

ARTICLE 1 – AUTHORITY, APPLICABILITY AND PURPOSE

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1.1. SHORT TITLE

This Ordinance shall be known and may be cited as the Scotland County Zoning Ordinance.

1.2. AUTHORITY

The provisions of this ordinance are adopted under authority granted by the North Carolina General Statutes and is adopted in accordance with:

- 1.2.1. The authority granted to Scotland County by the General Assembly of the State of North Carolina;
- 1.2.2. The North Carolina General Statutes, including:
 - (a) Chapter 153A, Article 6 (General Police Powers);
 - (b) Chapter 160D (Planning and Regulation of Development);
 - (c) Chapter 113A, Article 4 (Sedimentation and Pollution Control);

- (d) Chapter 143, Article 21, Part 6 (Floodway Regulations); and
- (e) All other relevant laws of the State of North Carolina.

(Ord. 12/1/1999, Section 2)

1.2.3. NCGS Chapter 160D extends to counties the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community. The provisions contained in NCGS Chapter 160D apply to all development regulations adopted pursuant to Chapter 160D, applicable and related local acts, and any other local ordinance that substantially affects land use and development. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such regulations shall be uniform for each class or type of building throughout each district, but that the regulations in one district may differ from those in other districts.

Statutory Authority – NCGS § 160D-101

1.2.4. Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.3. PURPOSE

This ordinance is designed to guide the growth of the various land uses of the County and to encourage the future development of the County in accordance with a plan of land use and population density so that the County may realize its best potentialities as a place to live and work.

Regulations within this Ordinance are made in accordance with the County’s Comprehensive Plan as outlined in **Section 1.7** and may be updated from time to time. These regulations are found by the Board of Commissioners to be necessary and appropriate to:

- 1.3.1. Lessen congestion in the streets;
- 1.3.2. Secure safety from fire, panic and other dangers;
- 1.3.3. Provide adequate light and air;
- 1.3.4. Prevent the overcrowding of land and protect the natural features within the County;
- 1.3.5. Avoid undue concentration of population;
- 1.3.6. Facilitate the efficient, adequate and economic provision of transportation, water, sewage, schools, parks, and other public services;
- 1.3.7. Preserve and enhance visual attractiveness and economic vitality;
- 1.3.8. Require appropriate setbacks for buildings and other structures to facilitate the safe movement of vehicular and pedestrian traffic, provide adequate fire lanes and ensure adequate distance from dust, noise and fumes created by vehicular traffic; and

- 1.3.9. Establish a zoning vested right upon the approval of a site specific development plan pursuant to NCGS Chapter 160D-108.

Statutory Authority – NCGS § 160D-701 and 702
(Ord. 12/1/1999, Section 1)

1.4. REPEAL OF PRIOR ORDINANCE, INCONSISTENCIES

This Ordinance is hereby enacted and shall be the Zoning Ordinance for Scotland County. All ordinances, or portions thereof, of Scotland County which relate to zoning and land use which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

1.5. JURISDICTION AND EXEMPTIONS; SPLIT JURISDICTION; PENDING JURISDICTION

The provisions of this Ordinance shall apply within the areas designated as zoning districts on the official zoning map(s) by the Board of Commissioners of Scotland County, and may be exercised by the county throughout the county except in areas subject to municipal planning and development regulation jurisdiction.

Statutory Authority – S.L. 2020-25; NCGS § 160D-201(b)

- 1.5.1. In addition to other locations required by law, a copy of a map showing the boundaries of the County’s planning jurisdiction shall be available for public inspection in the planning department.
- 1.5.2. Except as hereinafter provided, no building or structure shall be erected, moved, altered, or extended, and no land, building, or structure or part thereof shall be occupied or used unless in conformity with the regulations specified for the district in which it is located.
- 1.5.3. Pursuant to NCGS Chapter 160D-921, a local government shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates either of the following:
 - (1) Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statutes.
 - (2) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the General Statutes.

Statutory Authority – NCGS § 160D-921(b)

- 1.5.5. Pursuant to NCGS Chapter 160D-903, property located within the County’s planning and zoning jurisdictional area that is used for bona fide farm purposes is not subject to the regulations of this Ordinance.

Statutory Authority – NCGS § 160D-903

- 1.5.6. **Split Jurisdiction.** If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, for the purposes of this Chapter, the local governments may, by mutual agreement pursuant to Article 20 of Chapter 160A of the General Statutes and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction under this Chapter for the entire parcel to any one of those local governments. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county.

