ARTICLE 1 – AUTHORITY, APPLICABILITY AND PURPOSE

Table of Contents

1.1. Short Title. 1
1.2. Authority 1
1.3. Purpose 2
1.4. Repeal of Prior Ordinance, Inconsistencies 3
1.5. Jurisdiction and Exemptions; Split Jurisdiction; Pending Jurisdiction 3
1.6 . Compliance 5
1.7. Relationship to Comprehensive Land Use Plan 5
1.8. Development Approvals Run With the Land 7
1.9. Fees 8
1.10. Severability 8
1.11. Conflicts With Other Regulations; Minimum Requirements 8
1.12. Effects on Prior Laws 9
1.13. Effective Date 9

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this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.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-9o3

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.

C. Whitfield Gibson
Chairman, Scotland County Board of Commissioners

ATTEST:

(SEAL)
Clerk to the Board

SEAL OF SCOTLAND COUNTY NORTH CAROLINA

ARTICLE 2 – INTERPRETATION AND DEFINITIONS

Table of Contents

2.1 GREATER RESTRICTION GOVERNS. 1
2.2 ROUNDING OF NUMBERS 1
2.3 FIGURES AND TABLES. 1
2.4 COMPUTATION OF TIME. 1
2.5 RULES OF CONSTRUCTION 2
2.6 DEFINITIONS 3

2.1. GREATER RESTRICTION GOVERNS

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

2.2. ROUNDING OF NUMBERS

All calculations that result in a part or fraction of a whole number shall be rounded to the nearest whole number.

2.3. FIGURES AND TABLES

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

2.4. COMPUTATION OF TIME

2.4.1. Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday,

or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded.

2.4.2. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice and the notice or paper is served by mail (Certified Mail/Return Receipt Requested), three days shall be added to the prescribed period.

2.5. RULES OF CONSTRUCTION

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

2.5.1. Word Interpretation: Words not defined in this Ordinance shall be given their ordinary and common meaning.

2.5.2. Tense: Words used in the present tense include the future tense.

2.5.3. Singular and Plural: Words used in the singular number include the plural number, and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

2.5.4. Mandatory Meaning: The words 'shall', 'will', and 'must' are mandatory in nature implying an obligation or duty to comply with the particular provision.

2.5.5. Gender: As used in this Ordinance, words importing the masculine gender include the feminine and neuter.

2.5.6. References: Any reference to an Article or Section shall mean an Article or Section of this Ordinance, unless otherwise specified.

2.5.7. "Written" or "in writing" is deemed to include electronic documentation. (N.C.G.S.§ 160D-110(b))

2.5.8. Delivery: Unless specified otherwise, in the absence of evidence to the contrary, delivery by first-class mail shall be deemed received on the third business day following deposit of the item for mailing with the United States Postal Service, and delivery by electronic mail shall be deemed received on the date sent. (N.C.G.S. § 160D-110(c))

2.5.9. Person: Includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.

2.5.10. May and Should: Are permissive; an officially adopted course or method of action intended to be followed.

2.5.11. Shall and Will: Are always mandatory and not merely directive; expresses determination to implement/take action.

2.5.12. Used for: Shall include the meaning "designed for."

2.5.13. Used or Occupied: Shall mean "intended, designed, and arranged to be used or occupied."

2.5.14. Lot: Shall include the words "plot," "parcel," "site," and "premises."

2.5.15. Building: Shall include the word "structure."

2.5.16. Street: Includes the word "alley," "road," "cul-de-sac," "highway," or "thoroughfare," whether designated as public or private.

2.5.17. Includes: Shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

2.5.18. Zoning Administrator: Shall mean the Zoning Administrator or his/her designee.

2.5.19. Planning Board: Shall mean the "Scotland County Planning Board."

2.5.20. County: Shall mean "Scotland County," a county of the State of North Carolina.

2.5.21. Map and Zoning Map: Shall mean the "Official Zoning Map for Scotland County, North Carolina."

2.5.22. Board of Adjustment: Shall mean the "Scotland County Board of Adjustment."

2.6. DEFINITIONS

2.6.1. *Purpose*. For the purposes of this Ordinance, certain words, concept, and ideas are defined herein. Except where specifically defined herein, all words used in this Ordinance shall have their customary dictionary definition.

2.6.2. *Definitions*.

Abutting: Having property or district lines in common; i.e., two lots are abutting if they have property lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street, alley, railroad right-of-way, or stream.

Access: A way of approaching or entering a property. Access also includes ingress, the right to enter, and egress, the right to leave.

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

Accessory Building/Structure. A detached subordinate building operated and maintained under the same ownership, the use of which is customarily incidental to that of the main building and which is located on the same lot as the main building. Accessory buildings include the following but are not limited to: detached garages, storage buildings, playhouses, and workshops, all of which are totally for personal use. Accessory buildings cannot be a manufactured home.

Accessory Use. A use incidental to and customarily associated with the Use by Right, and located on the same Zone Lot with the Use by Right, and operated and maintained under the same ownership with the operation of the Use by Right.

Addition (to an existing building) means an extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction, unless the

addition, renovation or reconstruction to any building, that was constructed prior to the initial Flood Insurance Study for that area, and the addition, renovation or reconstruction does not equal 50% of the present market value of the structure. Where a fire wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

Address. The official street number assigned by Scotland County 911 Addressing for a specific lot, building or portion thereof.

Administrative Approval. Approval that the Zoning Administrator or designee is authorized to grant after Administrative Review.

Administrative Decision. Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as "ministerial" decisions or "administrative determinations." (***N.C.G.S. 160D-102).***

Administrative Hearing. A proceeding to gather facts needed to make an administrative decision. (***N.C.G.S. 160D-102).***

Administrative Review. Non-discretionary evaluation of an application by the Zoning Administrator or designee. This process is not subject to a public hearing.

Adult Care Home. An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to people with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. Adult care homes and family care homes are subject to licensure by the Division of Health Service Regulation. (See N.C.G.S. 131-D-2.1)

Adult Day Care Center. The provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled.

Adult Establishment/Sexually-Oriented Business. Any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in G.S. 14-202.10. This includes, but it not limited to, adult bookstores, adult motion picture theaters, adult mini motion picture theaters, adult live entertainments, or massage businesses. (***N.C.G.S. 160D-902(f))***

Affected land (relating to mining). The surface area of land that is mined, the surface area of land associated with a mining activity so that soil is exposed to accelerated erosion, the surface area of land on which overburden and waste is deposited, and the surface area of land used for processing or treatment plant, stockpiles, nonpublic roads, and selling ponds.

Agriculture. The practice of cultivating the soil, producing crops, and raising livestock; such as but not limited to dairying, pasturage, viticulture, horticulture, hydroponics, floriculture, aquaculture, truck farming, orchards,

forestry, and animal and poultry husbandry. However, the operation of any accessory uses shall be secondary to that of the normal agricultural activities.

Agricultural Uses include uses in connection with a Bona Fide Farm. Bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation.

For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

(1) A farm sales tax exemption certificate issued by the Department of Revenue.

(2) A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.

(3) A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.

(4) A forest management plan.

Statutory Reference – NCGS 160D-903(a).

Agritourism. Agritourism means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting. (***N.C.G.S. 160D-903(a)).***

Air Compressors. A device that converts power (using an electric motor, diesel or gasoline engine, etc.) into potential energy stored in pressurized air (i.e., compressed air). By one of several methods, an air compressor forces more and more air into a storage tank, increasing the pressure.

Airfield, Small Private: The use of a field or grassed runway, on a noncommercial basis, for privately owned airplanes when the owner of at least one (1) of the resident planes lives on the premises. This small private airfield is not regulated by this Ordinance.

Airport: Any area of land or water which is used or intended for use for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces.

Airport - All publicly used airports in Scotland County.

Airport Elevation - The highest point of an airport's usable landing area measured in feet from mean sea level.

Airport Hazard - Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

Approach Surface - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section (E). In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, transitional, horizontal, and conical zones - These zones apply to the area under the approach, transitional, horizontal, and conical surfaces defined on the airport's Field Hazard Zoning Map.

Alley: A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street and is not intended for general traffic.

Alter: To make any structural changes in the supporting or load-bearing members of a building, such as bearing walls, columns, beams, girders, or floor joists.

Alternative Structure (regarding Wireless Telecommunication Facilities): A structure which is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted. Alternative structures include, but are not limited to, flagpoles, buildings, silos, water tanks, pole signs, lighting standards, steeples, billboards, and electric transmission towers.

Amateur Radio, Antennas. Amateur **radio**, also known as **ham radio**, is the use of **radio** frequency spectrum for purposes of non-commercial exchange of messages, wireless experimentation, self-training, private recreation, radio sport, contesting, and emergency communication.

Animal Feeder/Breeder Operations. Establishments primarily engaged in the production, feeding, or fattening of cattle, hogs, chickens, or turkeys in a confined area for a period of at least 45 days on a contract or fee basis.

Antenna: Any exterior transmitting or receiving device that radiates or captures electromagnetic waves (excluding radar signals).

Antenna Communications. equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communication services.

Antenna, Dual-Band/Multi-Band: An antenna with separate elements for two or more commercial wireless service frequency bands (example: cellular and PCS or specialized mobile radio).

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

Attached Wireless Communication Facility. An Attached Wireless Communication Facility is an Antenna Array that is attached to an existing building or structure (Attachment Structure), which structures shall include but not be limited to utility poles, signs, water towers, rooftops, towers with any accompanying pole or device (Attachment Device) which attaches the Antenna Array to the existing building or structure and associated

connection cables, and an Equipment Facility which may be located either inside or outside of the Attachment Structure.

Apartment: A room or suite of rooms intended for use as a residence by a single household or family. Such a dwelling unit may be located in an apartment house, duplex, or as an accessory use in a single family home or a commercial building.

Apartment Building: A building containing three (3) or more dwelling units, except where permitted as an accessory use. See also Multifamily dwelling.

Appeal. A request for a review of the interpretation of any provision of this Ordinance.

Applicable Codes. The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical and health codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Application, Wireless Communication Facility. A request that is submitted by an applicant to the County for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, County utility pole, or wireless support structure.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of being flooded in any given year.

Assembly: A joining together of completely fabricated parts creating a finished product.

Assisted Living Residence. Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. There are three types of assisted living residences: adult care homes, adult care homes that serve only elderly persons, and multi-unit assisted housing with services. As used in this definition, "elderly person" means: (i) any person who has attained the age of 55 years or older and requires assistance with activities of daily living, housing, and services; or (ii) any adult who has a primary diagnosis of Alzheimer's disease or other form of dementia who requires assistance with activities of daily living, housing, and services provided by a licensed Alzheimer's and dementia care unit.

(1) *Adult Care Home.* An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. Adult care homes include halfway houses and drug rehab facilities.

(2) *Multi-Unit Assisted Housing with Services.* An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or other compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hoursupervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care.

Attached Building. A building that is joined to another building at one or more sides by a party wall or walls.

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

Automated Teller Machine. A mechanized consumer banking device operated by or associated with a financial institution for the convenience of its customers, whether outside, in an access controlled facility or a location remote from the controlling financial institution. ATM's located within a building or on site of the controlling financial institution shall be considered accessory to the principal use.

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

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

Automobile Service Station (Gas Station): Any building or land used for the dispensing, sale, or offering for sale at retail any automobile fuels along with accessories such as lubricants or tires, except that car washing, mechanical and electrical repairs, and tire repairs shall only be performed incidental to the conduct of the service station and are performed indoors. There shall be no fuel pumps within fifteen (15) feet of any property line or street right-of-way and incidental activities shall not include tire re-treading, major bodywork, major mechanical work, or upholstery work.

A-Weighted Sound Level (dBA). A number in decibels, which is read from a sound-level meter, when the meter is switched to its weighting scale labeled "A." The number approximately measures the relative noisiness or annoyance level of many common sounds, including aircraft.

Bar, Lounge. An establishment used primarily for sale or dispensing of alcoholic beverages by the drink for on-site consumption and where food may be available for consumption on the premises as an accessory to the principal use.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means, for floodplain management purposes, any area of the building having its floor sub grade (below ground level) on all sides.

Base Station. A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

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

Bed and Breakfast: A form of temporary housing for travelers with breakfast included, but no other meals available. Overnight guest facilities are limited in number, and maximum stay by guests is restricted to seven (7) consecutive days There is no restaurant, but a dining room may be used by overnight guests only, which is open only during breakfast hours. The owner must be a resident.

