

**ARTICLE XI**

**DEFINITIONS**

Section 11-1

For the purpose of this ordinance, certain terms and words used herein shall be interpreted as follows.

Section 11-2 Tense and Number

11-2.1 The present tense includes the future and the future tense includes the present tense.

11-2.2 The singular number includes the plural number and the plural number includes the singular number.

Section 11-3 Word Interpretation

11-3.1 The word “may” is permissive.

11-3.2 The words “shall” and “will” are always mandatory and not merely directory.

11-3.3 The words “town” or “city” shall mean the Town of Hertford, North Carolina.

11-3.4 The words “Zoning Board” or Zoning Commission” shall mean the Town of Hertford Zoning Board of Adjustment.

11-3.5 The words “Town Commissioners” shall mean the Town Commissioners of Hertford, North Carolina.

11-3.6 The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

11-3.7 The word “used or occupied” includes the words intended, designed, or arranged to be used or occupied.

11-3.8 The word “lot” includes the words plat, parcel, site, premises.

Section 11-4 Definitions

Accessory Use or Structure

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

#### Adult Day Care Center

A day care facility in which day care is provided to 7 or more adolescents, or disabled, or older adults.

#### Adult Day Care Home

A day care facility in which day care is provided for up to 6 adolescents, or disabled or older adults.

#### Adult Establishment

A business as defined in North Carolina General Statute (NCGS) 14- 202.10(2). This definition includes adult bookstores, adult motion picture theatres, adult mini- motion picture theatres, adult live entertainment businesses or massage businesses. These uses are further defined in NCGS 14-202.10 and the definitions are adopted by reference; however, those massage businesses where all employees associated with massage meet the ethical and educational requirements specified by the American Massage Therapy Association, or equivalent national or state standards, are exempt from this definition.

#### Alley

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

#### Automobile Repair Shop

An establishment engaged in providing mechanical automotive maintenance and repair, such as engine repair, exhaust system replacement, and transmission repair, and/or providing other related services, such as upholstery or glass replacement. Unlike a Garage, an Automobile Repair Shop specifically excludes auto body work and painting.

#### Automobile Service Station

Any building or land used for the dispensing, sale or offering for at retail of any automobile fuels and lubricants, except that indoor car washing, minor motor adjustment, flat tire repair, and tire sales are only performed incidental to the conduct of the filling station. Uses permissible at an automobile service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise glare, fumes, smoke or other characteristics to an extent greater than normally found in service stations. An automobile service station is not a repair garage or a body shop.

#### Bar, Tavern (Drinking Places)

Establishments primarily engaged in the retailing of alcoholic drinks, such as beer, ale, wine, and liquor, for consumption on the premises, provided a valid permit(s) or license(s) is (are) issued by the NC Alcoholic Beverage Control Commission. In addition these facilities may provide music, either live or recorded, and the sale of food are subordinate aspects of their operation. Included in this definition are: cabarets, cocktail lounges, nightclubs, taprooms, and discoteques.

#### Billboard

Any Sign or Device by which lettering or pictorial material is displayed for the purpose of directing attention to a profession, business, commodity, service or entertainment conducted, sold or offered else where than upon the same lot.

#### Buildable Area

The portion of a lot remaining after yards have been provided.

#### Building

Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattels.

#### Building Height

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

#### Child Care

A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage or adoption. Child care does not include the following:

- a.) Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
- b.) Recreational programs operated for less than four consecutive months in a year;
- c.) Specialized activities or instruction such as athletics, dance, art, music lesson, horseback riding, gymnastics, or organized clubs for children such as Boy Scouts, Girls Scouts, 4-H groups, or boys and girls clubs;
- d.) Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resorts hotels, or churches;
- e.) Public Schools;
- f.) Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;
- g.) Bible schools conducted during vacation periods

h.) Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;

i.) Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and

j.) Any child care program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.

#### Clubs, Lodges, & Fraternal Organizations

A Building or parcel of land used by a membership organization engaged in non-profit civic, social, or fraternal activities. Included in this definition but limited to are fraternal lodges, veteran's organization, civic associations, booster clubs, and social clubs.

