

## ARTICLE 12 DEFINITIONS

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### 12.1 GENERAL

This Article includes definitions for many words and terms used in this UDO. All words and terms not defined in this article shall be given their common, ordinary meanings, as the context may reasonably suggest. All use classifications are defined in Sec. 4.3.

### 12.2 TERMS DEFINED

#### **Accessory Structure**

A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. See Secs. 4.5 *Accessory Uses and Structures* and 5.2.7 *Dimensional Standards for Detached Accessory Structures*.

#### **Addition (to an existing building)**

Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition that is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

#### **Airport Facilities**

'Airport Facilities' means all properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases 'air navigation facility', 'airport', or 'airport protection privileges' under G.S. 63-1; the definition of 'aeronautical facilities' in G.S. 63-79(1); the phrase 'airport facilities' as used in G.S. 159-48(b)(1); the phrase 'aeronautical facilities' as defined in G.S. 159-81 and G.S. 159-97; and the phrase 'airport facilities and improvements' as used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of 'airport facilities':

- (i) Satellite parking facilities;
- (ii) Retail and commercial development outside of the terminal area, such as rental car facilities; and
- (iii) Other secondary development, such as hotels, industrial facilities, free-standing offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of 'airport facilities'. 'Forest management plan' means as defined in Chapter 160D-921(a)(2).

#### **Alley**

A public or private vehicular way providing secondary service access along rear or side property lines of lots which are also served by one of the previously listed higher order street types.

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**Architectural Compatibility**

Quality of visual agreement, complement and/or balance based on elements of proportion, scale, use of materials and siting between structures or parts of the same structure.

**Arithmetic Difference**

The net value of two or more numbers taking into account their positive or negative signs.

**Basement**

The lowest level or story of a building that has its floor sub-grade on all sides.

**Bay Window**

A large window or series of windows projecting from the outer wall of a building and forming a recess within. The center unit is parallel to the wall and the side units are usually at an angle to the wall.

**Bedroom**

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

**Beneficial Use Determination**

A non-judicial procedure established in Sec. 2.3.13, beneficial use determination, that allows any landowner who believes the application of this Ordinance results in a "taking" of their property to seek administrative relief from the Town Council. The procedure is based on United States Supreme Court decisions that teach that local governments may establish procedures by which they can assess takings claims before they go to court and offer relief if the regulations are found to amount to a taking-- that is, they deny all reasonable economic use of a property.

**Berm**

An undulating mound of soil, designed to provide visual interest, screen undesirable views, and/or reduce noise. The berm must be replanted with sufficient vegetation to meet the opacity desired.

**Buffer**

A combination of physical space and vertical elements such as plants, berms, fences, or walls, the purpose of which is to separate and screen land uses from each other.

**Buffer, base**

An area of land with existing vegetation that includes trees with a minimum tree size of 2½ -inch caliper potentially for buffer reforestation. This is the threshold to determine if the existing vegetation is mature enough to be considered as the base buffer. If the buffer is inferior to the base buffer requirements, the buffer may be graded. The buffer must be upgraded to meet the opacity requirements at the time of site or subdivision plan approval.

**Building**

Any structure built for support, shelter, or enclosure for any occupancy or storage.

**Building setback line**

A line extending through a lot which is parallel to the property line and between which line and such property line no building shall be erected. For the purposes of this UDO, building setback lines are identical with the rearward boundary of the yard of the lot required by the zoning regulations.

**Built-upon Area**

For the purposes of complying with the standards and requirements of the Watershed Protection Overlay Districts, calculation of the built-upon area within the proposed development shall include, but not be limited to, all existing public and private streets, proposed public streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABC and gravel within the development. In accordance with NCGS 143-214.7, built upon area does not include the water area of swimming pools; slatted decks; and a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid

at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle; or artificial turf, manufactured to allow water to drain through the backing of the turf, and installed according to the manufacturer's specifications over a pervious surface. The owner or developer of a property may opt out of any of the exemptions from built-upon area set out in this section.

### **Caliper**

The diameter of a tree trunk measured in inches to determine the graded size. The caliper of the trunk is measured six (6) inches above the ground, up to and including four- (4) inch caliper trees, and 12 inches above ground for trees larger than four- (4) inch caliper.

### **Call Center**

An office set up to handle a large number of telephone calls, especially for taking orders and providing customer service.

### **Canopy**

A structure constructed of rigid materials, including but not limited to, metal, wood, concrete, canvas or glass, which is attached to and supported by a building, or which is free-standing and supported by column, poles, or braces extended to the ground.

### **Cantilever**

A projecting structure, such as a porch or wall, or beam that is supported only on one end. A cantilever is a part of a building that projects beyond its support and overhang.

### **Central Business District**

Beginning at an iron pipe being the southwest property corner of the Town of Apex's Police Station and being the northeast corner of the Kenneth E. and Cheryl H. Koch, Jr. property, thence N 29°26'25" E 104.06' to an iron pipe, thence N 40°39'50" E 142.13' to a point in the north right-of-way of Saunders Street, thence with the right-of-way of Saunders Street S 64°43'45" E 139.99' to an iron pipe, thence N 14°25'14" E 206.97' to an iron pipe, thence N 62°35'13" W 32.27' to an iron pipe, thence N 05°22'10" W 84.93' to an iron pipe in the line of the Brittany Trace subdivision, thence with the Brittany Trace subdivision line N 89°06'04" E 251.46' to an iron pipe, thence S 88°48'57" E 398.32' to an iron pipe, thence N 88°04'51" E 17.54' to an iron pipe, thence S 88°02'25" E 178.84' to a railroad iron in the eastern right-of-way of North Salem Street, thence S 89°44'29" E 150.45' to a point, thence S 63°57'42" E 131.00' to a point in the CSX Railroad right-of-way, thence S 33°56'03" W 1156.99' to a point in the CSX Railroad right-of-way, thence N 63°57'15" W 387.10' to a point, thence N 24°01'39" E 156.50' to a point, thence N 66°32'30" W 172.56' to a point, thence N 25°56'40" E 10.00' to a point, thence N 64°03'20" W 296.90' to an iron pipe, thence N 64°17'45" W 80.73' to an iron pipe, thence N 64°40'57" W 94.64' to an iron pipe, thence N 64°13'25" W 103.74' to the point of beginning.