Bedroom. A room designated as sleeping or bedroom on the plans.

Berm: Any elongated earthen mound designed or constructed to separate, screen, or buffer adjacent land uses.

Billboard: See "Off-Premises Sign", under "Signs".

Bingo Hall. A facility used primarily for the conduct of bingo games, open to the public and not in a subsidiary nature to another use.

Block: A tract of land or a lot or a group of lots bounded by streets, public parks, golf courses, railroad rights-of-way, water courses, lakes, un-subdivided land, or a boundary line or lines of the County or its towns or any combination of the above.

Block Frontage: That portion of a block that abuts a single street.

Board of Adjustment: A local body, created by ordinance, whose responsibility is to hear appeals from decisions of the Zoning Administrator and to consider requests for variances from the terms of the Zoning Ordinance.

Board of County Commissioners: The governing body of Scotland County.

Boarding House: A building other than a hotel, inn, or motel, where, for compensation, meals are served and lodging is provided.

Bona Fide Farm Purposes. - Agricultural activities as set forth in G.S. 160D-903.(***N.C.G.S. 160D-903).***

Bona Fide Farm. Any tract of land where the land is used for the production of and activities relating to, or incidental to, the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market. In addition, this Ordinance does not impose nor exercise any controls over croplands, timberlands, pasture lands, orchards, or idle or other farmlands. Nor does it exercise control over any farmhouse, barn, poultry house, or other farm buildings, including tenant or other houses for persons working on said farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Residences for non-farm use or occupancy and other non-farm uses shall be subject to the provisions of this Ordinance.

Land that receives or is eligible to receive an agricultural use exemption from the county tax office and is used for the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market. The term does not include nonfarm activities conducted on farmland. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes: 1. A farm sales tax exemption certificate issued by the Department of Revenue. 2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3. 3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return. 4. A forest management plan. (***N.C.G.S. 160D-903(a)).***

Buffer. A fence, wall, hedge, or other planted area or device used to enclose, screen, or separate one use or lot from another.

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

Buildable Area (Building Envelope): The space remaining on a zoning lot after the minimum open-space requirements (yards, setbacks) have been met.

Buildable Lot. One or more lots of record in one undivided ownership with sufficient total area, exclusive of easements, flood hazards, well and septic tank fields; sufficient total dimensions; and sufficient access to permit construction thereon of a principal building together with its required parking and buffer yards.**Building:** Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry, or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars, trailers, mobile homes, and attached or unattached carports consisting of roof and supporting members, and similar structures whether stationary or movable. Each portion of a building separated from other portions by a fire wall shall be considered a separate building.

Building: Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars, trailers, free-standing billboards, and signs and similar structures whether stationary or movable.

Building, Accessory: See Accessory Structure.

Building Footprint: The portion of a lot's area that is enclosed by the foundation of buildings, plus any cantilevered upper floor.

Building Height: The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the building. Spires, cupolas, chimneys, antennae attached to a building, and/or projections from buildings, radios, TV, communications, telecommunication, and water towers are not to be included in the calculations of building height. Height of a building in stories does not include basements, except as specifically provided for in this Ordinance.

Building Line. A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost three (3) feet of any uncovered porches, steps, gutters, and similar fixtures, and the right-of-way line of any street when measured perpendicular thereto.

Building Lot Coverage: The amount of net lot area or land surface area, expressed in terms of a percentage that is covered by all principal buildings.

Building Permit. An official administrative authorization issued by the County prior to beginning construction consistent with the provisions of NCGS 153A-357.

Building, Principal (Main): A building in which is conducted the principal use of the plot on which it is situated.

Building Separation. The minimum required horizontal distance between buildings.

Building Setbacks: The minimum distance from the property line to closest projection of the exterior face of buildings, walls, or other form of construction (i.e. decks, landings, terraces, porches, and patios on grade).

Building Setback Line (Front Yard Setback): The line on the front, rear, and sides of a lot, set according to the district regulations, which delineates the areas upon which a structure may be built or maintained. At the time of application, all yard setbacks are determined from the most recent Scotland County Official Tax Map.

Front yard setback - shall be measured from the roadway right-of-way as shown on tax maps.

Side and Rear yard setbacks - shall be measured from the property lines as shown on tax maps.

Corner lot setbacks - shall be measured from the roadway right-of-ways it is adjacent to as

On a flag lot the "building setback line" runs parallel to the street and is measured from the point in the main portion of the lot (i.e. the "flag" part of the lot, not the "pole" part), which is closest to the street. (The minimum lot width must be met in this area, as well. Therefore, if the point closest to the street is a corner rather than a line, the setback will have to extend as far as necessary to meet the required minimum lot width!)

Built-Upon Area: Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious surfaces, including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooded slatted decks, golf courses, and the water area of a swimming pool are not considered built-upon area.)

Buffer Yard/Buffer Strip. A strip of land which is established to separate one type of land use from another type of land use and which contains natural or planted vegetation, berms, walks, or fences.

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

Camper Trailer – A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

Campground: Land upon which, for compensation, shelters (such as tents, travel trailers, and recreational vehicles) are erected or located for occupation by transients and/or vacationers. They may include such permanent structures and facilities as are normally associated with the operation of a campground.

Candlepower: The amount of light that will illuminate a surface one (1) foot distant from a light source to an intensity of one (1) foot-candle. Maximum (peak) candlepower is the largest amount of candlepower emitted by any lamp, light source, or luminaire.

Canopy, Marquee, or Awning: A roof-like cover extending over a sidewalk, walkway, driveway, or other outdoor improvement for the purpose of sheltering individuals or equipment from the weather. An awning is made of fabric or some flexible fabric-like substance. Canopies and marquees are rigid structures of a permanent nature.

Car Wash: A building, or portion thereof, containing facilities for washing automobiles or other vehicles, using production line methods with a chain conveyor, blower, or other mechanical devices; or providing space, water, equipment, or soap for the complete or partial hand washing of automobiles, whether washing is performed by the operator or by the customer.

Cemetery. Land and facilities, including offices and chapels, used for or intended to be used for the burial of the dead, whether human or animal. Such a facility includes any burial ground, mausoleum, or columbarium.

Certificate of Occupancy: Official certification that a premises conforms to provisions of the Zoning Ordinance (and State Building Code) and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use. Unless such a certificate is issued, a structure cannot be occupied, but a certificate may be issued for a portion of a structure ready for occupancy, such as separate dwelling or commercial units in a structure with multiple units.

Certificate of Zoning Compliance. A statement, signed by the Zoning Administrator, setting forth that the building, structure or use complies with the Zoning Ordinance and that the same may be used for the purpose stated therein.

Certify. Whenever this Ordinance requires that some agency certify the existence of some fact or circumstance to the County, the County may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the County may accept certification by telephone from some agency when the circumstances warrant it, or the County may require that the certification be in the form of a letter or other document.

Certiorari, Nature of. The review of the record of a case (minutes of a hearing) by a court for the issuance of a ruling to a board having some judicial power.

Charter. The entire body of local acts currently in force applicable to Scotland County, including articles of incorporation issued to a city by an administrative agency of the State, and any amendments thereto adopted.

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

Child Care Facility. Includes child care centers, family child care homes, and any other child care arrangement not excluded by NCGS 110-86 (2) that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.

(1) *Child care center.* An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.

(2) *Small child care center*. Small centers in a residence that are licensed for six to twelve children which may keep up to three additional school age children, depending upon the ages of other children in care. When the group has children of different ages, staff-child ratios and group size must be met for the youngest child in the group.

(3) *Family child care home*. A child care arrangement located in a residence where, at any one time, more than two (2) children, but less than nine (9) children, receive child care.

Chimney. A vertical shaft of reinforced concrete, masonry, or other approved material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid, or gaseous fuel.

Churches/Places of Worship. Facilities used primarily for nonprofit purposes by a recognized and legally established sect to provide assembly and meeting areas for religious activities. Accessory uses include Sunday school facilities, parking, caretaker's housing, pastor's housing, and permanent group living facilities such as convents. Examples include churches, temples, synagogues, and mosques, but not associated schools, day care facilities, or other facilities not devoted to religious activity.

Circulation Area. That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

City. As defined in G.S. 160A-1(2). 'City' is interchangeable with the terms 'town' and 'village,' is used throughout this ordinance. (***N.C.G.S. 160D-102).***

City/County Right-of-Way. A right-of-way owned, leased, or operated by a County, including any public street or alley that is not a part of the State highway system.

City/County Utility Pole. A pole owned by a County in the County right-of-way that provides lighting, traffic control, or a similar function.

Class A Motor Vehicle. A combination of motor vehicles that meets either of the following descriptions:

(a) Has a combined GVWR of at least 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.

(b) Has a combined GVWR of less than 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.

Statutory Reference NCGS 20-4.01(2a)

Class B Motor Vehicle. Any of the following:

(a) A single motor vehicle that has a GVWR of at least 26,001 pounds.

(b) A combination of motor vehicles that includes as part of the combination a towing unit that has a GVWR of at least 26,001 pounds and a towed unit that has a GVWR of less than 10,001 pounds.

Statutory Reference NCGS 20-4.01(2b)

Class C Motor Vehicle. Any of the following:

(a) A single motor vehicle not included in Class B.

(b) A combination of motor vehicles not included in Class A or Class B.

Statutory Reference NCGS 20-4.01(2c)

Club or Lodge (Private, Nonprofit, Civic, or Fraternal): A nonprofit association of persons, who are bona fide members paying dues, which owns, hires, or leases a building, or portion thereof, the use of such premises being restricted to members and their guests. The affairs and management of such "private club or lodge" are conducted by a Board of Directors, executive committee, or similar body chosen by the members. It shall be permissible to serve food and meals on such premises, providing adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed, provided it is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale of alcoholic beverages is in compliance with the applicable federal, state, and local laws.

Code Official. An employee of the County with responsibility for administration and enforcement of development ordinances.

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

Collocation/Site Sharing. Collocation/Site Sharing shall mean use of a common Wireless Communication Facility or common site by more than one wireless communication license holder or by one wireless license holder for more than one type of communications technology and/or placement of an antenna array on a structure owned or operated by a utility or other public entity.

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

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

Common Open Space: A parcel or parcels of land, or an area of water, or a combination of both land and water, within the site designated for development and designed and intended for the use and enjoyment of residents of the development or for the general public, not including streets or off-street parking areas. Common Open Space shall be substantially free of structures, but may contain such improvements as are in the plan as finally approved and are appropriate for the benefit of residents of the development.

Communications Facility. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications Service. Cable service as defined in 47U.S.C. § 522(6), information service as defined in 47U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services. Communications Service Provider A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

Competent Evidence. NC General Statutes require that the rules of evidence as applied in the trial division of the General Court of Justice ordinarily be followed but adds the important exception that "when evidence is not reasonably available under such rules to show relevant facts, they may be shown by the most reliable and substantial evidence available." The Board just limit itself to the type of evidence that ought to be admissible before local administrative agencies generally. The term "competent" is essentially a synonym for "admissible before a local board."

Comprehensive Plan. The Comprehensive Plan 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. The comprehensive plan, land-use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the governing board. (***N.C.G.S. 160D-102).***

Conditional Zoning. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. (***N.C.G.S. 160D-102).***

Condominium: A dwelling unit in which the ownership of the occupancy rights to the dwelling unit is individually owned or for sale to an individual, and such ownership is not inclusive of any land.

Condominium Development. A development of one or more structures containing two or more units intended for owner occupancy, where the land beneath each unit and all common areas (as defined in the North Carolina Unit Ownership Act) are owned proportionately by each unit owner in the development. Units and the land on which they are built do not meet conventional lot requirements for street frontage and yard sizes, and walls between units are constructed in accordance with North Carolina State Building Code requirements. All such projects shall conform to the density requirements as outlined in this Ordinance and shall be approved in accordance with the provisions of this Ordinance.

Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

Contractor: One who accomplishes work or provides facilities under contract to another. The major portion of a contractor's work normally occurs outside and away from his business location. As used in this Ordinance, the term "contractor" does not include general assembly, fabrication, or manufacture at his business location.

Controlled-Access Highway: A roadway which, in accordance with State and Federal guidelines, is designed to give preference to through traffic by providing access connections at interchanges or selected public roads

only, with no direct access from private roads or driveways and with no crossing at grade, including any interstate, State, or U.S. Route.