#### Commissary

A legally licensed food establishment that services a mobile food unit or a pushcart. A commissary shall have no means of service on the property the use occupies unless otherwise permitted.

#### Contractor/ Construction Business

A place of business for a contractor, plumber, electrician, or similar trade which includes office space as well as indoor or outdoor storage of materials and/ or vehicles and which may include retail sales (only in the C-4 Zoning District) to other businesses or the public. Indoor space may be used for shop space for preconstruction or predelivery work.

#### Curb Cut

A lowered or cut-away curb for purposes of ingress or egress to property abutting a public street.

#### Customary Accessory Uses

a) Churches- Graveyards, Sunday school buildings, recreational facilities, does not include parochial education conducted on a daily basis.

#### District

Any section of the Town of Hertford in which zoning regulations are uniform.

#### Drive-In Restaurants or Refreshment Stand.

Any place or premises used for sale, dispensing or serving food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink food, refreshments, or beverages on the premises.

## Drug Store

Any store whose primary purpose and whose majority of floor area is used to dispense medicines, supplies, or preparations that are for personal use in treating or caring for injuries, infections, illnesses, or personal hygiene. No store whose gross floor area is greater than two thousand (2000) square feet shall be considered a drug store for the purposes of this ordinance.

## Dwelling, Single-Family

A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

## Dwelling, Manufactured Home (including double-wides)

### **Manufactured Home**

A residential dwelling unit built to the most recent standards of the U.S. Department of Housing and Urban Development, and composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis. Travel trailers and campers shall not be classified as Manufactured Homes.

### **Manufactured Home, Class A**

A Manufactured Home constructed after January 1, 1977 that meets or exceeds the most recent construction standards promulgated by the U.S. Department of Housing and Urban Development and that satisfies the following criteria:

- a) length of the manufactured home does not exceed the width by more than four times;
- b) the manufactured home is at least 20 feet in length;
- c) the pitch of the manufactured home's roof has a minimum vertical rise of two and two-tenths feet for each twelve feet of horizontal run (2.2' in 12') and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- d) the exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity gloss of white paint), wood or hardboard comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;
- e) a continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the manufactured home;
- f) the tongue, axles, transporting lights and removable towing apparatus are removed subsequent to final placement;
- g) the manufactured home is placed on land owned by the owner of the manufactured home, which will be listed and taxed as real property.

### **Manufactured Home, Class B**

A manufactured home constructed after January 1, 1977, that meets or exceeds the most

recent construction standards promulgated by the U.S. Department of Housing and Urban Development but does not satisfy one or more of the criteria necessary to qualify as a Class A manufactured home.

**Manufactured Home, Class C**

Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.

Dwelling, Two Family

A detached residential building containing two dwelling units, designed for occupancy by not more than two families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Multiple Family

A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Unit

One room, or rooms together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Electronic Gaming/ Internet sweepstakes Cafe

A business enterprise, whether principal or accessory, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of odds or chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This definition does not include operations associated with the Official North Carolina Education Lottery

Entertainment Establishment (Without sales of alcoholic drinks or beverages)

Establishments primarily engaged in the providing of entertainment without sales or use of alcoholic drinks or beverages. Establishments may provide music, music events, either live or recorded, stage productions, etc., and may provide the sale and consumption of food. Examples discos, nightclubs, dinner clubs, and private clubs.

Equipment Rental & Leasing

The renting and leasing of equipment such as but not limited to: tools, furniture, appliances, electronic equipment, recreational equipment, medical equipment, and light construction equipment.

Family

One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over (5) persons, but

further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

#### Family Child Care Home – Large

A child care operation located in a residence which provides child care for 3 to 12 preschool-age children or 15 school-age children meeting the definition and requirements set forth in N.C. Gen. Stat. §110-86.

