

# ARTICLE 3 – GENERAL REGULATIONS

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### 3.1 GENERAL

Regulations contained in this Article shall apply uniformly jurisdiction wide.

- 3.1.1. Subject to **Article 18** of this Ordinance (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Ordinance.
- 3.1.2. For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

### 3.2 APPLICABILITY TO EXTRATERRITORIAL AREAS

The provisions of the Ordinance may be applicable in newly incorporated areas until the County Board of Commissioners transfers zoning jurisdiction to the proper municipal authority.

### 3.3 ZONING MAP

- 3.3.1. Zoning district boundaries adopted pursuant to this Ordinance shall be drawn on a map that is adopted or incorporated within a duly adopted development regulation. The Zoning Map shall be maintained for public inspection in the office of the County Clerk. The map may be in paper or a digital format approved by the County.

#### **Statutory Authority – NCGS § 160D-105(b)**

- a) For the purposes of this Ordinance, Scotland County is hereby divided into zoning districts whose locations and boundaries are shown on the Official Zoning Map for Scotland County, which is hereby adopted by reference and declared to be a part of this Ordinance.
  - b) This Zoning Map and all the notations, references, and all amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described and set out herein.
  - c) The Zoning Officer or his representative shall be responsible for the maintenance and revision of the Official Zoning Map. Upon notification by the Board of Commissioners that a zoning change has been made, the Zoning Officer shall make the necessary changes on the Official Zoning Map within seven (7) calendar days of notification.
- 3.3.2. Identification of Official Zoning Map. The Zoning Map shall be identified by the signature of the Chairman and attested by the County Clerk and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map of the Zoning Ordinance, Scotland County, North Carolina," together with the date of the adoption of this Ordinance and most recent revision date.
- (a) If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other items portrayed on the Zoning Map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the County Board of Commissioners, with an entry on the official zoning map denoting the date of amendment, description of amendment, and signed by the County Clerk. No amendment to this Ordinance which involves matter portrayed on the official zoning map shall become effective until after such change and entry has been made on said map.

- (b) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this Ordinance and state law. Any unauthorized change of whatever kind by any person shall be considered a violation of this Ordinance.
  - (c) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the County Clerk, shall be the final authority as to the zoning status of land and water areas, buildings, and other structures in the County.
  - (d) In the event the official zoning map becomes damaged, destroyed, lost, or difficult to interpret, the County Board of Commissioners may by resolution adopt a new official zoning map which shall supersede the prior zoning map. The new official zoning map may correct drafting errors or other errors or omissions in the prior official zoning map, but no correction shall have the effect of amending the original official zoning map, or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the Chairman attested by the County Clerk, and bearing the seal of the County under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced), as part of the Zoning Ordinance, Scotland County, North Carolina.”
  - (e) Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment. In the case of GIS data, each version of the zoning map produced shall be archived.
- 3.3.3. Incorporation by Reference. Development regulations adopted pursuant to this Ordinance may incorporate by reference the most recently adopted versions of flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by state and federal agencies.
- a) When zoning district boundaries are based on these maps, the County’s zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated state or federal maps, provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection.

*Statutory Authority – NCGS § 160D-105(b)*

#### **3.4 INTERPRETATION BY ZONING OFFICER**

- 3.4.1. In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of the Zoning Ordinance, the Zoning Officer shall be responsible for interpretation and shall look to the Ordinance for guidance.
- 3.4.2. Responsibility for interpretation by the Zoning Administrator shall be limited to standards, regulations and requirements of the Zoning Ordinance, but shall not be construed to include interpretation of any technical codes adopted by reference in the Zoning Ordinance, and shall not be construed as overriding the responsibilities given to any commission, board, building

inspector, or County officials named in other sections or articles of the Zoning Ordinance.

3.4.3. Minor Deviations. In keeping with the purpose of these regulations to accomplish coordinated, balanced, and harmonious development in a manner which will best promote the health, safety, and general welfare while avoiding undue and unnecessary hardships, the following maximum minor deviations may be allowed by the Zoning Official:

a. Size.