Convalescent Home (Nursing Home): An institution, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for persons unrelated to the licensee. A convalescent home is a home for chronic or nursing patients who, on admission, are not as a rule acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A convalescent home provides care for persons who have remedial ailments or other ailments for which continuing medical and skilled nursing care is indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. A major factor that distinguishes convalescent homes is that the residents will require the individualization of medical care.

Convenience Store: A commercial building where a variety of items are sold, which may include food, magazines, automobile accessories and maintenance supplies, and other such items. In addition to the commercial building, other services on the premises may include gasoline sales, and a coin operated (automated) car wash.

Conversion: Changing the original purpose of the building to the different use.

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

County. Any one of the counties listed in G.S. 153A-10. (***N.C.G.S. 160D-102).***

County Board. Refers to the Scotland County Board of County Commissioners.

Covenant: A private legal restriction on the use of land, which is contained in the deed to the property or otherwise formally recorded. There may be certain legal requirements for formal establishment of a covenant such as a written document, a mutual interest in the property, that the covenant be concerned with the use of the land rather than individual characteristics of ownership, etc.

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

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

Curb Line. On the basis of orientation of the existing structure the line located at the back of the street curb perpendicular to the structure. Such line shall be fixed by the Zoning Administrator subject to review by the Board of Adjustment.

Customary Home Occupations. Any use conducted for gain within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof, and in connection with which there is no display; provided further, no person not a resident on the premises shall be employed specifically in connection with the activity; no mechanical equipment shall be installed or used except such as is normally used for domestic or professional purposes; and not over 25% of the total floor space or 400 square feet of any structure, whichever is less, shall be used for home occupations.

Cutoff Angle: The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted.

Cutoff-Type Luminary: A luminary with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is ninety (90) degrees or less.

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

Day-Night Average Sound Level (Ldn). A measure of noise which considers the 24-hour average sound level, 365 days a year, in "A" weighted decibels. Those events occurring between 10:00 pm and 7:00 am, incur a 10 decibel penalty. This is the accepted parameter for determining the impacts of noise on people.

Day Care Facility (Adults and Children): A place other than an occupied dwelling, which provides for the care of children or adults. Those receiving care are not all related to each other by blood or marriage and are not legal wards or foster children of the attendant adults, and for which care a payment, fee, or grant is made. All State registration requirements and inspections shall be met.

If children are the primary clients of the day care home the following shall apply: Any child care arrangement where three (3) or more children under thirteen (13) years of age receive care away from their own home by persons other than relatives, guardians, or full-time custodians, or in the child's own home where other unrelated children are in care. Child day care does not include seasonal recreational programs operated for less than four (4) consecutive months. Child day care also does not include arrangements that provide only drop-in or short-term child care for parents participating in activities that are not employment related and where the parents are on the premises or otherwise easily accessible.

Day Care Home (Adults and Children): A dwelling in which a permanent occupant of the dwelling provides for the care of children or adults. Those receiving care are not all related to the occupant or to each other by blood or marriage and are not the legal wards or foster children of the attendant adults. Those receiving care and are not dependents of the occupant, do not reside on the site. For the purpose of this ordinance, such activities shall meet all requirements for home occupations. All State registration requirements and inspections shall be met.

If children are the primary clients of the day care home the following shall apply: Includes child care centers, family child care homes, and any other child care arrangement not excluded by G.S. 110-86(2), which provides day care on a regular basis at least once a week for more than four (4) hours, but less than twenty-four (24) hours, per day for more than five (5) children under the age of thirteen (13) years, not including the operator's own school-aged children. It does not matter where it is located, whether the same or different children attend, and whether or not operated for profit. The following are not included: public schools; nonpublic schools, as described in G.S. 110-86(2); summer camps having children in full-time residence; summer day camps; specialized activities or instruction such as athletics, clubs, the arts, etc.; and Bible schools normally conducted during vacation periods.

Decibel (dB). Sound is measured in decibels. The zero on the decibel scale is based on the lowest sound level that is the healthy, unimpaired human ear can detect. Decibels are not linear units, but representative points

on a sharply rising (exponential) curve. Thus, an increase of 10 decibels represent an approximate doubling of acoustic energy.

Decision-Making Board. - A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this ordinance. (***N.C.G.S. 160D-102).***

Deck. An open and roofless platform that adjoins a house and is supported by a means other than the principal structure.

Dedication: The transfer of property from private to public ownership with no compensation involved.

Density: The average number of families, persons, housing units, or buildings per unit of land.

Density, Gross: The number of dwelling units or the amount of nonresidential gross floor area on a particular tract or parcel of land, *taking into account* the entire area of the tract or parcel.

Density, Net: The number of dwelling units or the amount of nonresidential gross floor area on a particular tract or parcel of land, *not taking into account* the portions of the tract or parcel on which buildings may not be erected, or development may not occur. Such areas closed to development include, but are not limited to: street rights-of-way, areas of special floor hazard, lakes or other water bodies, or wetlands falling under the regulatory jurisdiction of the U.S. Army Corps of Engineers.

Detached Building. A building having no party or common wall with another building except an accessory building.

Determination. A written, final and binding order, requirement, or determination regarding an administrative decision. Determinations can include stop work order and notices of violation to force development to halt. (***N.C.G.S. 160D-102).***

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property. (***N.C.G.S. 160D-102).***

Development. Unless the context clearly indicates otherwise, the term means any of the following:

(a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure;

(b) excavation, grading, filling, clearing, or alteration of land;

(c) the subdivision of land as defined in G.S. 160D-802; or

(d) the initiation or substantial change in the use of land or the intensity of use of land. This definition does not alter the scope of regulatory authority granted by the Articles of NCGS Chapter 160D.

Statutory Reference – NCGS 160D-102.

Development Approval. An administrative or quasi-judicial approval made pursuant to N.C.G.S. Chapter 160D that is written and that is required prior to commencing development or undertaking a specific activity, project

or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Ordinance, including plat approvals, permits issued, development agreements entered into, and building permits issued. Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to NCGS Chapter 160D attach to and run with the land. (***N.C.G.S. Chapter 160D-104).***

Development Regulation. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to NCGS Chapter 160D, or a local act or charter that regulates land use or development. (***N.C.G.S. 160D-102).***

Direct Light. Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a lighting system.

Distillery. A distillery as permitted by NCGS is an enterprise which engages in one or more of the following:

(a) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor;

(b) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations;

(c) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.

District. Any section of the County in which zoning regulations are uniform.

Dock or Pier. A platform extending from a shore over water and supported by piles or pillars, used to secure, protect, and provide access to boats, also a wharf or platform for the loading and/or unloading of materials and passengers.

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

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

Drawings. Construction drawings utilized during construction prepared by an architect, landscape architect, engineer, or surveyor licensed to practice in North Carolina. Drawings, as-built Engineering plans prepared after the completion of construction, by the engineer by an architect, landscape architect, engineer, or surveyor licensed to practice in North Carolina, in such a manner as to accurately identify and depict the location of all on-site improvements, which includes but is not limited to all structures, parking facilities, detention/retention areas, curbs, gutters, and sidewalks.

Drip Line: A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Driveway: A private roadway located on a parcel or lot used for vehicle access.

Driveway Approach. An area of the public right-of-way located between the roadway and property adjacent to the public right-of-way that is intended to provide for vehicles from the roadway to the adjacent property.

Duplex. (See Dwelling Two-Family).

Dwelling. - ~~Any building, or portion thereof, which is designed for living and/or sleeping purposes. 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, except that for purposes of NCGS Chapter 160D, Article 12 – Minimum Housing Codes, it does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose. (***N.C.G.S. 160D-102).***

Dwelling, Attached: A dwelling that is joined to another dwelling at one or more sides by a party wall or walls.

Dwelling, Detached: A dwelling that is entirely surrounded by open space on the same lot.

Dwelling, Multifamily: A building containing three (3) or more dwelling units, except where permitted as an accessory use.

Dwelling, Single Family: A building containing one dwelling unit only, but may include one (1) separate unit as an accessory use to be occupied only by employees or relatives of the household.

Dwelling, Two-Family. A building arranged or designed to be occupied by two families living independently of each other (the structure having only two dwelling units).

Dwelling Unit: One or more rooms, which are arranged, designed, or used as living quarters for one family only.

Easement: A right given by the owner of land to another party for specific limited use of that land. For example, a property owner may give an easement on his property to allow utility facilities like power lines or pipelines, to allow light to reach a neighbor's windows, or to allow access to another property.

Eave. An overhanging roof extension not exceeding three feet.

Effective Date of this Ordinance. The date established by the Scotland County Board of Commissioners that this Ordinance and any amendments thereto are effective and enforceable.

Electric Vehicle. Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for energy purpose. Electric vehicle includes: (1) a battery powered electric vehicle; and (2) a plug-in hybrid electric vehicle.

Electric Vehicle/Battery Charging Station. A public or private parking space located together with a battery charging station which permits the transfer of electric energy (by conductive or inductive means) to a battery or other storage device in an electric vehicle. An electric vehicle charging station is permitted as an accessory use to any principal use.

Electric Vehicle Parking Space. Any marked parking space that identifies the use to be exclusively for an electric vehicle.

Elevated building means, for floodplain management purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

Eligible Facilities Request. A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Equipment Compound. An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

Equipment Facility. Any structure used to contain ancillary equipment for a Wireless Communication Facility which includes cabinets, shelters, a build out of an existing structure, pedestals, and other similar structures.

Erect. Build, construct, erect, re-build, re-construct, or re-erect as the same is commonly defined.

Evidentiary Hearing. - A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under NCGS Chapter 160D. (***N.C.G.S. 160D-102).***

Existing construction. For the purposes of determining rates, structures for which the start of construction" commenced before the effective date of the Flood Insurance Rate Map (FIRM) or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures". (Amended 1/2001)

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

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

(b) having an outstanding valid building permit, or

(c) the right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS 160D-1-8 or under common law. (***NCGS 160D-102)***

Existing Lot (Lot of Record). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Scotland County Register of Deeds prior to the original adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the original adoption of this Ordinance.

Existing manufactured home park or manufactured home subdivision means 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) is completed before September 19, 1988. (Amended 1/2001)

Expansion to an existing manufactured home park or subdivision means 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). (Amended 1/2001)

Erect: Build, construct, erect, rebuild, reconstruct, or re-erect any building or other structure.

Equipment Facility: An Equipment Facility is any structure used to contain ancillary equipment for a Wireless Communication Facility, which includes cabinets, shelters, a build out of an existing structure, pedestals, and other similar structures.

Ex parte. A Latin legal term meaning "from (by or for) [the/a] party". An ex parte decision is one decided by a judge without requiring all of the parties to the controversy to be present.

Fabrication: Manufacturing, excluding the refining or other initial processing of basic raw materials, such as metal, ores, lumber, or rubber. Fabrication relates to stamping, cutting, or otherwise shaping the processed materials into useful objects.

Fall Zone. The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Family: One or more persons occupying a single dwelling or residence and living as a single housekeeping unit and, for the purpose of this ordinance, "family" shall include foster children and adult supervisors occupying a dwelling or residence that has been licensed by the State of North Carolina to provide foster care for the children.

Family Care Home/also Group Home: A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities. Person with disabilities is 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 G.S. 122C-3(11)b. ***(NCGS 160D-907)***

Family Foster Home. The private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship, or adoption.

Farmers' Market, Open-Air/ Farm Stand. A market where the seasonal selling or offering for sale at retail of locally and self-grown vegetables or produce is conducted. This may include items made directly from vegetables or produce, fresh flowers and plants, and/or self-made crafts and sold directly to the consumer at an open-air-market in a pre-designated area, where the vendor is generally the individual who raised the vegetables or produce or created the craft.

Federal Aviation Administration: FAA

Federal Communications Commission: FCC The Federal Communications Commission regulates interstate and international communications by radio, television, wire, satellite, and cable in all 50 states, the District of Columbia and U.S. territories. An independent U.S. government agency overseen by Congress, the Commission is the federal agency responsible for implementing and enforcing America's communications law and regulations.

Federal Telecommunications Act of 1996: FTA. The Telecommunications Act of 1996 was the first significant overhaul of telecommunications law in more than sixty years, amending the Communications Act of 1934.

Fence, Security: A fence designed to keep out unauthorized persons and kept locked when the area or facility is not in use or under observation. Security fences are often equipped with a self-closing and positive self-latching mechanism.

Fifth-Wheel Trailer. A vehicular unit mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use, of a size and weight that does not require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

Fine Arts and Crafts. Individual art pieces, not mass produced consisting of one or more of the following: paintings, drawings, etchings, sculptures, ceramics, inlays, needlework, knitting, weaving, and/or craftwork, leather, wood, metal, or glass.