Statutory Authority – NCGS § 160D-203 – Split Jurisdiction

- 1.5.7. **County Approval of Town Jurisdiction.** A Town may not extend its extraterritorial powers into any area for which Scotland County has adopted and is enforcing county zoning and subdivision regulations. However, the Town may do so where the county is not exercising both of these powers, or when the Town and the county have agreed upon the area within which each will exercise the powers conferred by NCGS Chapter 160D. The Town may not extend its extraterritorial powers beyond one mile from its corporate limits without the approval of the Scotland County Board of Commissioners.

Statutory Authority – NCGS § 160D-202(c)

- 1.5.8. **Pending Jurisdiction.** After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date.

Statutory Authority – NCGS § 160D-204

- 1.5.9. **Transfer of Jurisdiction.** When a city annexes, or a new city is incorporated in, or a city extends its jurisdiction to include, an area that is currently being regulated by the County, the county development regulations and powers of enforcement shall remain in effect until (i) the city has adopted such development regulations or (ii) a period of 60 days has elapsed following the annexation, extension, or incorporation, whichever is sooner. Prior to the transfer of jurisdiction, the city may hold hearings and take any other measures consistent with G.S. 160D-204 that may be required in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction.

Statutory Authority – NCGS § 160D-202(g)

- 1.5.10. **Relinquishment of Jurisdiction by a City.** - When a city relinquishes jurisdiction over an area that it is regulating under NCGS Chapter 160D to a county, the city development regulations and powers of enforcement shall remain in effect until (i) the county has adopted such development regulation or (ii) a period of 60 days has elapsed following the action by which the city relinquished jurisdiction, whichever is sooner. Prior to the transfer of jurisdiction, the county may hold hearings and take other measures consistent with G.S. 160D-204 that may be required in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction.

Statutory Authority – NCGS § 160D-202(h)

- 1.5.11. **Effect on Vested Rights.** - Whenever a city or county, pursuant to this section acquires jurisdiction over a territory that theretofore has been subject to the jurisdiction of another local government, any person who has acquired vested rights in the surrendering jurisdiction may exercise those rights as if no change of jurisdiction had occurred. The city or county acquiring jurisdiction may take any action regarding such a development approval, certificate, or other evidence of compliance that could have been taken by the local government surrendering jurisdiction pursuant to its development regulations. Except as provided in this subsection, any building, structure, or other land use in a territory over which a city or county.

Statutory Authority – NCGS § 160D-202(k)

1.6. COMPLIANCE

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained or moved, and no land use shall be commenced, maintained, or modified, except as authorized by this Ordinance.

1.7. RELATIONSHIP TO COMPREHENSIVE LAND USE PLAN

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

- 1.7.1. Comprehensive Plan Required. As a condition of adopting and applying zoning regulations under NCGS Chapter 160D and this ordinance, the County shall adopt and reasonably maintain a comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction.
- a) The comprehensive plan sets forth the goals, policies and programs is intended to guide coordinated, efficient, and orderly development within the planning and

development regulation jurisdiction based on an analysis of present and future needs.

- b) Planning analysis supporting the plan may address inventories of existing conditions and assess future trends regarding demographics, economic, environmental, and cultural factors.
- c) The planning process shall include opportunities for citizen engagement in plan preparation and adoption.

Statutory Authority – S.L. 2020-25 Section 11(a); NCGS § 160D-501

1.7.2. Other Plans. In addition to a comprehensive plan, the County may prepare and adopt such other plans as deemed appropriate. This may include, but is not limited to, land use plans, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans.

- a) If adopted pursuant to the process set forth in this section, such plans shall be considered in review of proposed zoning amendments.

Statutory Authority – S.L. 2020-25 Section 11(a1); NCGS § 160D-501

1.7.3. Contents of the Comprehensive Plan. A comprehensive plan may, among other topics, address any of the following as determined by the Town:

- a) Issues and opportunities facing the County, including consideration of trends, the values expressed by citizens, community vision, and guiding principles for growth, and development.
- b) The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks.
- c) Employment opportunities, economic development, and community development.
- d) Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure.
- e) Housing with a range of types and affordability to accommodate persons and households of all types and income levels.
- f) Recreation and open spaces.
- g) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands.

- h) Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.
- i) Protection of significant architectural, scenic, cultural, historical, or archaeological resources.
- j) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.