### **Change of Occupancy or Use**

A change of occupancy or use as defined by the North Carolina State Building Code.

### **Compatible Uses**

Land uses that are not substantially different and are to be used for activities that are not extremely dissimilar in nature.

### **Corner Lot**

A lot that abuts the right-of-way of 2 streets at their intersection.

### **Coworking Space**

A type of office where individuals work in the same building, share facilities and equipment, but do not work for the same business.

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**Critical Root Zone**

A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained or protected for the tree's survival. For purposes of this UDO, the critical root zone is calculated by measuring the diameter of the tree at breast height (dbh); every inch of diameter is equal to one (1) foot radius of critical root zone. For example, a 12-inch diameter tree has a critical root zone with a radius of 12 feet.

**Crosswalk**

A public pedestrian right-of-way that cuts across a block to facilitate pedestrian access to adjacent streets and properties.

**Cul-de-sac**

A short local street having one end open to traffic and the other permanently terminated by a vehicular turn-around.

**Cultural Amenities**

Historic or culturally significant buildings or structures.

**Cut-off Light Fixture**

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

**Dedication**

A gift by the owner of a right to use land for specified purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, which transfer is completed with an acceptance. Acceptance by the town for land dedicated as a street does not obligate the town to open such street.

**Demolition**

The act of razing, dismantling, removing, or otherwise altering a building or structure, or portion thereof, to the ground level.

**Density Credit**

The potential for the improvement or subdivision of part or all of a parcel of real property, expressed in dwelling unit equivalents or measures of development density or intensity or a fraction or multiple of that potential that may be transferred to other portions of the same parcel or to contiguous land that is part of a common development plan, consistent with the requirements of this Ordinance.

**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. For purposes of Article 6.1, means any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.

**Development (for the purposes of the sign regulations in Sec. 8.7 and Electric Vehicle Charging Spaces in Sec. 8.3.11)**

Single-use lots, multiple-use lots, shopping centers with or without out parcels connected thereto as shown on an approved non-residential Master Subdivision Plan, or any other group of non-residential projects planned as a total entity.

**Diameter at Breast Height (DBH)**

Diameter of a tree measured 4.5 feet from the ground.

**Diffuse Flow**

To run smoothly with unbroken continuity in a widely spread or scattered manner.

**Double Frontage Lot**

A continuous (through) lot accessible from both of the parallel streets upon which it fronts.

**Downtown Festival District**

The purpose and intent of the Downtown Festival District is to celebrate the Salem Street corridor and vicinity and encourage a diversity of activities and programming by allowing more outdoor entertainment options on public and private properties than in other areas of Town while being cognizant of the surrounding residential neighborhoods. Legal description of boundaries: Beginning at an iron pipe being the southwest property corner of the Town of Apex Police Department and being the northwest corner of the Kenneth E. and Cheryl H. Koch, Jr. property; thence along the western property line of the Town of Apex Police Department N 29°37'50" E 91.05' to a point; thence continuing along said property line N 30°23'22" E 13.01' to a point; thence along the same property line N 40°38'29" E 142.69' to a point on the northern right-of-way of Saunders Street; thence along the Saunders Street northern right-of-way S 64°28'48" E 19.44' to a point; thence S 64°15'35" E 89.31' to a point on the aforementioned right-of-way; thence leaving the northern right-of-way of Saunders Street the following three (3) calls: N 18°01'23" E 184.23', N 65°08'53" W 31.82', and N 02°37'34" W 87.12' to a point on the southern boundary of the Brittany Trace neighborhood; then along the southern boundary of Brittany Trace, also being the rear property line for Lots 38 through 47, the following three (3) calls: S 89°48'07" E 14.82', N 89°06'04" E 194.87', and S 88°48'57" E 398.32' to a point; thence N 89°04'55" E 16.80' to a point; thence S 88°02'04" E 272.91' to a point on the western right-of-way of North Salem Street; thence along the North Salem Street western right-of-way the following six (6) calls: N 14°58'41" E 62.09', N 18°22'46" E 40.83', N 18°51'26" E 493.54', N 17°19'26" E 95.95', N 12°19'09" E 53.97', and N 14°51'47" E 151.61' to a point in the centerline of Hunter Street; thence with the Hunter Street centerline S 75°57'32" E 104.78' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline N 02°16'41" E 1282.52' to a point; thence leaving the centerline of the mainline track for CSX Transportation and following the northern property line of the Town of Apex Hunter Street Park property S 87°43'03" E 580.19' to a point in the centerline of Ambergate Station; thence with the Ambergate Station centerline the following five (5) calls: S 02°43'42" W 159.30', S 02°06'51" W 103.90', S 03°09'44" W 15.57', S 05°10'12" W 20.26', and S 07°23'46" W 1.63' to a point; thence leaving the centerline of Ambergate Station S 87°56'20" E 157.12' to a point on the western right-of-way of CSX Transportation; thence along the CSX Transportation western right-of-way S 26°14'00" W 1091.25' to a point on the northern right-of-way of Hunter Street; thence along the Hunter Street northern right-of-way S 76°01'18" E 103.87' and S 75°58'18" E 78.32' to a point also being the western right-of-way of Metro Station; thence leaving the northern right-of-way of Hunter Street and following the Metro Station western right-of-way the next three (3) calls: N 26°17'55" E 139.57', N 29°35'10" E 20.07', and N 36°09'34" E 20.07' to a point; thence leaving the western right-of-way of Metro Station and following the centerline of Massapequa Station S 63°41'13" E 394.10' to a point; thence leaving the Massapequa Station centerline S 26°15'45" W 14.12' to a point on the eastern right-of-way of Grand Central Station; thence leaving the Grand Central Station eastern right-of-way and following the northern property line of Lot 105 (56 Hunter Street) Villages of Apex South Village – Phase 1A S 63°44'15" E 97.58' to a corner; thence crossing the Villages of Apex South Common Area and following a property line of Lot 1 Villages of Apex South N 75°06'49" E 272.40' to a point; thence continuing with the edge of said property S 79°37'44" E 169.41' to a corner; thence crossing Lot 1 S 57°13'29" E 172.79' to a point in the centerline of Laura Duncan Road (N.C.S.R. 1308); thence along the Laura Duncan Road centerline the following seven (7) calls: S 30°28'38" W 15.53', S 36°13'57" W 28.13', S 36°18'01" W 50.25', S 38°00'41" W 69.01', S 40°05'16" W 110.45', S 39°37'43" W 106.22', and S 42°26'17" W 78.36' to the intersection of Laura Duncan Road and Hunter Street; thence leaving the intersection and continuing along the North Mason Street centerline the following twelve (12) calls: S 41°38'01" W 54.75', S 40°12'33" W 85.20', S 41°26'40" W 75.54', S 39°39'03" W 66.30', S 39°31'22" W 29.69', S 35°22'20" W 29.09', S 33°41'24" W 20.46', S 31°48'32" W 25.12', S 27°58'46" W 17.85', S 28°10'00" W 27.49', S 25°34'30" W 29.63', and S 25°01'01" W 26.26' to a point; thence leaving the centerline of North Mason Street and continuing along the northern property line of Town of Apex, also being the southern limit of an abandoned railroad easement, the following three (3) calls: S 57°30'04" E 71.43', S 51°04'36" E 36.87', and S 45°31'56" E 40.38'