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

Flea Market. Buildings or open areas in which sales areas or stalls are set aside or rented, and which are intended for use by one or more individuals or by educational, religious, or charitable organizations to sell a variety of articles such as those which are either homemade, homegrown, handcrafted, old, obsolete or antique.

Floating Home. A house built on a floating platform without a means of propulsion. (N.C.G.S. 146-12)

Floor Area (for determining off-street parking and loading requirements): The gross total horizontal area of all floors below the roof, including usable basements, cellars, and accessory storage areas such as counters, racks, or closets, but excluding, in the case of nonresidential facilities, arcades, porticos, and similar areas open to the outside air which are accessible to the general public and which are not designed or used as areas for sales, display, storage, service, or production.

However, "floor area", for the purpose of measurement for off-street parking spaces shall not include: floor area devoted to primarily storage purposes (except as otherwise noted above); floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; or basement floor other than area devoted to retailing activities, to the production or processing of goods, or business or professional offices.

Flood or **flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and,

(2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study is the engineering study performed by the Federal Emergency Management Agency to identify flood hazard areas, flood insurance risk zones, and other flood data in a community. The study includes Flood Boundary and Floodway Maps (FBFMs), Flood Hazard Boundary Maps (FHBMs), and/or Flood Insurance Rate Map (FIRMs). (Amended 1/2001)

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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

Floor Area, Gross: The total floor area enclosed within a building.

Food Truck. A large motorized vehicle, such as a van or trailer, which can be moved from place to place, and which is equipped to cook, prepare, serve, and/or sell food**.**

Foot-candle: A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.

Forestland. Land that is devoted to growing trees for the production of timber, wood, and other forest products. Forestry The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

Forestry Activity. Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing State rules and regulations pertaining to forestry.

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

Frontage: All of the real property abutting a street line measured along the street right-of-way.

Functionally dependent facility. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and

unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Game Room. A use providing video games or other games for playing for amusement and recreation. Any table games such as air hockey, football, pinball, or the like shall be included under this definition. More than three such games shall constitute a primary use and shall be allowed only in those zoning districts permitting game rooms as a listed permitted use. Three or fewer such games shall constitute an accessory use and may be permitted in any licensed retail business.

Garage, Commercial: Any building or premises, except those described as a private or parking garage, used for the storage or care of motor vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

Garage, Parking: Any building or premises, other than a private or commercial garage, used exclusively for the parking or storage of motor vehicles.

Garage, Private: A building or space used as an accessory to, or a part of, the main building permitted in any residential district, providing for the storage of motor vehicles, and in which no business, occupation, or service for profit is in any way conducted, except in an approved home occupation.

Garage, Storage. Any building or premises, other than a private or public garage, used exclusively for the parking or storage of motor vehicles.

Golf Cart. A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. ***Statutory Reference NCGS 20-4.01***

Governing Board. The city council or board of county commissioners. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and shall mean any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage. ***(N.C.G.S. 160D-102).***

Glare: The effect of brightness in the field of view that causes annoyance or discomfort or interferes with seeing. It may be direct glare from a light source or reflected glare from a glossy surface.

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

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

Granny Pod/Temporary Health Care Structure. A temporary structure that will house a single mentally or physically impaired person in accordance with **NCGS 160D-915**. The statute defines these to be North Carolina residents who require assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation, transferring, toileting, and eating). The impairment must be certified in writing by a physician licensed in North Carolina.

Grocery Store. A retail establishment, not a convenience store, for the display and sale of meat, fruits, fresh and packaged foods, cleaning supplies, paper goods, pet supplies, health and beauty products, bakery products, dairy products, wine, beer, and similar items for human consumption and may include a bakery, delicatessen or prescription pharmacy.

Groundcover: Any natural vegetative growth or other material that renders the soil surface stable against accelerated erosion.

Gross Floor Area: Floor area calculated irrespective of interior walls or closets.

Habitable Floor. Any floor useable for living purposes which includes working, sleeping, eating, cooking or recreation or a combination thereof.

Habitable Room. A room or heated floor space used or intended to be used for living or sleeping, excluding bathrooms, kitchens, places for cooking or eating purposes, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets, and storage spaces.

Hazardous Material. Any material defined as a hazardous substance under 29 Code of Federal Regulations §1910.120(a)(3).

Hazard to Air Navigation: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Health Spa. A profit-making business or a private club as opposed to YMCA. Spa would include such activities as weight lifting, exercising, steam room, whirlpool, sauna, and possibly other gymnastics.

Height (Towers). When referring to a Wireless Communication Facility, height shall mean the vertical distance measured from the base of the tower to the highest point on the Wireless Communication Facility, including the antenna array and other attachments.

Height: For the purpose of determining the height limits in all zones set forth in this Section, the datum shall be mean sea level elevation unless otherwise specified.

Highest Adjacent Grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic Structure means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a State inventory of historic places; (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified (1) by an approved state program as determined by the Secretary of Interior, or (2) directly by the Secretary of Interior in states without approved programs. (Amended 1/2001)

Home Care Unit: A facility meeting all the requirements of the State of North Carolina for boarding and care of not more than five (5) persons who are not critically ill and do not need professional medical attention, and is located on a lot of at least one (1) acre in size.

Home for the Aged, or Rest Home: A place for the care of aged and infirm persons whose principal need is a home with such sheltered and custodial care as their age and infirmities require. In such homes, medical care is only occasional or incidental, such as may be required in the home of any individual or family for persons

who are aged and infirm. The residents of such homes will not, as a rule, have remedial ailments or other ailments for which continuing skilled planned medical and nursing care is indicated.

A major factor that distinguishes those homes is that the residents may be given congregate services as distinguished from the individualization of medical care required in "patient" care. A person may be accepted for sheltered or custodial care because of a disability, which does not require continuing, planned medical care, but which does make him unable to maintain himself in individual living arrangements. For the purposes of this Ordinance, a "home for the aged" shall also be considered a "rest home".

Home Occupation: An occupation or profession carried on entirely within a dwelling or accessory building on the same lot by one or more occupants thereof, providing the following:

(a) That such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes;

(b) That no more than twenty-five percent (25%) of the total floor area of the dwelling is used for such purposes;

(c) That there is no outside or window display;

(d) That no mechanical or electrical equipment is installed or used other than is normally used for domestic, professional, or hobby purposes, or for infrequent consultation or emergency treatment; and,

(e) That not more than one person not a resident of the dwelling is employed in connection with the home occupation.

Horizontal Surface: A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan, coincides with the perimeter of the horizontal zone.

Horse Farm: A bona fide farm that, as a primary activity, conducts business by engaging in any one or more of the activities of breeding, training, buying, selling, showing, racing, and boarding of horses, including associated accessory activities.

Hotel: A building or other structure kept, maintained, advertised as, or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants. Rooms are furnished for the accommodation of such guests, and the hotel may or may not have one or more dining rooms, restaurants, or cafes where meals are served. Such sleeping accommodations and dining rooms, restaurants, or cafes, if existing, are located in the same building. Entry to sleeping rooms shall be from the interior of the building.

Impervious Surface Area: That portion of the land area that allows little or no infiltration of precipitation into the soil. Impervious areas include, but are not limited to, that portion of a development project that is covered by buildings, areas paved with concrete, asphalt, or brick, gravel roads, patios, driveways, streets, and recreation facilities such as tennis courts. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious.)

Incompatible Use: A use or service that is unsuitable for direct association and/or contiguity with certain other uses because it is contradictory, incongruous, or discordant.

Indirect Light*:* Direct light that has been reflected or has scattered off of other surfaces.

Industrial Park: A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or government organizations.

Inoperable Vehicle: Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsion. For the purpose of this Ordinance, any vehicle that is registered with the North Carolina Division of Motor Vehicles and has a current North Carolina motor vehicle registration license affixed to it shall not be considered inoperative.

Institutionalized Persons*.* Persons who are committed through some legal process (jail, hospital ward for the dangerously mentally ill), or persons committed to an institution, such as a halfway house, on a time-of-day basis.

Internet Sweepstakes Café/Electronic Gaming Operations: Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes but is not limited to internet sweepstakes, electronic gaming operations or cybercafés, who have a finite pool of winners. This definition does not include any lottery approved by the State of North Carolina.

Itinerant Merchant, Transient Merchant, Itinerant Vendor or Food Truck Vendor. Any person, firm or corporation whether as owner, agent, consignee, or employee, whether a resident of the County or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said County, and who, in furtherance of such purpose, hires, leases, uses, or occupies any building or land, structure, motor vehicle, tent, trailer, railroad box car, truck or boat, public room in hotel, motel, lodging houses, apartments, shops, or any street, alley, or other place within the County for the exhibition and sale of such goods, wares, and merchandise, either privately, or at public auction provided that such definition shall not be construed to include:

(a) Any person selling at a yard sale who has received the appropriate permits and licenses from the County.
(b) Internet sales.
(c) Any vendor lawfully participating in sales at a Farmers Market.
(d) Non-profits, civic and religious organizations.

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

Junk/Salvage Yard: Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, vehicles, rubber tires, and bottles. A "junk yard" includes an auto-wrecking yard, but does not

include uses established entirely within enclosed buildings. A "junk yard" for vehicles is defined as four or more junk, inoperable or unlicensed vehicles stored on the property.

Junked Motor Vehicle. A motor vehicle that does not display a current license plate and is one or more of the following: 1) is partially dismantled or wrecked; or 2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or 3) more than five years old and appears to be worth less than one hundred dollars; provided that any motor vehicle used on a regular basis for business or personal use shall not be caused to be removed or disposed.

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

Land Clearing and Inert Debris Landfill (LCID). A landfill facility for waste generated from land clearing, concrete, brick, concrete block, uncontaminated soil, gravel and rock, unpainted wood, and yard trash. "Yard trash" is solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, and similar vegetative materials.

Landowner or Owner. The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner.31 The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals. (***N.C.G.S. 160D-102).***

Landfill, Sanitary: A facility where waste material and refuse is placed in the ground in layers and covered with earth or some other suitable material each work day. Sanitary landfills shall also conform to requirements of 15A NCAC 13B regarding solid waste management.

Landscape Architect: A professional landscape architect registered by the State of North Carolina.

Landscaped Area: A portion of the site or property containing vegetation to exist after construction is completed. Landscaped areas can include, but are not limited to, natural areas, buffers, lawns, and plantings.

Large Retail. A retail structure or group of structures having a total in excess of 25,000 square feet of gross floor area.

Larger Than Utility Runway: A runway that is constructed for and intended to be used by propeller driven or jet powered aircraft of greater than 12,500 pounds maximum gross weight.

Legislative Decision. The adoption, amendment, or repeal of a regulation under this Chapter or an applicable local act. It also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of NCGS Chapter 160D – Development Agreements. (***N.C.G.S. 160D-102).***

Legislative Hearing. A hearing to solicit public comment on a proposed legislative decision. (***N.C.G.S. 160D-102).***

Life Care Center: A facility which combines the functions of any combination of a retirement community, rest home, nursing home, and convalescent home, providing residential facilities for independent living, assisted care, and, possibly, nursing care.

Light, Cutoff: An artificial outdoor lighting fixture, or luminaire, designed to ensure that no light is directly emitted above a horizontal line parallel to the ground.

Light, Non-Cutoff: An artificial outdoor lighting fixture, or luminaire, that is designed to allow light to be directly emitted above a horizontal line parallel to the ground.

Loading Area or Space, Off-Street: An area logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles. Required off-street loading space is not to be included as off-street parking space in computing required off-street parking space.

Local Government: A city or county. ***(N.C.G.S. 160D-102).***

Lot: A parcel of land in undivided ownership occupied, or intended for occupancy, by a main building or group of main buildings together with any accessory buildings, including such yards, open spaces, width, and area as are required by this Ordinance, either shown on a plat of record or described by metes and bounds and recorded with the Register of Deeds. For the purpose of this Ordinance, the word "lot" shall be taken to mean any number of contiguous lots or portions thereof, upon which one or more main structures for a single use are erected or are to be erected.

Lot, Corner: A lot abutting the intersection of two (2) or more streets or a lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot at the apex meet at any angle of less than one hundred thirty-five (135) degrees. In such a case the apex of the curve forming the corner lot shall be considered as the intersection of street lines for the purpose of this Ordinance, such as in corner visibility requirements.

Lot, Depth: The depth of a lot is the average distance between the front and back lot lines measured at right angles to its frontage and from corner to corner.

Lot, Interior: A lot other than a corner lot.

Lot Lines: The lines bounding a lot. Where a lot of record includes a right-of-way, the lot lines are presumed not to extend into the right-of-way.

Lot Line, Rear.

(a) If the lot has one front line, the boundary opposite that front line shall be the rear line.

(b) If the lot has two front lines the boundary opposite the shorter of the two front lines shall be the rear line, provided that if both front lines are of equal length, the rear line shall be fixed by the Building Inspector, subject to review by the Board of Adjustment, on the basis of orientation of existing structures.

(c) If the lot has three or more front lines, there shall be no rear line. Lot of Record A lot which is a part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Scotland County prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

Lot, Through: An interior lot having frontage on two streets.

Lot, Width: The straight line distance between the points where the building setback line intersects the two side lot lines.

Lot of Record: A lot which is a part of a subdivision, a plat of which has been recorded in the office of the Scotland County Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds by the owner or predecessor in title thereto.

Lowest Floor means, for floodplain management and flood insurance purposes, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Luminaire: A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

Major Repair. Any activity that could result in deposition of materials or pollution into the shoreline area waters.

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

Manufactured Home. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act. For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. (***N.C.G.S. 160D-102 and N.C.G.S. 143-145(7)***

A manufactured home (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis. (HUD.GOV)

Manufactured Home, Class A. A manufactured home that meet or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

(a) The manufactured home has a length not exceeding four times it width, with length measured along the longest axis and width measured at the narrowest part of the other axis.

(b) The manufactured home has a minimum of 1200 feet of enclosed and heated living area.

(c) The pitch of the roof of the manufactured home has minimum vertical rise of three and two tenths feet for each twelve feet of horizontal run (3.2 feet by 12 feet) and the roof is finished with a type of composition shingle that is commonly used in standard residential construction.

(d) The roof eaves and gable overhangs shall be 12-inch minimum (rain gutters may be included in the minimum dimensions).

(e) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(f) The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home.

(g) The front entrance to the manufactured home has stairs and a porch, the porch being at least four feet by six feet in size. Stairs, porches, entrance and exit to and from the home shall be installed or constructed in accordance with the North Carolina State Administration) requirements relative to tie downs.

(h) The electrical meters servicing the manufactured home shall he mounted (attached) directly to the manufactured home.

(i) A multi-sectional manufactured home is required. A singular sectional manufactured home is prohibited.

(j) All manufactured homes shall otherwise meet all applicable zoning regulations for the zoning district in which the home is located.

It is the intent of these criteria to insure that a Class A manufactured home, when installed, shall have substantially the appearance of an onsite conventionally built, single family dwelling to include landscaping in harmony with surrounding dwellings. (Adopted 3 February 1994)

Manufactured Home, Class B. (Commonly referred to a single section manufactured home.) A manufactured home that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

1. The manufactured home has a minimum length of fifty-two (52) feet measured along the longest axis and a minimum width of fourteen (14) feet measured at the narrowest part of the other axis;

2. The manufactured home has a minimum of seven hundred and twenty-eight (728) square feet of enclosed living area;

3. The pitch of the roof of the manufactured home has a minimum vertical rise of three feet for each twelve feet of horizontal run;

4. The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;

5. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and rests upon a continuous uniform foundation enclosure, unpierced except for required ventilation and access. The foundation skirting shall be of a non-combustible material or material that will not support combustion. Any wood framing for foundation skirting shall be constructed with treated lumber;

6. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set be the North Carolina State Building Code; and

7. The moving hitch, wheels and axles, and transporting lights have been removed.

Manufactured Home, Class C. (Commonly referred to as a house trailer or a mobile home.) Any manufactured home that does not meet the definitional criteria of a Class A or a Class B manufactured home. Class C Manufactured homes are only allowed within Scotland County if they are located within Scotland County by the adoption of this ordinance. Once a Class C manufactured home is disconnected from utilities at its current location it cannot be moved and reconnected to a new location within Scotland County. The disconnected manufactured home cannot be used for dwelling or storage and must be disposed of.

Manufactured Home Park: A Manufactured Home Park is a parcel or tract of land developed with facilities for locating four (4) or more mobile homes, provided each ~~mobile~~ home contains a kitchen, flush toilet, and shower or bath. It shall not include a sales lot in which automobiles or unoccupied mobile homes are parked.

Manufactured Home Space: A plot of land within a manufactured home park designed for the accommodation of one mobile home.

Manufactured Home Stand: That portion of the manufactured home space intended for occupancy by the mobile home proper, consisting of a rectangular plat of ground of least 12 by 60 feet.

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

Mean Sea Level means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a FIRM are referenced.

Microbrewery. A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise. Tasting rooms are an accessory use to a microbrewery or distillery.

Micro Wireless Facility. A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

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

Mining:

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

Mining does not include:

1. Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area.
2. Excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining, such as constructing a residence, garage, commercial or industrial building.
3. Mining operations where the affected land does not exceed one (1) acre in area.
4. Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one (1) acre of land.
5. Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one (1) acre in area.

Mini-Warehouse/Storage Facilities: A building, or group of buildings, in a controlled access and/or fenced compound that contains varying sizes of individual, compartmentalized and controlled access stalls or lockers for the dead storage of a customer's goods or wares. No sales, service, or repair activities other than the rental of dead storage units are permitted on the premises.

Mobile Office: A structure identical to a manufactured home except that it has been converted to, or originally designed and constructed for, commercial or office use.

Modular Home. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a

modular home may consist of two (2) or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the North Carolina State Building Code applicable to site built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site.

To qualify for a label or seal under subsection (a) of this section, a single-family modular home must meet or exceed the following construction and design standards:

(1) Roof pitch. - For homes with a single predominant roofline, the pitch of the roof shall be no less than five feet rise for every 12 feet of run.

(2) Eave projection. - The eave projections of the roof shall be no less than 10 inches, which may not include a gutter around the perimeter of the home, unless the roof pitch is 8/12 or greater.

(3) Exterior wall. - The minimum height of the exterior wall shall be at least seven feet six inches for the first story.

(4) Siding and roofing materials. - The materials and texture for the exterior materials shall be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.

(5) Foundations. - The home shall be designed to require foundation supports around the perimeter. The supports may be in the form of piers, pier and curtain wall, piling foundations, a perimeter wall, or other approved perimeter supports. (1971, c. 1099; 1989, c. 653, s. 2; 2003-400, s. 17.)

Statutory Reference – NCGS 160D-910 and NCGS 143-139.1

Modular Structure: A manufactured structure designed for year-round residential or commercial use, with major components or modules preassembled and transported to a site for final assembly and utility connection, but which is not designed to be transported on its own chassis. Such structures must meet all requirements of the North Carolina State Building Code and must have attached a North Carolina Validating Stamp.

Moratorium. The temporary prohibition of any activity.

Motel: A building or other structure kept, maintained, advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants and where rooms are furnished for the accommodation of such guests. Entry to sleeping rooms may be from the interior or exterior of the building. Food may be served in dining rooms, restaurants, or cafes, which may be located in the same building as the sleeping rooms or may be in one or more separate buildings.

Motor Home. A vehicular unit, designed to provide temporary living quarters, built into as an integral part, or permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must provide at least four of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating or air conditioning, a portable water supply system including a faucet and sink, separate 110-125-volt electrical power supply, or an LP gas supply. (As defined in G.S. 20-4.01(27) k)

Nightclub. An establishment dispensing alcoholic beverages for consumption on the premises and in which music, dancing, or entertainment is conducted. The hours of operation generally limit to weeknights and weekends. The sale of meals for on-site consumption may also be a component of the operation.

Noise Abative Construction. Includes insulation, storm windows and/or air conditioning designed to reduce interior noise due to aircraft activity. Landscaping may reduce ground noise, but has little impact on noise reduction from airborne produced noise.

Nonconforming Lot: A lot existing at the effective date of this Ordinance or any amendment to it (and not created for the purpose of evading the restrictions of this Ordinance) that cannot meet the minimum area or lot width or depth requirements of the district in which the lot is located.

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

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

Nonconforming Use: The use of a building, mobile home, or land which does not conform to the use regulation of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated.

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

Non-Precision Instrument Runway: A runway having an existing or planned instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

Nuisance: Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

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

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this Ordinance.

Office. Quarters maintained by individuals or corporation for the purpose of offering services in which no goods or merchandise are sold or displayed over the counter.

Official Maps and Plans. Any maps or plans officially adopted by the County as a guide for the future development and growth of the County and the area immediately adjacent to it. Such maps or plans may consist of maps, charts, and text.

Open space. An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state. Open Storage Unroofed storage areas, whether fenced or not.

Ordinance: This, the Zoning Ordinance, including any amendments. Whenever the effective date of the Ordinance is referred to, the reference includes the effective date of any amendment to it.

Outdoor Advertising, Off-Premises. The use of land consisting of a sign erected and maintained for the purpose of (i) displaying, advertising, identifying, or directing attention to business products, operations, or services sold or offered at a site other than the site where the sign is erected or (ii) promoting an attraction, activity, idea, opinion, or other noncommercial messaging that is unrelated to the site where the sign is erected. A sign meeting this definition is commonly known as a billboard, where space is commonly made available or rented to advertisers to display their messages to the traveling public.

Outdoor Display: The placement of merchandise normally associated with the commercial or industrial use outside for public display.

Outdoor Storage: The placement or storage of goods, equipment, or material, such as junk vehicles, junk appliances and other such items, trash, and other debris outside of an enclosed building for a period of more than forty-eight (48) consecutive hours shall be considered outdoor storage. Outdoor storage does not refer to licensed vehicles in use by the person occupying the property, or other minor and incidental storage, such as items specifically designed for outdoor use including; lawn furniture, outdoor grill, swing set, lawn care equipment, which would not have a negative impact on the health, safety and general welfare of adjacent property owners and land uses.

Overlay District: A district, which applies additional supplementary or replacement regulations to land that is already classified in an existing zoning district.

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

Parking Lot or Area: An area or plot of land used for, or designated for, the parking or storage of vehicles, either as a principal use or as an accessory use.

Parking Space: A storage space of not less than one hundred sixty (160) square feet for one automobile, plus the necessary access space.

Parking Space, Off-Street: A parking space located outside of a dedicated street right-of-way.

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

Permitted Use. Also known as 'Use by Right'. Any use permitted as a right in a zoning district and subject to the limitations of the regulations of the zoning district.

Person. An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity. (***N.C.G.S. 160D-102).***

Person with Disabilities. Person with disabilities means 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 G.S. 122C-3(11) b. ***(N.C.G.S. 160D-907(b).)***

Planned Unit Development (PUD): A form of development usually characterized by a unified site design for a number of housing units, clustering buildings, providing common open space, density increases, and a mix of building types and land uses. It permits the planning of a project and the calculation of densities over the entire development, rather than on an individual lot-by-lot basis.

Planning and Development Regulation Jurisdiction. The geographic area defined in Part 2 of NCGS Chapter 160D within which a city or county may undertake planning and apply the development regulations authorized by NCGS Chapter 160D. (***N.C.G.S. 160D-102)***

Planning Board. - Any board or commission established pursuant to NCGS 160D-3-1. (***N.C.G.S. 160D-102.)***

Planning and Zoning Administrator (Zoning Administrator): The official person charged with the enforcement of the Zoning Ordinance.

Planning Jurisdiction. The area within the County limits within which the County is authorized to plan for and regulate development.

Plat: A map, usually of land which is to be or has been subdivided, showing the location, boundaries, and ownership of properties; the location, bearing, and length of every street and alley line, lot line, and easement boundary line; and such other information as may be necessary to determine whether a proposed subdivision or development meets all required standards of this and other ordinances.

Plug-in Electric Vehicle. A four-wheeled motor vehicle that does not have the ability to be propelled by a gasoline engine and that meets each of the following requirements:

(a) Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.

(b) Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.

(c) Is rated at not more than 8,500 pounds unloaded gross vehicle weight.

(d) Has a maximum speed capability of at least 65 miles per hour.

(e) Draws electricity from a battery that has all of the following characteristics:

(1) A capacity of not less than four kilowatt hours.

(2) Capable of being recharged from an external source of electricity.

Pollution*.* The presence in the waters of the County any one or more substances or contaminants which are harmful or injurious to human health or welfare, marine, animal or plant life, or property.

Pre-School. A facility for the care and/or education of children of pre-school age, including kindergartens and day care centers.