- 1) Minimum lot area, 10 percent, so long as all environmental health requirements are met.
- 2) Minimum lot depth, 10 feet.
- 3) Minimum lot width, 5 feet.
- 4) Minimum rear yard, 5 feet.
- 5) Minimum side yard, 1 foot.

b. Number per parcel. Only one minor deviation of dimensional requirements shall be allowed per land parcel.

c. Deviation from street frontage requirements. A minor deviation from street frontage requirements is defined as the approval of not more than one new lot that has less than or no street frontage as required. A minor deviation may be approved by the Zoning Administrator in accordance with all of the following criteria:

- 1) The request does not involve a flag lot or pipe stem lot. A flag lot or pipe stem lot is described as a lot accessed by a narrow strip of property connecting the street with the proposed lot;
- 2) The request is associated with written permission from the property owner across whose property access is provided. Such written permission must contain provisions for maintenance and specify responsibility;
- 3) A reflective address sign is permanently posted and obviously visible at the access point from the street;
- 4) Not more than three dwellings use the same access easement, each having a clearly visible reflective address sign;
- 5) No Scotland County Ordinance violations exist on the parent parcel or proposed parcel;
- 6) The parent parcel and resultant lot may not be further subdivided via the minor deviation process;
- 7) The proposed access will have or has adequate width, drainage, and is free from obstruction that might impede emergency responses.
- 8) The approval signature is in accordance with Scotland County Subdivision Ordinance.

Should the applicant not meet one or more of the criteria for a minor deviation, the applicant may appeal to the Board of Zoning Adjustment for a variance to the criteria required for approval of a minor deviation. Should the applicant disagree with the determination of the Planning Director, the applicant may appeal the decision or interpretation of the ordinance to the Board of Zoning Adjustments. In the event there is no Planning Director, the appeals shall be directly to the Board of Zoning Adjustment.

(Ord. 7/3/2003, Section 8.5)

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### 3.5 TYPES OF ZONING MAP INTERPRETATION

Where uncertainty exists with respect to the boundaries of any districts shown on the Zoning Map, the following rules shall apply:

- 3.5.1. Use of Property Lines. Where district boundaries are indicated as approximately following street lines, alley lines, and lot lines, such lines shall be construed to be such boundaries. Where streets, highways, railroads, water courses, and similar areas with width are indicated as the district boundary, the actual district boundary line shall be the centerline of such area.
- 3.5.2. Vacated or Abandoned Streets. Where any street or alley is hereafter officially vacated or abandoned, the zoning regulations applicable to each parcel of abutting property shall apply to the centerline of such abandoned street or alley.
- 3.5.3. Split Zoned Parcels. If a district boundary divides a parcel, the requirement for the district in which the greater portion of the parcel lies shall be extended to the remainder of the parcel, provided that such extension shall not include any part of such parcel which lies more than one hundred and fifty (150) feet beyond the existing district boundary, and further provided that the remaining parcel shall not be less than the minimum required lot area for the district in which it is located. Following adoption of this Ordinance, split zoning of parcels will not be permitted.
- 3.5.4. Flood Hazard Boundaries. Interpretations of the location of floodway and floodplain boundary lines shall be made by the Zoning Administrator.
- 3.5.5. Board of Adjustment. In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of such boundaries.

### 3.6 RELATIONSHIP OF ZONING MAP TO COMPREHENSIVE LAND USE PLAN

It is the intention of the Board of Commissioners that this Ordinance implement the planning policies adopted by the board for the County, as reflected in the Scotland County Comprehensive Land Use Plan and other planning documents.

**Statutory Authority – NCGS § 160D-701**

### 3.7 GREATER RESTRICTIONS GOVERN

In the event of a conflict between ordinance provisions where this ordinance imposes a greater restriction on a building, use, or lot, the greater restriction shall govern.