#### Family Child Care Home – Small

A child care operation located in a residence which provides child care for 3 to 5 preschool-age children and 3 school-age children, with the operator's preschool-age children included, meeting the definition and requirements set forth in N.C. Gen. Stat. §110-86.

#### Flea Market, Open Air

A flea market, swap shop, or similar activity by whatever name, where the use involves the setting up of two or more booths, tables, platforms, racks, or similar display areas for the purpose of selling, buying, or trading merchandise, goods, materials, products, or other items offered for sale outside an enclosed building. Flea markets shall not include fundraising activities done by a nonprofit organization, which occur at the same location five or fewer days in a calendar year.

#### Food Store - Retail

To include bakeries, candy stores, fruit and vegetables, and other miscellaneous food stores engaged in the retail sales of specialized foods.

#### Garage

Building and premises where major mechanical and body work is performed such as straightening of body parts, painting, welding work, work necessitating the removal of major parts (e.g. cylinder heads, exhaust or intake manifolds) provided all work and equipment shall be stored and performed inside the garage structure, and provided that no parts, or vehicles may be stored outside such structure for a period to exceed twenty-four (24) hours.

#### Group Care Facility

A traditional housing facility for thirty (30) or fewer residences, licensed by the State of North Carolina or a nonprofit corporation chartered by the State of North Carolina pursuant to Chapter 55A, NCGS, which provides room and board, personal care and rehabilitative services while persons receive therapy or counseling to assist them. Such facilities may have accessory uses conducted on premises, including but not limited to education, occupational training and production of goods and crafts.

#### Home Occupation

See Article III, General Provisions

### Electronic Gaming/ Internet sweepstakes Cafe

A business enterprise, whether principal or accessory, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of odds or chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This definition does not include operations associated with the Official North Carolina Education Lottery.

### Junk Yard (Salvage Yard)

Any land or area in excess of two hundred (200) square feet used, in whole or in part, for commercial storage and/or sale of waste paper, rags, scrap metal or other junk, and including storage of motor vehicles and dismantling of such vehicles or machinery.

### Loading Space, Off-Street

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

### Lot

For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces or are herein required. Such lot shall have frontage on a public street. No lot shall front a private street.

### Lot Frontage

The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under YARDS in this section.

### Lot Measurements

(a) Lot Depth: The mean horizontal distance between front and rear lot line.

(b) Lot Width: The distance between side lot lines measured at the building line.

### Lot of Record

A lot which is part of a subdivision recorded in the office of the Register of Deeds, Perquimans County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

### Lot Types

(a) Corner Lot- A lot located at the intersection of two or more streets.



(b) Interior Lot- A lot other than a corner lot with only one frontage on a street.

(c) Through Lot- A lot other than a corner lot with frontage on more than one street.  
Through lots abutting two streets may be referred to as double frontage lots.

#### Marina

A private or public facility providing facilities for the launching, tying-up, or storing (in water or on land) of boats. Supportive services such as the sale of boating supplies and fuel may be allowed at the discretion of the Board of Adjustment. The principal purpose of the marina, however, shall be the launching, dockage and storage of boats.

#### Mobile Home

See Dwelling, Manufactured Home (Including Double Wides)

#### Nonconforming Uses

The use of a building or land which does not conform to the use or dimensional regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments which may be incorporated into this ordinance.

#### Nursing Home

A facility which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care services for three (3) or more residents. Continuing planned medical and nursing care is provided under the direct supervision of a physician, nurse or home health agency.

#### Pawn Shop

A business activity where money is lent in exchange for personal property for security or where used merchandise is purchased at a discount and sold to the general public. All property must be stored inside the building.

#### Parking Space, Off-Street

For the purpose of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, not less than ten (10) feet by twenty (20) feet, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no one parking or maneuvering incidental to parking shall be unparked without moving another.

#### Recreation/Sporting - Sales, Retail, Service

To include non-motorized boat rentals and sales and limited outdoor storage; recreational boat slips that are rented/leased to someone other than the property owner and the boat is not used for commercial purposes; sale, rental and repair of bicycles with limited outdoor storage and any other non-motorized recreational sales/rentals.

Rest Home (Adult Care Home)

An assisted living residence in which the housing management provides 24 hour scheduled and unscheduled care services to two (2) or more residents, either directly or, for scheduled needs, through a formal written agreement with a licensed home care provider.

Restaurant

A place where food is cooked, put together, portioned, set out or handed in unpackaged portions for human consumption on the premises, which can include restaurants, cafes, lunch stands, grills, snack bars, delicatessens, ice cream parlors, coffee shops, oyster bars, and fudge/candy stores.

Restaurant - Short Order/Take Out

Any place used for the preparation, cooking, dispensing, and sale of food, refreshments or beverages where such is taken off premises for consumption. Off premise shall be taken to mean that consumption will not take places in public within 100 feet of the facility unless within a designated park or picnic area.

Setback (Building) Front, Side, Rear

See Yard, Front, Side, or Rear

Sign

Any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

Sign, Attached

Any device which is attached either to a principal or accessory building or to customary appurtenances thereof and its purpose is to inform or attract the attention of persons not on the premises.

Sign, Exterior

Any device located outside a building, structure, or establishment designed to inform or attract the attention of persons not on the premises on which the sign is located.

Sign, Flashing

A "flashing sign" is an illuminated sign on which the light is not constant in intensity and/or color at all times when in use. Any revolving or moving sign, illuminated or not, shall be consider a flashing sign.

Sing, Free Standing

Any sign other than an attached sign.

Sign, Outdoor Advertising

See Billboard

Sign, Principal Use

Any sign other than a temporary sign.

Signs, Surface Area

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising of all the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation.

Sign, On-Site

A sign relating in its subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises, on-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Sign, Off-Site

A sign other than an on-site sign.

Sign, Temporary

Any sign erected or placed on a parcel, lot or premises for not more than fourteen (14) days, such sign may or may not require a permit. (See Section 7-3)

Specialty School

A training school or program providing non-degree instructional programs such as but not limited to, driving instruction, modeling, flying, computer usage/programming, learning/tutoring centers or services

Street Line

The right-of-way line of a street.

Structure

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, among other things, structures include buildings, mobile homes, walls, fences, billboards, poster panels, and swimming pools.

Travel Trailer

A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreation purposes, having a body width not exceeding eight (8) feet. Trailers having a body width exceeding eight (8) feet shall be considered as a Mobile Home Dwelling.

## Use

- (a) Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or
- (b) Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

## Use, Conditional

A conditional use is a use that would not be appropriate generally or without restriction throughout a particular zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would preserve the intent of this ordinance to promote the public health, safety, morals and general welfare. Specific provisions are made for conditional uses, which may be permitted in certain zones, and procedures for application are set out under Article IV of this ordinance.

## Use, Principal

The principal use for which a lot or the main structure thereon is designed, arranged, or intended, and for which it is or may be used, occupied, or maintained.

## Variance

A variance is a relaxation of the terms of zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformity's in the zoning district or uses in an adjoining zoning district.

## Variety (Convenience) Store

A quick service food store for minor shopping of everyday items. Total floor area not to exceed 1500 square feet. Variety store may offer sale of gasoline with a maximum of 3 pumps per island and no island closer than 25 feet to any property or right-of-way line.

## Yard

A required open space unoccupied and unobstructed by a structure provided however that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

## Yard, Front

A yard extending between side lot lines across the front of a lot adjoining a public street. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of forty-eight (48) inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of forty eight (48) inches and ten (10) feet.

Depth of required front yards shall be measured at right angles to a straight line adjoining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections shall be assumed to be the point at which the side and front lot lines would have met without such rounding.

#### Yard, Rear

A yard extending across the rear of the lot between side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

#### Wedding Chapel

An establishment that primarily provides the facilities and services for weddings on a commercial basis. This definition does not include churches, places of worship, and other similar congregations where weddings are commonly an accessory use.

#### Zoning Administrator

The official charged with the enforcement of the zoning ordinance.