Precision Instrument Runway: A runway having an existing or planned instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR) providing horizontal and vertical guidance. It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Premises: A single piece of property as conveyed in deed, or a lot or a number of adjacent lots on which is situated a land use, a building, or group of buildings designed as a unit or on which a building or a group of buildings are to be constructed.

Primary Surface: A surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is 1,000 feet. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Principal Building. A building in which is conducted the principal use of the buildable lot on which it is located or, in a group housing development, of the building site on which it is located.

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

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

Private Drive, Road or Street: Any road or street which is not publicly owned and maintained and is used for access by the occupants of the development, their guests, and the general public.

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

Private Street. A vehicular travel way not dedicated or offered for dedication as a public street, but resembling a cul-de-sac or a local street by carrying traffic from a series of driveways to the public street system.

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

Processing. Any operation changing the nature of material or materials, such as chemical composition or physical qualities. Does not include operations described as fabrication.

Property. All real property subject to land-use regulation by a local government and includes any improvements or structures customarily regarded as a part of real property. (***NC.G.S. 160D-102)***

Property Owner's Association. An incorporated organization operating under land agreements through which: (a) Each lot owner is automatically a member; (b) Each lot is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property.

Public. Belonging or open to, enjoyed and used by and/or maintained for the public generally, but not limited to a facility the control of which is wholly or partially exercised by some governmental agency.

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

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

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

Quasi-Judicial Decision. - A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions involving variances, special use permits, certificates of appropriateness,42 and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board. (***N.C.G.S. 160D-102)***

Rear Setback. A setback from an interior property line lying on the opposite side of the lot from the front street setback.

Reasonable Accommodations. Accommodations held to be reasonable include conversion of a motel to a shelter and a variance from setback requirements. A total exclusion of all nursing home facilities and assisted living residences from a residential district has been held to be a failure to make reasonable accommodations.

Recreational Vehicle. A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motive power or is mounted on, or towed by, another vehicle. Examples of recreational vehicles include mapper trailers, fifth-wheel trailers, motor homes, travel trailers and truck campers. (NCGS Chapter 20. Motor Vehicles, Article 1. Division of Motor Vehicles Section 20-4.01. Definitions) This term shall not include a manufactured home as defined in G.S. 143-143.9(6).

A recreational vehicle is: (a) Built on a single chassis; (b) Four hundred square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a passenger motor vehicle or a light-duty truck or designed to be carried on a pickup truck; and (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicle Park. Any site or tract of land, of contiguous ownership, upon which four or more recreational vehicles, motor homes, travel trailers and tents, but not manufactured homes, together with

supporting facilities and required open spaces are provided in accordance with this Ordinance. This definition shall not include migrant labor camps, manufactured home parks or recreational vehicle sales lots.

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

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

Residential Child-Care Facility. A staffed premise with paid or volunteer staff where children receive continuing full-time foster care. Residential child-care facility includes child-caring institutions, group homes, and children's camps which provide foster care, but not family care homes.

Restaurant. An establishment where food service is a primary activity. The facility may be designed to cater or accommodate the consumption of food either on or off the premises. The serving of alcoholic beverages in a restaurant shall be in compliance with the ABC laws.

Retail Trade. Businesses which sell goods (that are not for resale) to the public and which are open on a regular basis for consumer shopping. At least 40% of the floor space of a retail business must be open to the public and devoted to the sale and display of goods on the premises.

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

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

Right-of-Way: An area owned and maintained by a municipality, the State of North Carolina, a public utility, a railroad, or a private entity for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities, or railroads.

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

Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Search Ring. The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structures.

Satellite Dish Antenna (Earth Station): A dish antenna, or earth station, is defined as an accessory structure and shall mean a combination of:

(a) Antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources;

(b) A low-noise amplifier which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and

(c) A coaxial cable whose purpose is to carry the signals into the interior of the building.

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

Self-Service Gasoline Pump: A gasoline or diesel fuel dispensing pump, which is, operated by the customer who pays the charge to an attendant or cashier.

Setback: The required minimum distance between every structure and the lot lines of the lot on which it is located (measured from the road right of way in the front and property lines on the remaining portions of the property).

Setback (Towers): Setback shall mean the required distance from the property line of the parcel on which the Wireless Communication Facility is located to the base of the Support Structure and equipment shelter or cabinet where applicable, or, in the case of guy-wire supports, the guy anchors.

Sexually Oriented Business. Any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in N.C.G.S. 14-202.10.

Shopping Center: A commercial area with one or more buildings or lots and designed as a unit to house two (2) or more businesses offering products and/or services to the public.

Shrub, Intermediate. Deciduous or evergreen plants installed at a minimum height of 36 inches, a minimum of 5 canes, and a minimum spread of roots or root ball diameter of 14 inches.

Shrub, Large. Deciduous and/or evergreen plants, as required in the applicable sections, installed at a minimum height of 5-feet, a minimum of 6 canes, and a minimum spread of roots or root ball diameter of 24-inches. Large shrubs shall be maintained at a height of 6 to 10 feet, and shall be of a vegetation family which normally does not grow taller than 10 feet. Site plan A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features both natural and manmade and, depending on requirements, the location of proposed utility lines.

Sidewalk. All that area legally open to public use as a pedestrian public way between the curb line and the public right-of-way boundary along the abutting property.

Sight Distance Area, Horizontal. The area formed by extending lines from the point of intersection of intersecting streets along the centerline of such streets for a distance of forty feet and connecting the ends of such lines by a straight line to form the base for a triangle. Each of the two sides of the triangle will be forty feet in length.

Sight Distance Area, Vertical. The area between three feet and ten feet above the horizontal area measured from the level of the point of intersection of the centerlines of the intersecting streets.

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

Sign. Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names, or trademarks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product, which are visible from any public way and used to attract attention. This definition includes signs painted on building exterior walls.

Sign, Accessory. Means an advertising device used to disseminate information concerning the particular use of the lot upon which it is located.

Sign, A-Frame. Means any sign constructed in such a manner as to form an "A" or tent-like shape, hinged or not hinged at the top; each angular face held at an approximate distance by a supporting member. Also referred to as sandwich boards.

Sign, Animation. The movement, or optical illusion of movement of any part of the sign. Also included in this definition are signs having chasing action which is the action of a row of lights commonly used to create the appearance of motion. Automatic changeable copy boards are permitted provided that there is no running action to copy and provided that the copy does not change more than once every one minute. No flashing, revolving, or intermittent illuminating shall be employed.

Sign, Area. The surface area of a sign which shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. However, in computing sign area only one (1) side of a double-faced sign structure shall be considered. Frames and structural members not bearing advertising matter shall not be included in computation of the surface area.

Sign, Banner. A temporary sign composed of cloth, canvas, plastic, fabric, or similar light-weight, non-rigid material that can be mounted to a structure with cord, rope, cable, or a similar method or that may be supported by stakes in the ground.

Sign, Beacon. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same property as the light source. Also, any light with one or more beams that rotate or move.

Sign, Business. Identification means any sign which advertises an establishment, a service, commodity, or activity conducted upon the premises where such sign is located.

Sign, Canopy or Awning. Any sign constructed of fabric-like non-rigid material, that is a part of a fabric or flexible plastic awning attached to a building. that is a part of or attached to an awning, canopy, or other structural protective covering above a door, entrance, window, or walkway.

Sign, Column/Pole. A freestanding sign supported by one or more columns or poles or other similar support.

Sign, Construction. A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier or others involved in the development of the project.

Sign, Copy. Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface.

Sign, Electronic Message Center. A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.

Sign, Face. The entire display surface area of a sign upon, against, or through which copy is placed.

Sign, Feather/Flutter Flag. A freestanding temporary sign typically constructed of a single plastic or metal shaft driven in the ground with an attached pennant that is vertically elongated and attached to the shaft.

Sign, Flag. A device generally made of flexible material, usually cloth, paper or plastic, typically used as a symbol of a government, school, or religion. The term "Flag" does not include feather flag signs.

Sign, Flashing: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance, any moving, illuminated sign shall be considered a "flashing sign". Such signs shall not be deemed to include time and temperature signs or public message displays using electronic switching.

Sign, Freestanding: Any sign supported wholly or in part by some structure other than the building or buildings housing the business to which the sign pertains, or any sign which projects more than five (5) feet from the side of the building to which it is attached.

Sign, Gross Area: The entire area within a single continuous perimeter enclosing the extreme limits of such sign. However, such perimeter does not include any structural elements lying outside the limits of such and not forming an integral part of the display. **Sign, Height:** The vertical distance measured from the mean curb level to the level of the highest point of the sign, unless defined differently within the regulations. In the case of a sign not adjoining a street or highway, the "height of a sign" is the vertical distance of the average elevation of the ground immediately adjoining the sign to the level of the highest point of the sign.

Sign, Identification (Directory): A sign used to display only the name, address, crest, or trademark of the business, individual, family, organization, or enterprise occupying the premises, the profession of the occupant or the name of the building on which the sign is displayed; or a permanent sign announcing the name of a subdivision, shopping center, tourist home, group housing project, church, school, park, or public or quasi-public structure, facility, or development, and the name of the owners or developers. A directory sign is an identification sign with multiple names.

Sign, Incidental. Those signs that are allowed without need for a sign permit.

Sign, Informational: Any on-premises sign containing no other commercial message, copy, announcement, or decoration other than instruction or direction to the public. Such signs include, but are not limited to, the following: identifying rest rooms, public telephones, automated teller machines, for lease, for sale, self-service, walkways, entrances and exits, freight entrances, traffic direction, and prices.

Sign, Kinetic. A wall-mounted computer-programmable lighting system that displays changing and moving colors.

Sign, Marquee. Any sign that is attached to, in any manner, or made a part of any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.

Sign, Message Board. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. This definition does not include menu and sandwich board signs.

Sign, Monument. Any sign permanently attached to the ground and not attached to any building advertising multiple tenants, multiple uses, multiple buildings or multiple parcels. The design of the monument sign is to advertise multiple offerings in the building, group of buildings, or development area. Individual business within multi-tenant facilities are not permitted freestanding signs and shall have their signage located on a monument sign.

Sign, Non-Conforming. A sign which was legally erected prior to the effective date of this Ordinance, but which does not conform to these regulations.

Sign, Off-Premises (Outdoor Advertising - Billboard): A sign which directs attention to a business, commodity, service, entertainment, or other message not conducted, sold, or offered on the premises where such sign is located.

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

Sign Plan: See "Unified Sign Plan".

Sign, Pole: A type of freestanding sign supported by one or two poles or masts.

Sign, Political. A sign identifying and urging voter support for a particular election issue, political party, or candidate for public office.

Sign, Portable: Any sign which is not permanently attached to the ground or to a building or other structure and which, because of its relatively light weight, is meant to be moved from place to place. Such sign may or may not have changeable copy, may or may not be wired for lighting, and may or may not have wheels. "Sandwich boards" are included as portable signs.

Sign, Projecting: A sign attached to a wall and projecting away from that wall more than twelve (12) inches, but not more than five (5) feet.

Sign, Public Information: A sign, usually erected on public property or right-of-way and maintained by a public agency, which provides the public with information and in no way relates to a commercial activity including, but not limited to, speed limit signs, city limit signs, street name signs, and directional signs. These signs are in no way regulated by this Ordinance.

Sign Regulations. Regulations governing the size, material, lighting, placement, and other requirements for locating signs within the County's planning jurisdiction.

Sign, Roof: A sign which is displayed above the eaves of a building. These signs are not allowed by this Ordinance.

Sign, Snipe. A sign that is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences, or to other objects.

Sign, Stacking. The placing of one sign above another in the same location.

Sign, Structure. Any structure that is built to support, supports, or has supported a sign.

Sign, Subdivision. A sign identifying a recognized residential subdivision, condominium complex, or residential development.

Sign, Surface Area: The size of the surface of a sign, including any border or trim and all the elements of the matter displayed, but excluding the base, apron, supports, and other supportive structural members. In the case of three-dimensional letters or painted letters directly attached to a wall surface, the surface area shall be that area encompassing the individual letters themselves, including the background behind the letters and any trim or border.

Sign, Temporary. A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or is intended to remain on the location where it is erected or placed for a period of not more than fifteen (15) calendar days prior to and/or following the associated circumstance, situation, or event.

Sign, Wall: A sign attached to or painted on a wall, not projecting away from the wall more than twelve (12) inches, with the exposed display surface in a plane parallel to the plane of the wall, and including signs attached to or otherwise displayed on or through a facade window. The following are not wall signs: wall identification signs and commemorative plaques not more than two (2) square feet in area, memorial cornerstones or tablets providing information on building erection or commemorating a person or event, or unit identification signs.

Sign, Window. Any sign appearing in, on or through a window of a structure and visible from outside. The term window sign shall not be used to define a window display.

Site Plan. - A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights–of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision. (***N.C.G.S. 160D-102)***

Site Plan, Major. All site plans not meeting the requirements for a minor site plan.

Site Plan, Minor. Includes the following:

(a) Buildings or additions with an aggregate enclosed square footage of less than 7,000 square feet;

(b) Buildings or additions involving land disturbance of less than one (1) acre;

(c) Multi-family development involving fewer than ten (10) dwelling units;

(d) Parking lot expansions which comply with this Ordinance with no increase in enclosed floor area;

(e) Revision to landscaping, signage, or lighting which comply with the requirements of this Ordinance;

(f) Accessory uses which comply with the requirements of this Ordinance;

(g) Site plans which do not require a variance or modification of the requirements of this Ordinance, and otherwise comply with this Ordinance; and

(h) Site plans which do not require easement dedication or street construction.

Small Wireless Facility. A wireless facility that meets both of the following qualifications:

(a) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet.

(b) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Solar Farm: A solar collection system that generates electricity from sunlight to a wholesale electricity market through a regional transmission organization and an inter-connection with the local utility power grid and/or for direct distribution to a number of properties and consumers. Solar shall consist of a minimum of three (3) individual photovoltaic modules (solar panels), which are an assembly of solar cells to generate electricity.

Sound Transmission Class (STC). A single-number rating which provides an estimate of sound transmissions loss performance of a wall or floor as related to airborne sound generated by a limited class of household sound sources. The higher the number, the better the performance.

Special Event. -Temporary street fairs, festivals, farmers' markets, or other types of special events that:

(a) Run for longer than one day but not longer than two weeks;

(b) Are intended to or likely to attract substantial crowds; and

(c) Are unlike the customary or usual activities generally associated with the property where the special event is to be located.

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

Special Use. A use that may be allowed, through a special use permit, in specific zoning districts provided it meets certain conditions set out in the ordinance given special consideration to the location, design, and methods of operation. Those conditions are generally related to avoiding adverse impacts on the neighboring area.

Special Use Permit. A permit issued to authorize development or land uses in a particular zoning district for a use of property that is an exception. Special Use Permit means a permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions. (***N.C.G.S. 160D-102***

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

Standing. The following persons shall have standing to file a petition or appeal under this Ordinance:

(a) Any person meeting any of the following criteria:

(1) Has an ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

(2) Has an option or contract to purchase the property that is the subject of the decision being appealed.

(3) Was an applicant before the decision-making board whose decision is being appealed.

(b) Any other person who will suffer special damages as the result of the decision being appealed.

(c) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(d) A County whose decision-making board has made a decision that the Council believes improperly grants a variance or is otherwise inconsistent with the proper interpretation of an ordinance adopted by the County Board of Commissioners.

Start of construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first

alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

State Lake. The term state lake or state lakes, unless specifically limited shall be deemed to include all property up to the mean high water mark, whether covered by water or not, in Scotland County, Singletary Lake, Bay Tree Lake, Jones Lake, Salters Lake, Lake Waccamaw, and Lake Phelps.

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

Stormwater Runoff. The direct runoff of water resulting from precipitation in any form. Stormwater runoff is generated from rain and snowmelt events that flow over land or impervious surfaces, such as paved streets, parking lots, and building rooftops, and does not soak into the ground. The runoff picks up pollutants like trash, chemicals, oils, and dirt/sediment that can harm our rivers, streams, lakes, and coastal waters.

Story: That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling above it.

Story, Half. A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which not more than two-thirds (2/3) of the floor area is finished off for use.

Street: A thoroughfare, which affords the principal, means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare, except an alley.

Street Line: The line between the street right-of-way and abutting property (i.e. right-of-way line).

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

Street Setback. Any setback from a street, road, or lane.

Structure: Anything constructed or erected, the use of which requires location in or on the land or attachment to something having a permanent location in or on the land.

Structural Alterations: Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, except for repair or replacement.

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

Subdivision: All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, whether immediate or future, with certain modifications. The division of land for the purpose of sale or development as specified in NCGS 160D-8-2. (***N.C.G.S. 160D-102)***

Subdivision Regulation. A set of regulations adopted by the County which governs the proposed division of land into separate lots for resale against pre-determined standards. In addition to final plat approval, the regulation may include provisions for review and approval of sketch plans and preliminary plats. The regulation may provide for different review procedures for different classes of subdivisions. Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision or unified development ordinance. (***N.C.G.S. 160D-801)***

Subdivider. Any person who subdivides land.

Structure: means, for floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, or other man-made facility or infrastructure that is principally above ground.

Substantial damage: means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement". (Amended 1/2001)

Substantial improvement: means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) any project of improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or, (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantial Modification. The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

(a) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

(b) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure the greater of (i) more than 20 feet or(ii) more than the width of the wireless support structure at the level of the appurtenance.

(c) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Support Structure: A Support Structure is a structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, guy-wire-support tower and other similar structures. Any device (Attachment Device), which is used to attach an Attached Wireless

Communication Facility to an existing building or structure (Attachment Structure) shall be excluded from the definition of and regulations applicable to Support Structures.

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

Temporary: Anything temporary is to exist less than six (6) months.

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

Temporary Emergency, Construction or Repair Residence. A subordinate residence (which may be a Class B manufactured home, travel trailer) that is: located on the same lot as a single-family dwelling made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or(ii)located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed.

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

Temporary Storage Facility (portable storage units). Any container intended for storing or keeping household goods, other personal property or business related goods intended to be filled, refilled, or emptied while located outdoors and later removed from the property for storage or disposal off-site. Temporary Storage Facilities are sometimes also known as portable storage units or portable storage containers.

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

Temporary Wireless Communication Facility: Temporary Wireless Communication Facility shall mean a Wireless Communication Facility to be placed in use for ninety (90) or fewer days.

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

Therapeutic Foster Home. A family foster home where, in addition to the provision of foster care, foster parents who receive appropriate training provide a child with behavioral health treatment services under the supervision of a county department of social services, an area mental health program, or a licensed private agency and in compliance with applicable licensing rules.

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

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

Tiny House. A single-family detached home that is 200 square feet to 699 square feet in size (not including loft space) and complies with the North Carolina State Building Code, includes container homes. A tiny house on wheels for permanent occupancy (longer than 30 days) is considered a recreational vehicle.

Tower and Antenna Use Application (TAA). A form provided to the applicant by the County for the applicant to specify the location, construction, use and compliance with the development standards of a proposed Wireless Communications Facility.

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

Townhouse Development. A development of one or more structures containing a total of two (2) or more units intended for owner occupancy, where ownership of the land beneath each unit runs with that unit, where units and the individually owned lands on which they rest do not meet conventional lot requirements for street frontage and yard sizes, and where walls between units are constructed in accordance with North Carolina State Building Code requirements.

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

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

Transitional Surfaces: These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

Transmission Line, High Voltage Electric Power: A line transmitting, or designed to transmit, electricity of 66,000 or more volts, including poles, guys, wires, towers, and appliances, but not including transformer stations or substations.

Travel Trailer. A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

Travel Way. That portion of a right-of-way that is improved for use by self-propelled vehicles or bicycles, including paved or gravel areas and any other area intended for vehicle movement.

Truck Camper. A portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use, consisting of a roof, floor, and sides and is designed to be loaded onto and unloaded from the bed of a pickup truck.

Unattended Gasoline Pump: A gasoline or diesel fuel dispensing pump, which dispenses fuel automatically according to the amount of money inserted into the pump. Such pumps are usually located without an attendant or other personnel on hand.

Under story: The small trees, shrubs, and other vegetation growing beneath the canopy of forest trees.

Unified Sign Plan: An overall plan for the placement and design of multiple signs for a building, group of buildings, or use on a single lot.

Use. The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

Use, Accessory. See Accessory Use.

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

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

Use by Right. A use which is listed as a Use by Right in any given zone district in this Ordinance.

Use, Special. See Special Use.

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

Utility Pole. A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

Variance. A request to deviate from current zoning requirements. If granted, it permits the owner to use his land in a way that is ordinarily not permitted by the zoning ordinance. It is not a change in the zoning law, but a waiver from the requirements of the zoning ordinance. Variances run with the land and are not a personal right of any individual applicant, therefore the personal circumstances of an applicant are irrelevant. If, however, the applicant is a person with disabilities, the Federal Fair Housing Act requires that the County make reasonable accommodation for that person. (***N.C.G.S. 160D-102, Note 381)***

Vehicle Charging Station. See Electrical Vehicle Charging Station.

Vehicle Stacking Lane. The space specifically designated as awaiting area for vehicles whose occupants will be patronizing a drive-in business. Such space is considered to be located directly alongside a drive-in window, facility, or entrance used by patrons and in lanes leading up to and away from the business establishment.

Vested Right. - The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS 160D-1-8 or under common law. (***NCGS 160D-102)***

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

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

Warehouse. A building or compartment in a building used and appropriated by the occupant for the deposit and safekeeping or selling of his own goods at wholesale, and/or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade, to be again removed or reshipped.

Warehousing. The depositing or securing of goods, wares, and/or merchandise in a warehouse.

Water Tower. A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

Wetlands: Those areas that are defined as wetlands by the United States Army Corps of Engineers from time to time. Generally, wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wholesale. Sale for resale, not for direct consumption.

Winery. An agricultural processing facility producing wine from fruit or fruit juice through fermentation or the re-fermenting of still wine. A winery includes crushing, fermenting and re-fermenting, bottling, blending, bulk product and bottle storage, aging, shipping, receiving, laboratory equipment and product analysis, maintenance facilities, and administrative office functions.

Wireless Communications: Wireless Communications shall mean any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist.

Wireless Communication Facility. Any unstaffed facility for the transmission and/or reception of wireless telecommunication services, usually consisting of an Antenna Array, connection cables, an Equipment Facility, and a Support Structure to achieve the necessary elevation. Wireless Facility Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

(a) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.

(b) Wireline backhaul facilities.

(c) Coaxial or fiber-optic cable that is between wireless structures or utility poles or County utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless Infrastructure Provider. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless Provider. A wireless infrastructure provider or a wireless services provider.

Wireless Services. Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless Services Provider. A person who provides wireless services.

Wireless Support Structure. A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a County utility pole is not a wireless support structure.

Wireless Telecommunication Tower: Any tower or structure erected for the purpose of supporting, including, but not limited to, one or more antennas designed to transmit or receive television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication. Alternative structures, as defined by this Ordinance, are considered towers by this definition. The following shall not be included in this definition:

(a) Amateur radio facilities with antennas mounted on supporting structures less than 100 feet in height;
(b) Residential antennas for receiving television or AM/FM radio broadcasts;
(c) Residential satellite dishes; or,
(d) Commercial or industrial satellite dishes that are less than 20 feet in height.

Woodlands: Land that is undeveloped except for roads and utilities and contains stands of native trees.

Yard: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

Yard, Front (Highway Yard): A yard across the full width of the lot extending from the front line of the building.

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

Yard, Rear: A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.

Zero Lot Line: A concept commonly used in Planned Unit Developments where individual commercial buildings or dwellings, such as townhouses (row houses) and patio homes, are to be sold, along with the ground underneath and perhaps a small yard or patio area. Such commercial or residential units are located in buildings with two (2) or more units per building, usually including common walls. With zero lot line, the minimum requirements for lot area and yards need not be met and construction can take place up to the lot line.

Zoning: A police power measure, enacted primarily by general purpose units of local government, in which the community is divided into districts or zones within which permitted and conditional uses are established, as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts. The Zoning Ordinance consists of two parts - a text and a map.

Zoning Administrator*:* The official as designated by the County Board of Commissioners who is charged with the enforcement of the Zoning Ordinance.

Zoning District: An area established by this Ordinance and delineated on the Official Zoning Map where the individual properties are designed to serve compatible functions and to be developed at compatible scales.

Zoning Map. 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. Zoning district maps that are so adopted shall be maintained for public inspection in the office of the local government clerk or such other office as specified in the development regulation. The maps may be in paper or a digital format approved by the local government.

Zoning Map Amendment or Rezoning. An amendment to a zoning regulation to change the zoning district that is applied to a specified property or properties. It does not include the initial adoption of a zoning map by a local government or the repeal of a zoning map and re-adoption of a new zoning map for the entire planning and development regulation jurisdiction. It does not include updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district. It does include the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations. It does include the application of an overlay zoning district or a conditional zoning district. (***N.C.G.S. 160D-102)***

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

Zoning Regulation. A zoning regulation authorized by Article 7 of NCGS Chapter 160D. ***(N.C.G.S. 160D-102)***

Zoning Vested Right. See Vested Right.

Zoological Garden. A public park or large enclosure where live animals are kept for display to the public.

ARTICLE 3 – GENERAL REGULATIONS

Table of Contents

3.1 General 1
3.2 Applicability To Extraterritorial Areas 2
3.3 Zoning Map 2
3.4 Interpretation by Zoning Officer 3
3.5 Types of Zoning Map Interpretation 5
3.6 Relationship of Zoning Map to Comprehensive Land Use Plan 5
3.7 Greater Restrictions Govern 5
3.8 North Carolina State Building Codes 5
3.9 Street Access 6
3.10 Minimum Requirements for Newly Created Lots 6
3.11 Minimum Street Requirements 6
3.12 Reduction of Lot and Yard Areas Prohibited 7
3.13 Required Yards Not To Be Used By Another Building 7
3.14 Relationship of Building To Lot 7
3.15 Substandard Lot of Record 7
3.16 Adjoining and Vacant Lots of Record 8
3.17 Additional Environmental Provisions 8
3.18 Curb Cuts Giving Access to Public Rights-of-Way 8
3.19 Projection Into Public Rights-of-Way 8
3.20 Height Limit Exceptions 8
3.21 Corner Visibility 9
3.22 Public Service Use Exemption 9
3.22 No Minimum Square Footage for One- and Two-Family Dwellings 9
3.23 Record Retention 9

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, I 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 mid 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)

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 lo 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.

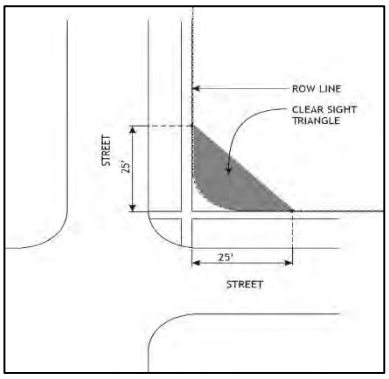


Figure 1. Sight Triangle

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.

ARTICLE 4 – IN GENERAL: ADMINISTRATIVE, LEGISLATIVE, AND QUASI-JUDICIAL AUTHORITY (Board of Commissioners, Planning Board, and Board of Adjustment)

Table of Contents

4.1 Types of Authority....1
4.2 Conflicts of Interest. 2
4.3 Board of Commissioners – General Authority and Duties. 3
4.4 County Clerk – General Authority And Duties....5
4.5 Administrative Staff/Zoning Administrator - General Authority and Duties. 5
4.6 Planning Board - General Authority and Duties....6
4.7 Board of Adjustment - General Authority and Duties. 12
4.8 Other Advisory Boards. 16

4.1 Types of Authority.

Zoning and regulation of development are based upon three separate types of authority as described below. Depending upon the development decision before them, the various Boards and personnel responsible for zoning and regulation of development within Scotland County may utilize these authorities.

4.1.1. **Administrative Authority.** The authority to make decisions in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS Chapter 160D or local government development regulations. An administrative decision may include an administrative hearing to gather facts needed to make an administrative decision. These are sometimes referred to as ministerial decisions or administrative determinations. This authority is typically exercised by the planning staff of the jurisdiction.

Statutory Reference - § 160D-102. (102)

4.1.2. **Legislative Authority**. The authority to adopt, amend, or repeal a regulation under NCGS Chapter 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of Chapter 160D. Legislative decisions often require a hearing to solicit public comment on a proposed legislative decision. This authority is typically exercised by the governing board of the jurisdiction.

Statutory Reference - § 160D-102. (19-20)

4.1.3. **Quasi-Judicial Authority.** The authority to make decisions involving the finding of facts regarding a specific application of a development regulation and which requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board. This authority is typically exercised by the Board of Adjustment.

Statutory Reference - § 160D-102. (28) and N.C.G.S. § 160D-406

4.2 CONFLICTS OF INTEREST.

In order to promote public confidence in the integrity of the decision-making process, members of all boards, appointed and elected for the County, shall conform to the following conflict of interest policy.

4.2.1. **County Board of Commissioners.** A member of the County Board of Commissioners shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

a) A member of the County Board of Commissioners shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

4.2.2. **Appointed Boards.**

a) Members of appointed boards, such as but not limited to the planning board and board of adjustment, shall not vote on a legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.
b) An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. This shall apply even if no direct financial impact would result for the board/board member.

4.2.3. **Administrative Staff.** No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant

or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship.

a) If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.
b) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved.
c) No staff member or other individual or an employee of a company contracting with the County to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the County, as determined by the County.

4.2.4. **Quasi-judicial Decisions**. A member of any board exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

4.2.5. **Resolution of Objection.** If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

4.2.6. **Familial Relationship.** For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Statutory Reference – N.C.G.S. § 160D-109.

4.3 BOARD OF COMMISSIONERS – GENERAL AUTHORITY AND DUTIES RELATED TO ZONING.

Depending on the type of decision before them, the Board of Commissioners may be called upon to act with legislative, quasi-judicial, or administrative authority. Refer to the ordinance sections noted below for further explanation of procedure and process. Note that this Ordinance addresses only the authority and duties of the Board of Commissioners related to zoning and regulation of development.

4.3.1. **Legislative**: In considering the adoption, amendment or repeal of an ordinance, Board of Commissioners acts in its legislative capacity. The hearings that accompany these decisions are legislative hearings and seek public input on the proposed policy change. Legislative decisions must proceed in accordance with the requirements of N.C.G.S. Article 6 of Chapter 160D.

4.3.2. **Quasi-Judicial**: The Board of Commissioners, in considering special use permit applications and site-specific development plans, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth for the Board of Adjustment.

An evidentiary hearing must be conducted to secure competent, material, and substantial evidence to establish the facts of the case. Testimony in an evidentiary hearing is under oath and subject to cross-examination. Quasi-judicial decisions must proceed in accordance with the requirements of N.C.G.S. Chapter 160D-406. A majority vote shall be required for the Board of Commissioners to issue a special use permit.

4.3.3. **Administrative**: Should the Board of Commissioners be assigned administrative approvals of any kind, the applicable procedure shall be N.C.G.S. Chapter 160D-403.

4.3.4. **Voting**: A majority vote, excluding vacant seats and disqualified members, shall be sufficient for the purpose of taking any official action except that variance requests require a four-fifths (4/5) vote of its members, excluding vacant seats and disqualified members. Vacant positions on the Board of Commissioners and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

Statutory Authority – N.C.G.S. Chapter 160D-406(i).

4.3.5. **Excuses from Voting.**

(a) No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234 or G.S. 160D-109. In all other cases except votes taken under G.S. 160D-601, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

(b) Notwithstanding subsection (a) of this section, a vote or failure to vote by any member present by means of simultaneous communication in accordance with G.S. 166A-19.24 shall be treated as if the member were physically present only during the period while simultaneous communication is maintained for that member.

(c) An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue, including the mayor's vote in case of an equal division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance, except an ordinance on which a public hearing must be held pursuant to G.S. 160D-601 before the ordinance may be adopted, may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council, excluding vacant seats and not including the mayor unless the mayor has the right to vote on all questions before the council. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council.

Statutory Authority – N.C.G.S. Chapter 160A-75.

4.4 COUNTY CLERK – GENERAL AUTHORITY AND DUTIES.

In matters related to Planning and Regulation of Development, the County Clerk shall have the authority and duties below:

4.4.1. Establish and publish application procedures for permits, appeals, and actions pursuant to this Ordinance and forms implementing the same.

4.4.2. Maintain all records pertaining to the provisions of this Ordinance in his/her office(s) and make said records open for public inspection.

4.4.3. Receive appeals and forward cases to the appropriate Board; and

4.4.4. Perform other duties as may be assigned by the Board of Commissioners.

4.5 ADMINISTRATIVE STAFF/ZONING ADMINISTRATOR - GENERAL AUTHORITY AND DUTIES.

4.5.1. The County shall have the authority to enact ordinances, procedures and fee schedules relating to the enforcement of this Ordinance and to retain staff. This shall include an adequate number of qualified staff to administer the County's zoning and related ordinances. A Zoning Administrator, to be designated by the County Board of Commissioners, is hereby authorized and it shall be his/her duty to enforce the provisions of this Ordinance. This official shall have the right to enter upon any premises regulated by this Ordinance at any reasonable time necessary to carry out his/her duties. If the suspected violation involves areas which cannot be viewed from public areas, an administrative search warrant must be obtained from a magistrate or judge authorizing a reasonable inspection. It is the intention of this Ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the Zoning Administrator. Appeal from his/her decision may be made to the Board of Adjustment. The Zoning Administrator may be assisted by other County staff in performing the duties herein.

Statutory Authority – NCGS Chapter 160D-402(a) and 402(b)

4.5.2. *Financial Support.* The County may appropriate for the support of the staff any funds that it deems necessary. It shall have power to fix reasonable fees for support, administration, and implementation of programs authorized by this Chapter and all such fees shall be used for no other purposes.

Statutory Authority – NCGS Chapter 160D-402(d)

4.5.3. *Duties*. In administering the provisions of this Ordinance, the Zoning Administrator shall:

a) Receive and process applications for development approvals; Make and maintain records of all applications for permits, special uses, and requests listed herein, and

records of all permits issued or denied, with notations of all special conditions or modifications involved.

b) File and safely keep copies of all plans submitted, and the same shall form a part of the records of his/her office and shall be available for inspection at reasonable times by any interested party.

c) Provide notices of applications and hearings. Transmit to the Planning Board, Board of Commissioners, and/or the Board of Adjustment all applications and plans for which their review and approval is required along with a report of his/her recommendations as may be required.

d) Make decisions and determinations regarding the implementation of the County's development regulations.

e) Determine whether applications for development approvals meet the applicable standards as established by law and local ordinance.

f) Provide administrative interpretations of the Zoning Ordinance.

g) Issue or deny certificates of zoning compliance or occupancy.

h) Provide nonconformity determinations, including expansions of nonconforming uses and structures.

i) Conduct inspections of premises and, upon finding that any of the provisions of this Ordinance are being violated, notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings or structures; inform the designated building inspections department of illegal buildings or of additions, alterations, or structural changes there to which are not compliant with the Zoning Ordinance; order discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

j) Recommend bringing judicial action against actual or threatened violations.

k) Maintain the public records of the Planning Board and Board of Adjustment.

l) Perform any other actions that may be required in order to adequately enforce the laws and development regulations under their jurisdiction.

Statutory Authority – NCGS Chapter 160D-402(b)

4.6 PLANNING BOARD - GENERAL AUTHORITY AND DUTIES.

4.6.1. **Authority**. The Planning Board of Scotland County is created pursuant to NCGS 160D-301.

Statutory Authority – N.C.G.S. Chapter 160D-301

4.6.2. **Duties**. The duties of the Planning Board are to:

a) Prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.

1. The Comprehensive Plan (Land Use Plan) and any ordinances or other measures to effectuate the plans shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the County and its environs. Reflecting both present and future needs, the Comprehensive Plan shall:

   (i) promote health, safety, and the general welfare, as well as efficiency and economy in the process of development;

   (ii) support the transportation needs of the County;

   (iii) promote in buildings and structures the necessary safety from fire and other dangers, adequate provision for light and air, and a healthful and convenient distribution of population;

   (iv) support the promotion of good civic design and arrangement, the wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements.

2. **Comprehensive Plan Contents**. - A comprehensive plan may, among other topics, address any of the following as determined by the local government:

   (i) Issues and opportunities facing the local government, including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development.

   (ii) 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.

   (iii) Employment opportunities, economic development, and community development.

   (iv) 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.

   (v) Housing with a range of types and affordability to accommodate persons and households of all types and income levels.

   (vi) Recreation and open spaces.

(vii) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands. Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.

(viii) Protection of significant architectural, scenic, cultural, historical, or archaeological resources.

(ix) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.

Statutory Reference – N.C.G.S. Chapter 160D-501.

b) Facilitate and coordinate citizen engagement and participation in the planning process;
c) