Adult Motion Picture Theater.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe specified sexual activities and/or specified anatomical areas.
- (7) Adult Theater.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits, or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict specified anatomical areas and/or specified sexual activities.
- (8) Escort.** A person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- (9) Escort Agency.** A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or any other form of consideration.

- (10) Nude Model/Lingerie Studio.** Any place where a person who appears nude or semi-nude, or who displays specified anatomical areas, is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration. 'Nude model studio' shall not include a proprietary school licensed by the State of North Carolina or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:
- (a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
 - (b) Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 - (c) Where no more than one nude or semi-nude model is on the premises at any one time.
- (11) Nude or a State of Nudity.** The appearance of a human anus, male genitals, or female genitals; or a state of dress which fails to opaquely cover a human anus, male genitals, or female genitals.
- (12) Semi-nude.** A state of dress in which clothing covers no more than the genitals, pubic region, or areola of the female breast, as well as portions of the body covered by supporting straps or devices.
- (13) Sexual Encounter Center.** A business or commercial enterprise that, as of one of its principal business purposes, offers for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
- (14) Specified Anatomical Areas.** Less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (15) Specified Sexual Activities.** Includes any of the following:
- (a) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
 - (b) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
 - (c) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
 - (d) Masturbation, actual or simulated; or
 - (e) Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or

- (f) Erotic or lewd touching, fondling, or other contact with an animal by a human being; or
- (g) Human excretion, urination, menstruation, vaginal or anal irrigation.

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

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

Sight Distance Easement. An easement which grants to the entity responsible for street maintenance the right to maintain unobstructed view across property located at a street intersection.

Sign. See Section 12-1.1 for sign-related definitions.

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

Single-Family Detached Dwelling. A separate, detached building designed for and occupied exclusively by one family.

Sketch Plan. A rough sketch of a proposed subdivision or site, showing streets, lots, and any other information of sufficient accuracy to be used for discussion of the street system and the proposed development pattern.

Solar Energy System (SES). The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. A system fits into one of three system types: Level 1 SES, Level 2 SES, and Level 3 SES.

(1) Level 1 Solar Energy System. Level 1 SESs include the following:

- (a) Roof-mounted on any code-compliant structure.
- (b) Ground-mounted on an area of up to 50% of the footprint of the primary structure on the parcel but no more than 1 acre.
- (c) Covering permanent parking lot and other hardscape areas.
- (d) Building integrated solar (i.e., shingle, hanging solar, canopy, etc.).

(2) Level 2 Solar Energy System. Level 2 SESs are ground-mounted systems not included in Level 1 that meet the area restrictions listed below:

- (a) R20 and RR (Rural Residential): SES ≤ 1/2 acres
- (b) R10: SES ≤ 1/2 acre

- (c) R8: SES ≤ 1/2 acre
- (d) R6 AND RO (Residential Office): SES ≤ 1/2 acre
- (e) GB (General Business) and GB2: SES ≤ 10 acres
- (f) LI (Light Industrial) and GI (General Industrial): SES ≤ 10 acres

(3) Level 3 Solar Energy System. Level 3 SESs are systems that do not satisfy the parameters for a Level 1 or Level 2 Solar Energy System.

- (a) GB (General Business) and GB2: SES > 10 acres
- (b) LI (Light Industrial) and GI (General Industrial): SES > 10 acres

Special Exception. A specific authorization granted, in accordance with the provisions of Section 6-3.3(C), by the Board of Adjustment for the extension, enlargement, or replacement of a nonconforming use.

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

Special Use Permit. A permit issued by the City Council that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance or as well as any additional requirements imposed by the City Council.

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

Stealth. Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole tower designs.

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

Stormwater Runoff. The direct runoff of water resulting from precipitation in any form.

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

Structure. Anything constructed, erected, or placed.

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

Subdivider. Any person who subdivides land.

Subdivision. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future), and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following are not included within this definition and are not subject to any subdivision approval regulations in this Ordinance:

- (A) The combination or recombination of a portion of previously subdivided and recorded lots if the total number of lots is not increased, and the resultant lots are equal to or exceed the standards of this Ordinance;
- (B) The division of land into parcels greater than ten acres if no street right-of-way dedication is involved;
- (C) The public acquisition by purchase of strips of land for the widening or opening of streets; and
- (D) The division of a tract in single ownership, the entire area of which is not greater than two acres into not more than three lots, if no street right-of-way dedication is involved, and if the resultant lots are equal to or exceed the standards of this Ordinance.

Plats deemed to be an exception to the provisions of this Ordinance may be recorded provided the owner desiring to record such plats shall obtain a Certificate of Exception (see Appendix D) from the Community Development Director and shall present such certificate to the Cleveland County Register of Deeds as proof that the exception condition is present.

Subdivision, Major. A subdivision involving more than 5 lots or requiring an access easement(s), or requiring a new public or private street(s) for access to interior property, or requiring extension of a public sewer or water line, or requiring a waiver or variance from any requirement of this Ordinance.