to a point; thence crossing the aforementioned Town of Apex property S 20°27'19" W 222.17' to its southern property line; thence along the southern property line of Town of Apex N 69°32'41" W 120.00' to a point on the eastern right-of-way of North Mason Street; thence N 22°06'06" E 34.22' to a point on the North Mason Street eastern right-of-way; thence crossing the right-of-way of North Mason Street and continuing along the southern property line of Town of Apex Town Campus N 66°08'18" W 199.31' to a corner; thence along a common line between Town of Apex and Larry Mack Jordan N 22°28'32" E 162.69' and N 77°35'02" W 96.38' to a corner; thence crossing a portion of Larry Mack Jordan, Town of Apex Town Campus, and North Hughes Street, also being collinear with the southern property line of the former Tunstall Life Estate, N 64°48'43" W 716.19' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline S 26°12'58" W 1478.49' to the southern right-of-way of East Chatham Street; thence following the East Chatham Street right-of-way, also being the property line of Apex United Methodist Church, S 64°17'14" E 441.18' to the western right-of-way of South Hughes Street; thence S 25°56'18" W 422.48' along said right-of-way to the northern right-of-way of Olive Street; thence along the northern right-of-way of Olive Street N 63°57'19" W 177.20' to a point on the northern right-of-way and being the vehicle entrance for Apex United Methodist Church; thence crossing Olive Street and following the common line between Apex United Methodist Church and the property of Jon Douglas and Margaret Anne Allen S 25°57'20" W 175.73'; thence along the southern property line of Jon Douglas and Margaret Anne Allen S 64°30'43" E 177.80' to the western right-of-way of South Hughes Street; thence along the South Hughes Street right-of-way S 25°53'38" W 225.36' to the northern right-of-way of East Moore Street; thence following the East Moore Street right-of-way N 64°23'04" W 446.69' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline across East Williams Street (NC Highway 55) and continuing with a clockwise curve for approximately 2074' to the eastern right-of-way of Tingen Road (N.C.S.R. 1153); thence leaving the centerline of the mainline track and following the eastern right-of-way of Tingen Road the following three (3) calls: N 01°33'18" E 229.62', N 00°35'34" W 74.00', and N 00°01'57" W 202.14' to a point; thence leaving the Tingen Road eastern right-of-way and crossing South Salem Street (N.C.S.R. 1011) N 60°23'59" W 67.78' to a point on the western right-of-way; thence following the western South Salem Street right-of-way, also being the property line of Walter J. McClamb (Albright Funeral Home), S 29°36'02" W 42.24'; thence continuing along the western South Salem Street right-of-way and across Justice Heights Street the following three (3) calls: S 30°11'02" W 98.31', S 32°41'15" W 42.11', and S 29°27'41" W 81.33' to the southeast corner of St. Mary's African Methodist Episcopal (A.M.E.) Church; thence along the southern property line of St. Mary's A.M.E. Church N 62°22'04" W 139.32'; thence along the western property line of said church and continuing across Justice Heights Street to a point in the northern right-of-way N 23°57'20" E 116.56'; thence with the Justice Heights Street right-of-way N 67°18'07" W 117.88' to the southwest corner of Walter J. McLamb; thence leaving said right-of-way, following the western property line of Walter J. McClamb and crossing West Street N 28°07'02" E 334.67'; thence along the northern West Street right-of-way to the eastern right-of-way for First Street, also being the southwest corner of Town of Apex (West Street Park) N 60°49'18" W 57.97'; thence along the eastern First Street right-of-way N 29°33'54" E 413.62' to the northwest corner of Town of Apex; thence leaving said right-of-way S 64°02'10" E 105.35' to a point in the common line of Town of Apex and Kyler L. Zadell; thence crossing Kyler L. Zadell N 29°16'02" E 49.73' to a point on the northern property line; thence along the northern property line of Kyler L. Zadell S 63°55'11" E 45.52' to a corner with KC2 Holdings, LLC; thence S 65°13'20" E 50.56' to a corner of KC2 Holdings, LLC; thence N 32°29'05" E 144.34' along the western property line of KC2 Holdings, LLC to the southern right-of-way for Harwood Street; thence across Harwood Street N 27°42'28" E 36.66' to a property corner for Sauls Investment Properties, LLC; thence along the Harwood Street northern right-of-way the following four (4) calls: N 64°00'51" W 58.43', N 64°01'22" W 48.92', N 63°54'08" W 77.36', and a curve to the right having a radius of 21.41' feet and a chord bearing and distance of N 21°34'11" W 28.85' to a point in the eastern right-of-way of First Street; thence along said right-of-way N 29°27'20" E 21.97' to the southern right-of-way of West Williams Street; thence along the southern West Williams Street right-of-way S 64°26'19" E 100.86' and S 66°54'43" E 45.16' to a property corner of Sauls Investment Properties, LLC; thence crossing West Williams Street N 25°38'03" E 100.09' to the northern right-of-way and being a common corner of A.T. Seymour Heirs and K2 Holdings, LLC; thence along the eastern property line of A.T. Seymour Heirs the following three (3) calls: N

26°16'51" E 166.66', S 64°40'27" E 3.99', and N 27°36'14" E 109.53' to a point on the southern property line of Thomas E. Seymour; thence along the property lines of Thomas E. Seymour the following three (3) calls: N 64°44'27" W 209.92', N 29°11'13" E 116.32', and S 63°52'04" E 170.02' to the southeast corner of Eric D. and Patricia Pollock Creta; thence along the eastern property line of Eric D. and Patricia Pollock Creta N 26°07'32" E 184.96' to a point on the southern right-of-way of West Moore Street; thence along the West Moore Street southern right-of-way S 63°57'53" E 10.10' to a point; thence leaving the southern right-of-way of West Moore Street and following the eastern right-of-way of Hudson Avenue N 28°53'12" E 130.24' to a point; thence leaving the Hudson Avenue eastern right-of-way S 61°06'48" E 109.23' to a point; thence N 28°09'08" E 80.92' to a point; thence N 60°52'34" W 33.18' to a point; thence N 30°30'46" E 85.93' to a point; thence N 62°41'01" W 76.03' to a point; thence N 28°25'56" E 128.57' to a point being on the eastern right-of-way of Hudson Avenue and the southern right-of-way of Holleman Street; thence crossing Hudson Avenue N 56°56'16" W 20.07' to the northeast corner of William J. Evans, Jr.; thence along the Holleman Street southern right-of-way, also being the northern property line of William J. Evans, Jr., N 60°00'00" W 192.72' to the northeast corner of Carey C. Jones Memorial Park; thence leaving the southern right-of-way of Holleman Road and following the eastern edge of Carey C. Jones Memorial Park the following six (6) calls: S 29°51'00" W 150.00', N 60°03'08" W 5.20', S 26°14'24" W 99.23', N 63°24'21" W 11.54', N 65°03'26" W 89.86', and S 29°57'39" W 162.25' to a point on the northern right-of-way of West Moore Street; thence with the West Moore Street northern right-of-way N 71°38'54" W 546.63' to a point on the eastern right-of-way of Upchurch Street; thence along the Upchurch Street eastern right-of-way N 30°10'39" E 558.38' to a point on the northern right-of-way of Holleman Street; thence along the Holleman Street northern right-of-way S 61°48'47" E 284.70' and S 59°01'13" E 289.14' to a corner of Apex Baptist Church; thence leaving the northern right-of-way of Holleman Street and following along the western edge of Apex Baptist Church the next four (4) calls: N 28°31'39" E 174.53', S 65°08'57" E 67.87', S 65°34'53" E 64.94', and N 29°20'38" E 256.34' to a point on the northern right-of-way of West Chatham Street; thence along the West Chatham Street northern right-of-way S 64°49'33" E 156.08' to a point; thence leaving the northern right-of-way of West Chatham Street N 27°15'51" E 159.33' to a point on the southern property line of the Town of Apex Police Department; thence along the southern property line of the Town of Apex Police Department the following four (4) calls: N 64°05'39" W 289.37', N 64°18'46" W 80.73', N 64°41'58" W 94.64', and N 64°14'26" W 103.74' to the point and place of beginning.

### **Drop-in Day Care**

A commercial operation which keeps children for short periods of time, up to four hours per day per child, for which no day care license is required.

### **Dwelling**

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

### **Dwelling Unit**

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

### **Encroachment**

To advance beyond specified limits.

### **EV-Ready**

Installation of "raceway" (the enclosed conduit that forms the physical pathway for electrical wiring to protect it from damage), dedicated branch circuit(s) (electrical pre-wiring), circuit breakers, and other electrical components, including a receptacle (240-volt outlet) or blank cover needed to support future installation of one (1) or more charging stations.

### **Existing Land Use (for purposes of determining buffers)**

For the purposes of Sec. 8.2.6 *Buffering*, the bona fide and legal land use(s) for development that is built, under construction or that has received a building permit on the date an application for

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development approval for a Site Plan or Master Subdivision Plan is submitted to the Director pursuant to the requirements of this Ordinance for the development of adjacent lands. Bona fide and legal land use(s) under this Ordinance are uses that comply with the requirements of Sec. 4.2.2 *Use Table*, or are valid nonconforming uses pursuant to the standards of Art. 10: Nonconformities.

**Existing Manufactured Home Subdivision or Mobile Home Park**

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before August 1, 2000.

**Exotic Architecture**

Architecture from or characteristic of another place or part of the world, or that is strikingly strange or unusual. It is the opposite of vernacular architecture which is a term used to categorize methods of construction which use locally available resources and traditions to address local needs.

**Exterior Lighting**

Lighting such as that used in and around buildings, recreation areas, parking lots and signs designed to illuminate certain areas for visibility.

**Extraterritorial Jurisdiction/Planning Jurisdiction (ETJ)**

That area outside the Town of Apex delineated on the Official Zoning District Map, which is incorporated herein by reference. A copy of this map is available for inspection in the office of the Town Clerk during normal business hours. Pursuant to the North Carolina General Statutes, the Town enforces the following regulations within the ETJ: zoning ordinance; subdivision regulations; North Carolina State Building Code; minimum housing standards code; and ordinances creating the Town's Planning Board, Board of Adjustment, and the Town's Building Inspections and Permits Department.

**Façade Area**

The overall width times the overall height of a structure's front, side or rear facade or wall.

**Fair Housing Amendments Act of 1988**

A federal statute (42 U.S.C. 3601 et seq.) that outlaws various types of discrimination in the provision of housing.

**Family**

One (1) or more persons occupying a premises and living as a single housekeeping unit, provided that no housekeeping unit shall contain more than five (5) persons unless they are related by blood, marriage, adoption, guardianship, or foster care.

**Fence**

An artificially constructed barrier intending protection, screening or boundary.

**Flag Lot**

An irregularly shaped lot where the buildable portion (flag) of the lot is connected to a public street by a narrow nonbuildable strip (pole). The front setback line will be measured from that lot line more or less lying parallel to the public street.

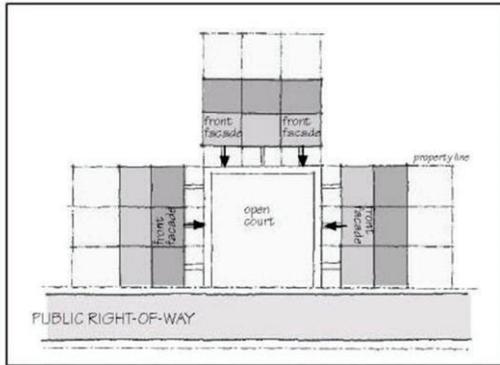
**Floor**

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.

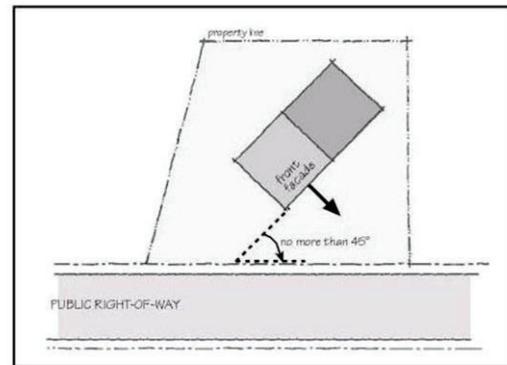
**Frontage**

Frontage shall mean the width of the building lot measured along the street right-of-way on which the lot faces and has vehicular access. If the lot has more than 1 street frontage (e.g. corner lots

and double frontage lots), the second street frontage shall be included in the calculations for free-standing sign purposes only if the frontage on each of the 2 streets exceeds 150 feet.

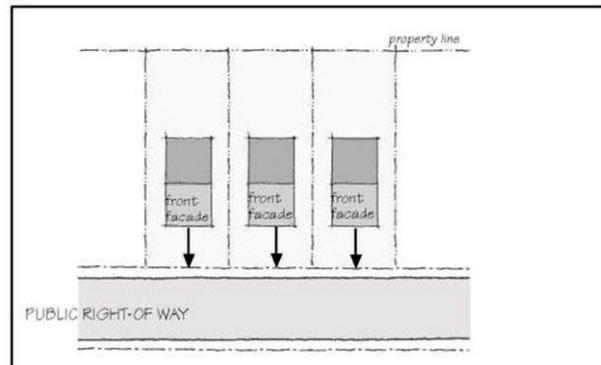


FRONTS ON OPEN COURT



ANGLED DWELLING FRONTAGE

**Figure 12.2-1:  
Illustrations of Frontage**



DWELLING FRONTAGE

**Frontage Road**

A local street parallel and adjacent to a major thoroughfare or railroad, which provides access to abutting properties, protection from through traffic and control of access to the major thoroughfare.

**Fully Controlled Access Highways**

A divided, multi-lane major highway in which the Department of Transportation has purchased all access rights to the highway. Access to the highway is via interchanges.

**Grading**

The movement of earth by mechanical means to alter the gross topographic features of a development site, including elevation and slope, in preparation for construction of single-family, multi-family/apartment, and attached and detached townhome residential development and non-residential development.

**Greenway Plan**

The greenway plan adopted by the town as the basis for the development of a greenway system in and around the town.

**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 Waste Management Facility**

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

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**High-density Development Option**

Development where the percentage of built-upon area exceeds that allowed without engineered storm water control measures.

**Historic Structure**

Any structure that is:

- 1) *Individually listed*  
Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register);
- 2) *Listed as a contributing structure*  
Listed as a contributing structure in the National Register of Historic Places as identified in the National Register Nomination for the Apex Historic District (1994); the National Register Nomination for the Apex Historic District Boundary Increase (1995); the National Register Nomination for the Apex Historic District Boundary Increase II (2001); and the National Register Nomination for the Apex Historic District Boundary Increase III (2008);
- 3) *Certified*  
Certified or preliminarily determined by the Secretary of the Interior as contributing to the significance of a registered district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 4) *State inventory*  
Individually listed in the state inventory of historic places;
- 5) *County register*  
Listed in the Wake County Register of Historic Places;
- 6) *Local inventory*  
Individually listed in a local inventory of historic places in communities with historic preservation programs that have been certified:
  - a) By an approved state program as determined by the Secretary of the Interior; or
  - b) Directly by the Secretary of the Interior in states without approved programs.

**Homeowners Association**

An incorporated, non-profit organization established by a developer or an association of property owners whose membership shall consist of individual property owners within a subdivision and operating under recorded legal agreements.

**Hydric Soils**

Those soils that, due to periods of wetness during the growing season, develop anaerobic (reducing) conditions in the upper part. These soils shall include all soils in the list developed by the National Technical Committee for Hydric Soils and all soils that when classified in accordance with USDA Soil Taxonomy, have "aqu" as a formative element of the Suborder name or 'hydr' as a formative element of the Great Group Name.

**Impervious Surface**

Materials that allow little or no infiltration of precipitation into the soil. Impervious surfaces include, but are not limited to, public and private streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABG and gravel within the development. Swimming pools and wooden decks shall not be considered impervious surfaces and shall not be included in the calculation of the built-upon area.

**Inert Debris**

Solid waste that consists solely of material that is virtually inert, such as brick, concrete, rock, and clean soil.

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**Interconnectivity**

Design and development patterns that connects residences, businesses, shopping and recreation uses in a pedestrian friendly way. Interconnectivity may occur through the use of sidewalks, pedestrian-ways, trails and other similar features that are designed to encourage pedestrian travel.

**Jordan Lake Watershed**

All lands and waters draining to B. Everett Jordan Reservoir.

**Jordan Lake Watershed Protected Area**

The protected land area within the town's corporate limits or extraterritorial planning jurisdiction contributing surface drainage to Jordan Lake or its tributaries. The boundaries of the protected areas are defined as extending five miles upstream and draining to water supply reservoirs (measured from the normal pool elevation) or to the ridge line of the watershed (whichever comes first).

**Land-clearing Debris**

Solid waste that is generated solely from land-clearing activities such as stumps, trees, etc.

**Land Use Classification**

The class or description of how land is to be used or occupied.

**Landscape Area**

A portion of a site or property containing vegetation to exist after construction is completed. Landscaped areas include, but are not limited to, natural areas, buffers, plantings, and streetscapes.

**Landscape Plan**

The portion of the development plan that is submitted to show existing vegetation and proposed location of plant material utilized to conform to site plan application requirements.

**Larger Common Plan of Development or Sale**

Any area where multiple separate and distinct construction or land disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

**Levee**

A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Level 2 Charging**

208/240 volt AC charging, 40-amp circuit, open or networked. Level 2 chargers have a cord that plugs directly into the vehicle in the same connector location used for Level 1 equipment.

**Level 3 / Direct-current (DC) Fast Charging**

240/208/440 volt DC charging, 3-phase, 100+ amp circuit, open or networked, the highest-powered electric vehicle chargers available. DC fast chargers have three (3) types of connectors: CHAdeMo, CCS, or Tesla.

**Lighting Plan**

A portion of the development plan conforming with the applicable requirements of this UDO, and showing the location, height above grade, fixture type, isolux diagram, foot-candles at grade and bulb wattage for each light source proposed.

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**Limited Controlled Access Highway**

A multi-lane major artery for through traffic that can be accessed at stoplights or specific curb cuts. The Department of Transportation has purchased partial access rights to such roads.

**Lot**

A portion of a subdivision or other parcel of land, intended as a unit for transfer of ownership or for development or both.

**Low-density Development Option**

Development where the percentage of built-upon area falls below the level that requires engineered storm water control measures.

**Manufactured Home Subdivision, existing**

A manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 1, 2000.

**Manufactured Home Subdivision, expansion of existing**

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

**Manufactured Home Subdivision, new**

A manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after August 1, 2000.

**Mobile Home Park**

A lot containing, or designed for the location of, two or more mobile homes in the MHP Mobile Home Park District.

**NC Stormwater Design Manual**

The stormwater design manual approved for use in Phase II jurisdictions by the DEQ for the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the NC Stormwater Design Manual are to the latest published edition or revision.

**Natural Amenities**

Environmentally sensitive areas, wildlife habitats, stands of trees, ponds, rock outcroppings, streams, scenic vistas or other unique natural features.

**Neotraditional Principles (or new urbanism principles)**

Planning and design principles that seek to integrate or re-integrate the components of modern life. Generally, neotraditional principles results in development that is compact and interconnects work, housing, shopping and recreation uses in a pedestrian friendly way.

**Non-cutoff Light Fixture**

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

**Outdoor Operations**

Area designated for seating, food or beverage service, entertainment, or other similar activities located outside the primary business.

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**Parapet Wall**

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

**Person**

Any individual, corporation, company, partnership, association, or entity of any kind.

**Planning Director**

The Planning Director of the Town of Apex or the Director's designee.

**Planned Development District**

A land area under unified control that is designed and planned as a whole with either one or a series of development phases according to a concept plan for development (Planned Development Plan). There are three types of planned developments that may be developed under this Ordinance if they comply with the procedures and standards of Sec. 2.3.4 *Planned Development Districts*: Planned Unit Developments (PUD-CZ); Traditional Neighborhood Developments (TND-CZ); and Major Employment Centers (MEC-CZ).

**Plat**

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

**Pre-school**

An accredited or non-accredited program that shall for the purposes of this ordinance be considered a drop-in day care for care up to four hours per day per child; a day care for care over four hours per day per child.

**Principal Structure**

The main or primary building as designated by the main or principal use of the land. Exterior porches, decks and any part of the building that is not fully enclosed by solid walls are not considered part of the principal structure.

**Produce Stand**

Produce stand means an unenclosed, open-air temporary structure that is no greater than 20 feet by 30 feet in size that is located on a lot for the purpose of the sale of agricultural products on a seasonal basis.

**Public Safety**

For the purpose of clarifying the intent of the Public Safety Communication Tower use, the term Public Safety shall mean emergency management, police, fire, and Emergency Medical Services (EMS).

**Real Estate**

Land, portions thereof, and improvements thereon.

**Recreational Vehicle**

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

**Redevelopment**

For purposes of Article 6.1, means any land-disturbing activity that does not result in a net increase in built-upon area and that provides greater or equal stormwater control than the previous development.

**Residential Yard Sale**

The casual sale of household articles in a private yard or garage. "Residential yard sale" includes the terms "yard sale", "garage sale", "rummage sale", "estate sale", or any other term used to describe these types of sales.

**Resource Conservation Area (RCA)**

The area(s) of a site, as established pursuant to Sec. 8.1.2 of this UDO, that may not be disturbed by earth movement (grading) or cleared of vegetation, including disturbance or clearance to provide space for construction of principal and accessory uses and structures, parking areas, roads, drainage and stormwater management facilities, and/or other utilities.

**Riparian Buffer**

A natural or vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channeled and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the bank of each side of the stream.

**Screen**

A method of reducing the impact of noise, visual intrusions, and invasion of privacy with such elements as plants, berms, fences, walls or any appropriate combination thereof.

**Seasonal Outdoor Sales**

The display and sale of products and services primarily outside of a building or structure, occurring during certain seasons or at regular times during the year, but not on a continuing, regular basis.

**Secured**

Placed in a concrete footing, hole with compacted earth or gravel, or other approved support, so as to be adequately affixed to the ground as a permanent structure meeting requirements of the North Carolina Building Code.

**Shopping Center**

A commercial establishment planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access.

**Sight Triangle**

A triangular-shaped portion of land established at street intersections and driveways in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection, as set forth in the *Town of Apex Standard Specifications and Standard Details*.

**Sign**

See UDO Sec. 8.7.9 for *Sign* related definitions.

**Significant vegetation**

Existing vegetation 8 inches in diameter and greater, measured DBH.

**Single-Family Residential Subdivision Mass Grading**

The movement of earth by mechanical means to alter the gross topographic features of a development site, including elevation and slope, in preparation for construction of infrastructure and 50% or more of the subdivision lots prior to the first plat in a single-family residential subdivision. Subdivision lots that are graded no more than 10 feet from the right-of-way solely for the installation of infrastructure shall not be considered when calculating the number of graded lots. Grading completed after the plat is recorded shall be considered individual lot grading subject to Sec. 7.2.5.A.3 *General Grading Standards*.

**Single-Family Residential Subdivision Staged Grading**

The movement of earth by mechanical means to alter the gross topographic features of a development site, including elevation and slope, in preparation for construction of infrastructure and less than 50% of the subdivision lots prior to the first plat in a single-family residential subdivision. Subdivision lots that are graded no more than 10 feet from the right-of-way solely for the installation of infrastructure shall not be considered when calculating the number of graded lots. Grading completed after the plat is recorded shall be considered individual lot grading subject to Sec. 7.2.5.A.3 *General Grading Standards*.

**Site Plan**

A portion of the development plan that shows the existing and proposed conditions of the lot including: topography, building placement, and all other pertinent site features.

**Slope**

The deviation of a surface from the horizontal, usually expressed in percent or degrees.

**Slope Calculation**

For purposes of this UDO, slope shall be determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the resulting percentage into a percentage value. For purposes of regulation and measurement, steepness of slope shall be measured from the points with the highest and lowest elevation within 20 feet of any portion of the proposed structure.

**Small Vegetation**

Existing vegetation from 2.5 inches in caliper to significant vegetation size of 8 inches in diameter.

**Solar Energy System**

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

**Special Event**

An activity or circumstance of a business or organization that is not part of its daily activities. Such activities may include, but are not limited to, grand openings, closeout sales (pursuant to Article 17 of Chapter 66 of the NC General Statutes), and fund raising, membership drives or events of civic, philanthropic, educational or religious organizations.

**Specimen Tree**

Any tree other than a pine with a caliper of 18 inches or more.

**Stormwater Control Measure**

"Stormwater Control Measure" or "SCM," also known as "Best Management Practice" or "BMP," means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

**Stream, ephemeral**

A stream that flows briefly and only in direct response to local precipitation, and whose channel is always above the water table. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water. Ephemeral streams are not indicated on the most recent version of either the U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps, or the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture. This classification requires no buffer under the requirements of Sec. 6.1 *Watershed Protection Overlay Districts*.

**Stream, intermittent**

A stream, or reach of a stream, that does not flow year-round. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water. Intermittent streams are indicated as "intermittent" on the most recent version of either the U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps, or the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture. In the event that there exists a discrepancy between these two maps that would affect a required buffer under Sec. 6.1 *Watershed Protection Overlay Districts*, the classification requiring the most stringent buffer shall be applied.

**Stream, perennial**

A stream that flows continuously throughout the year. Perennial streams are indicated as “perennial” on the most recent version of either the U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps, or the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture. In the event that there exists a discrepancy between these two maps that would affect a required buffer under Sec. 6.1 *Watershed Protection Overlay Districts*, the classification requiring the most stringent buffer shall be applied.

**Street Front Buffer**

A buffer that is located along all public and private streets which includes collector streets.

**Street, private**

A street that has not been accepted by the municipality or other governmental entity. No private streets shall be allowed to be built within developments or subdivisions approved on or after October 15, 2002.

**Street, public**

Any vehicular way that: (1) is an existing state, county, or municipal roadway; (2) is shown upon a plat approved pursuant to law; or (3) is approved by other official action.

**Street, rural**

A street without curb and gutter, the principal function of which is to provide access to adjacent properties.

**Street, urban**

A street with curb and gutter, the principal function of which is to provide access to adjacent properties.

**Streetscape**

A buffer that is located along all thoroughfares as defined by *Advance Apex: The 2045 Transportation Plan*.

**Stump Diameter**

For purposes of Article 6.1, means the diameter of a tree measured at six (6) inches above the ground surface level.

**Subdivider**

A person who subdivides or develops any land deemed to be a subdivision within the meaning of that term as defined herein.

**Subdivision**

Any division of a tract or parcel of land into two (2) or more lots, building sites or other divisions when any one or more of the divisions were created for the purpose of sale or building development (whether immediate or future) and shall include any division of land involving the dedication of a new street or a change in an existing street. Refer to Sec. 7.1.1.B for Subdivision Exemptions.

**Subdivision Administrator**

The Planning Director or, the Director's designee.

**Swift Creek Watershed Protected Area**

The entire land area within the town's corporate limits or extraterritorial planning jurisdiction contributing surface drainage to Swift Creek or its tributaries.

**Tattoo Parlor and Body Piercing**

An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that

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result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration. Body piercing does not include piercing an ear lobe with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear lobe.

**Temporary Use**

A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

**Thoroughfares, major**

Interstates, freeways, expressways and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas, and which have been designated as major thoroughfares in *Advance Apex: The 2045 Transportation Plan*.

**Thoroughfare, minor**

A street that carries traffic from local streets to the system of major thoroughfares, and which has been designated as a minor thoroughfare in *Advance Apex: The 2045 Transportation Plan*.

**Town of Apex Design and Development Manual**

The manual prepared by the Town that establishes landscape and planting standards for Resource Conservation areas. All references herein to the *Town of Apex Design and Development Manual* are to the latest published edition or version.

**Town of Apex Standard Specifications and Standard Details**

The manual prepared by the Town to provide minimum standards for all subdivision and utility construction projects within the jurisdiction of the Town. All references herein to the *Town of Apex Standard Specifications and Standard Details* are to the latest published edition or version.

**Tree**

For purposes of Article 6.1, means a woody plant with a Diameter Breast Height (DBH) equal to or exceeding five (5) inches or a stump diameter exceeding six (6) inches.

**Tree Canopy**

The diameter or variable radius from the tree trunk to the outermost reaches of tree branches.

**Trunkline**

Imaginary or visual line separating cleared area from forested area.

**Variance**

A grant of relief from the requirements of an ordinance.

**Vehicular Use Area**

An off-street ground level area used for temporary storage of motor vehicles or parking. Also includes drive entries, loading areas and/or other built-upon areas used for transportation.

**Vested Right**

As defined in NCGS 160D-108 and -108.1, the right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan.

**Wall**

An artificially constructed barrier intending protection, screening or boundary, but which does not include a retaining wall.

**Wetlands**

Land that is in an area defined as wetlands by the State of North Carolina, U.S. Army Corps of Engineers, or a qualified consultant.

**Yard**

An open, unoccupied space on the same lot with a principal building or structure, unobstructed from the ground upward, except for hedges, bird baths, swimming pools, walkways, curbs, driveways, unenclosed patios, well houses and other similar appurtenances associated with the principal structure.

**Yard, front**

The yard between the front lot line and the front building line plane of the building and extending to the side lot lines, and measured perpendicular to the building plane at its closest point to the front lot line, excluding permitted encroachments into the required front setback as shown in Table 5.2.2.B.4 *Permitted Encroachments into Required Setbacks*.

**Yard, rear**

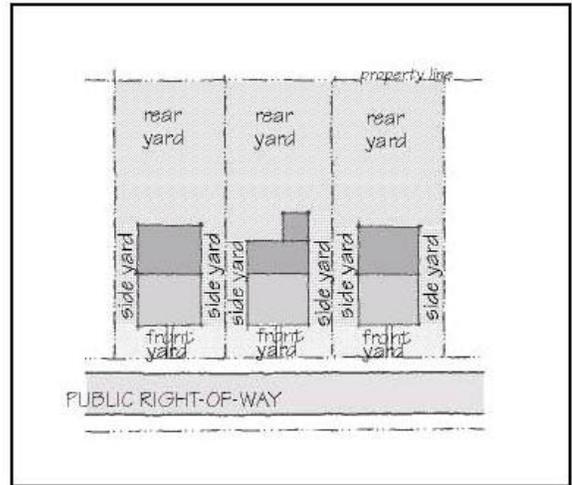
The yard extending the full width of the lot between the rear lot line and rear building line and measured perpendicular to the building at its closest point to the rear lot line.

**Yard, side**

The yard between the side lot line and the building, extending from the front yard to the rear yard, and measured perpendicular from the side lot line to the closest point of the building.

**Zoning Regulations**

The zoning regulations as set out in this UDO.



YARD AREAS

**Figure 12.2-2: Illustration of Yard Areas**