Statutory Authority – S.L. 2020-25 Section 11(b); NCGS § 160D-501(b)

1.7.4. Adoption and Effect of Plans.

- a) Plans shall be adopted by the governing board with the advice and consultation of the planning board.
- b) Adoption and amendment of a comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-6-1.
- c) Plans adopted under this Ordinance may be undertaken and adopted as part of or in conjunction with plans required under other statutes, including but not limited to the plans required by G.S. 113A-110.
- d) Plans adopted under this Ordinance shall be advisory in nature without independent regulatory effect. Plans adopted under this Chapter do not expand, diminish, or alter the scope of authority for development regulations adopted under this Ordinance.
- e) Plans adopted under this section shall be considered by the planning board and governing board when considering proposed amendments to zoning regulations as required by G.S. 160D-604 and 160D-605.
- f) If a plan is deemed amended by G.S. 160D-605 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to G.S. 113A-110, the plan amendment shall not be effective until that review and approval is completed.

Statutory Authority – S.L. 2020-25 Section 11(b); NCGS § 160D-501(c)

1.8. DEVELOPMENT APPROVALS RUN WITH THE LAND

Unless provided otherwise by law, all rights, privileges, benefits, burdens and obligations created by approvals made pursuant to this Ordinance and to NCGS Chapter 160D attach to and run with the land.

Statutory Authority – NCGS § 160D-104

1.9. FEES

- 1.9.1. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, zoning amendments, variances and other administrative relief and plan review. The amount of the fees charged shall be set forth in the County’s budget or as established by resolution of the Board of Commissioners and filed in the offices of the County Clerk.
- 1.9.2. Fees established in accordance with **Subsection 1.9.1.** shall be paid upon submission of a signed application or notice of appeal.
- 1.9.3. Refund of Fees Determined to be Illegal. If Scotland County is found to have illegally imposed a tax, fee, or monetary contribution for development or a development approval not specifically authorized by law, the shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum to the person who made the payment or as directed by a court if the person making the payment is no longer in existence.

Statutory Authority – NCGS § 160D-106
(Ord. 12/1/1999, Section 43)

1.10. SEVERABILITY

If any Article, Section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by the courts, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of County Commissioners hereby declares that it has passed this Ordinance and each Article, Section, clause, and phrase thereof, irrespective of the fact that any one (1) or more Articles, Sections, sentences, or phrases be declared invalid by the courts.

(Ord. 12/1/1999, Section 9)

1.11. CONFLICTS WITH OTHER REGULATIONS; MINIMUM REQUIREMENTS

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, restrictive covenants, or agreements, the provisions of this greater restriction shall govern.

1.12. EFFECTS ON PRIOR LAWS

- 1.12.1. The enactment of this Ordinance shall not require the re-adoption of any County ordinance enacted pursuant to laws that were in effect before July 1, 2021 and are restated or revised herein. The provisions of this Ordinance shall not affect any act heretofore done, any liability incurred, any right accrued or vested, or any suit or prosecution begun or cause of action accrued as of the July 1, 2021. The enactment of this Ordinance shall not be deemed to amend the geographic area within which County development regulations adopted prior to July 1, 2021 are effective.
- 1.12.2. G.S. 153A-3 and 160A-3 are applicable to this Ordinance. Nothing in this Ordinance repeals or amends a charter or local act in effect as of July 1, 2021 unless this Ordinance or a subsequent enactment of the General Assembly clearly shows a legislative intent to repeal or supersede that charter or local act.
- 1.12.3. Whenever a reference is made in another section of the General Statutes or any local act, or any County ordinance, resolution, or order, to a portion of Article 19 of Chapter 160A or Article 18 of Chapter 153A of the General Statutes that is repealed or superseded by NCGS Chapter 160D, the reference shall be deemed amended to refer to that portion of NCGS 160D that most nearly corresponds to the repealed or superseded portion of Article 19 of Chapter 160A or Article 18 of Chapter 153A.133

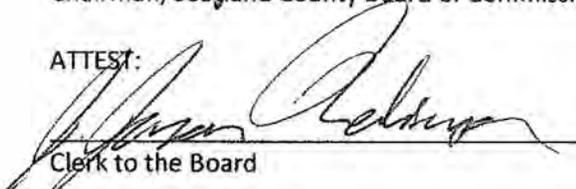
Statutory Authority – NCGS § 160D-111

1.13. EFFECTIVE DATE

This Ordinance and its provisions governing the use of land, buildings, and other matters as herein set forth are hereby established and declared to be in full force and effect from the passage date and the determined effective date.

Approved and adopted by the Board of Commissioners this the 4th day of April, 2022 and shall become effective as of that same date.


Chairman, Scotland County Board of Commissioners

ATTEST:
 (SEAL)
Clerk to the Board