Subdivision, Minor. A subdivision involving 5 or less lots fronting on an existing approved public street(s), not requiring any new public or private street(s) nor easements for access to interior property, not requiring extension of a public sewer or water line, and not requiring a waiver or variance from any requirement of this Ordinance.

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

Tap Room. A room that is ancillary to the production of beer at a microbrewery, brewpub, or large brewery where the public can purchase and/or consume only the beer produced on-site.

Tattoo Studio. An establishment whose principle business activity is placing ink under the skin using needles that result in the coloration of the skin.

Telecommunications Facilities. Any cables, wires, lines wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

- (1) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or
- (2) Any satellite earth station antenna one meter or less in diameter, regardless of the zoning category.

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

Temporary Emergency, Construction, and Repair Residence. A residence (which may be a manufactured home) that is: (1) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (2) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed; or (3) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site. (See Section 11-1.72 for specific standards related to such residences.)

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

Temporary Shelter. A facility which provides temporary lodging during times of life-threatening weather conditions for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements: (1) the facility shall be contained within the building of and operated by a government agency or nonprofit organization; (2) a minimum floor space of fifty square feet shall be provided for each individual sheltered; and (3) the facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours of operation.

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

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

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

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

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

Through Street. A street that has both ends open to traffic.

Tourist Home. A private residence in which lodging accommodations are provided to no more than fourteen persons and may include meals for overnight guests for a fee.

Tower. A self-supporting lattice, guyed, or monopole structure constructed from grade which supports Telecommunications Facilities. The term Tower shall not include amateur radio operator's equipment, as licensed by the FCC.

Tower Co-location. An arrangement whereby more than one user occupies a single tower or structure.

Tower, Communications. A structure greater than sixty feet in height whose primary purpose is to support communications equipment. This definition includes tower/antenna/building combinations and the height measurement applies to those combinations. This definition shall not include wire-supporting electric power transmission and telephone poles.

Tower, Lattice. A guyed or self-supporting multi-sided, open, steel frame structure used to support communications equipment.

Tower, Monopole. A structure composed of a single spire used to support communications equipment.

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

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

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

Two-Family Dwelling. A building on one lot arranged and designed to be occupied by two families living independently of each other.

Understory Tree. A species of tree which normally grows to a mature height of fifteen to thirty-five feet in height.

Use. The purpose or activity for which land or structures is designed, arranged or intended, or for which land or structures are occupied or maintained.

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

Use(s), Permitted. Any use, as designated in this Ordinance, that is by right allowed to occur within a specific zoning district.

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

Utility Easement. An easement which grants to the City Council or other utility providers the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.

Variance. Official permission from the Board of Adjustment to depart from the requirements of this Ordinance.

Velocity. The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

Very Low Volume Local Road. A street whose primary function is to provide access to no more than 20 abutting properties with a Minimum Lot Size of One Acre. Average Daily Traffic Count is no more than 400 vehicles per day.

Video Gaming Arcade. An establishment engaged in the operation of a video gaming machine or machines, either as a principal use, combination use, or as an accessory use. A video gaming arcade is distinguished from other coin-operated amusement businesses in that a video gaming arcade includes one or more video gaming machine.

Video Gaming Machine. A slot machine as defined in NCGS 14-306(a) and other forms of electrical, mechanical, or computer games such as by way of illustration:

- (1) A video poker game or any other kind of video playing card game.
- (2) A video bingo game.
- (3) A video craps game.
- (4) A video keno game.
- (5) A video lotto game.
- (6) Eight liner.
- (7) Pot-of-gold.
- (8) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

For purposes of this Ordinance, a video gaming machine is a video machine which

requires deposit of any coin, token, or use of any credit card, debit card, or any other method that requires payment to activate play of any of the games listed above.

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

Water-Dependent Structure. Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water-dependent structures.

Watershed. The entire land area contributing surface drainage to a specific point (e.g. the water supply intake). For purposes of the water supply protection regulations contained herein, major landmarks such as highways or property lines may be utilized by the City of Shelby to delineate the outer boundary of the drainage area if these landmarks are immediately adjacent to the ridge line.

Wet Detention Pond. A pond that has a permanent pool and which also collects stormwater runoff, filters the water, and releases it slowly over a period of days.

Yard. A space on the same lot with a principal building that is open, unoccupied, and unobstructed by buildings or structures from the ground to the sky except where encroachments and accessory buildings are expressly permitted.

Yard, Front. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street right-of-way line and the front line of the building, projecting to the side lines of the lot. Corner lots are required to have only one front yard; the front yard shall be located adjoining the street to which the property address is assigned.

Yard, Rear. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building, projected to the side lines of the lot.

Yard, Side. An open, unoccupied space on the same lot with a principal building, situated between the building and the side lot line and extending from the rear line of the front yard to the front line of the rear yard.

Zero Side Setback. An alternate form of dimensional requirements that allows a dwelling unit to have one side setback of zero distance from a side property line. This definition does not apply to townhouses.

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

Zoning Administrator. The person(s) authorized by Section 3-3 who is responsible for administering and enforcing this Ordinance.

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

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

Zoning Vested Right. A right established pursuant to NCGS 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan (See Section 4-15).