### 3.8 NORTH CAROLINA STATE BUILDING CODES

Scotland County hereby adopts by reference the North Carolina State Building Code with appendices. This shall serve as the basis for regulation of building construction and repair. This Ordinance is not intended to conflict with or supersede the North Carolina State Building Code regulations.

**3.9 STREET ACCESS**

No building shall be erected on a lot which does not abut a street or have access to a street, provided that in a business district or in a planned project in a residential district, a building may be erected adjoining a parking area or other dedicated open space which has access to a street used in common with other lots.

**3.10 MINIMUM REQUIREMENTS FOR NEWLY CREATED LOTS**

The minimum street frontage requirements for newly created lots shall be as shown here:

Minimum Street Frontage	
Lots with both public water and sewer	60 feet
Lots with either public water or sewer	80 feet
Lots without both public water and sewer	100 feet
Lots abutting the turning circle of a cul-de-sac	Not less than 35 feet
Minimum Lot Depth	
Any newly created lot	Depth of two times minimum lot frontage
Minimum Lot Area	
Any newly created lot	Based on the above dimensions
Lots abutting the turning circle of a cul-de-sac	The equivalent area for lots with typical frontage as specified

*(Ord. 7/3/2003, Section 16.1)*

**3.11 MINIMUM STREET REQUIREMENTS**

In addition to requirements set within the "street" definition provided by Scotland County Zoning Ordinance the following shall apply:

- 3.11.1. All streets, private or those streets proposed to be dedicated to the state roads system, in a subdivision shall be designed and paved as prescribed by, and in accordance with specifications and standards required by the North Carolina Department of Transportation.
- 3.11.2. All subdivision streets shall be maintained by the developer to minimum standards of the Department of Transportation as required for acceptance of subdivision streets to the State Maintained System.

- 3.11.3. The developer shall petition the Department of Transportation through the Board of Commissioners for all subdivision streets to be accepted to the State maintained system immediately when such streets meet the minimum acceptance standards of the Department of Transportation.
- 3.11.4. A street may be referred to as a road, subdivision road, or as a thoroughfare.
- 3.11.5. When access within an easement or by a driveway is designed and built in accordance with street design standards specified by Scotland County Ordinances and North Carolina Department of Transportation "Subdivision Roads - Minimum Construction Standards", then the access within an easement or by a driveway may be considered a public or private street or road and shall be considered to have a level of service suitable to satisfy the street frontage requirements for new lots. Otherwise the level of service for access within an easement or by a driveway shall be considered equivalent to a privately maintained residential driveway and not suited for the creation of new lots. Access within easements and by driveways that do not meet the street design and construction requirements shall not satisfy the street frontage requirements. New lots having access within an easement or by a driveway, that do not meet the street frontage requirements may be considered for approval by the Scotland County Board of Zoning Adjustment in accordance with Scotland County Zoning Ordinance on Variances.

*(Ord. 7/3/2003, Section 16.2)*

### **3.12 REDUCTION OF LOT AND YARD AREAS PROHIBITED**

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least these minimum requirements.

### **3.13 REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING**

The minimum yards or other open spaces required by this Ordinance for each and every building shall not be encroached upon or considered as meeting the yard and open space requirements of any other building.

### **3.14 RELATIONSHIP OF BUILDING TO LOT**

Where there is already a primary structure on a lot, an additional structure may be added provided that the lot is large enough to accommodate the minimum lot size of the zoning district for each principal building and all required setbacks can be met. There shall be no more than two primary dwellings per lot. For any additional primary structures, the lot must be subdivided.

### **3.15 SUBSTANDARD LOT OF RECORD**

Where the owner of a lot at the time of the adoption of this Ordinance or his successor in title thereto does

not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance, such lot may be used as a building site in the district in which it is located provided that the lot width and lot area are not more than twenty (20) percent below the minimum specified in this Ordinance.

**3.16 ADJOINING AND VACANT LOTS OF RECORD**

If two (2) or more adjoining and vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less frontage or area than the minimum requirements of the district in which such a single lot or several lots are located, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

**3.17 ADDITIONAL ENVIRONMENTAL PROVISIONS**

In addition to the requirements of this Ordinance, all effluents and emissions into the air or surface or groundwater from new development permitted by this Ordinance including any land-disturbing activity must be in conformity with all applicable Federal, State, and County Health and Environmental Quality regulations. Land development must also comply with all other applicable regulations, which also include flood plain, and water shed regulations. All applicable Health Department regulations shall apply.

**3.18 CURB CUTS GIVING ACCESS TO PUBLIC RIGHTS-OF-WAY**

Construction of curb cuts for purposes of ingress or egress to property abutting a public right-of-way shall be approved by the public authority in the County which has jurisdiction over the maintenance of public streets and the North Carolina Department of Transportation where said curbs affect access to State Highways. Provision for all access work done on highway right-of-way is subject to approval by the Department of Transportation.

**3.19 PROJECTION INTO PUBLIC RIGHTS-OF-WAY**

No private sign, structure, or other items shall project beyond an imaginary line drawn ten (10) feet from and parallel to the outer edge of the public right-of-way. Any projection into a public right-of-way, new or existing, shall be removed.

**3.20 HEIGHT LIMIT EXCEPTIONS**

The height limitations contained in the schedule of district regulations do not apply to spire, belfries, cupolas, antennas, water tanks, ventilators, chimneys, mechanical equipment penthouses, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

**3.21 CORNER VISIBILITY**

On any corner lot, a sight triangle shall be established. The sight triangle shall be formed by extending lines from the intersections of two streets (measured from the edge of the right-of-way) to points 25 feet from the corner of the rights-of-way of the intersecting streets and then connecting the two points.

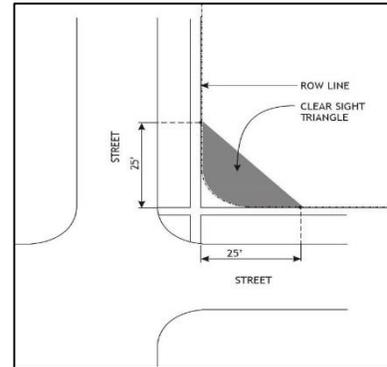


Figure 1. Sight Triangle

**3.22 PUBLIC SERVICE USE EXEMPTION**

Due to the unique nature of public service uses and the need to locate these uses in certain areas of the county irrespective of prevailing zoning district or subdivision regulations, the Zoning Administrator may approve public service uses in any zoning district; provided however, that all structures observe a minimum fifty feet (50) distance buffer requirement. Lots intending to accommodate public service uses are not subject to street frontage and lot size requirements so long as the lot area does not exceed 3,600 square feet. This exemption shall not apply to public service uses associated with electric substations, tower sites, wastewater treatment facilities, and similar public service uses typically afforded higher levels of location scrutiny. This exemption does not preclude compliance with any other requirement that may be imposed by local ordinances and/or federal or state law.

*(Ord. 7/3/2003, Section 16.3)*

**3.22 NO MINIMUM SQUARE FOOTAGE FOR ONE- AND TWO-FAMILY DWELLINGS**

This Ordinance shall not set forward a minimum square footage of any structure subject to regulation under the North Carolina Code for One- and Two-Family Dwellings.

**Statutory Reference - NCGS § 160A-381; S.L. 2019-174**

**3.23 RECORD RETENTION**

A record of all decisions, permits, minutes, and other documents described in this Ordinance shall be kept on file as provided in the latest editions of the Municipal Records Retention and Disposition Schedule issued by the NC Department of Cultural Resources, Division of Archives and Records. Specific standards describing the documents required by this Ordinance include *Standard-5 Building Inspections Records and Standard-13 Planning and Zoning Records*.

**Statutory Reference - NCGS §121-5 (c) and §132-8.**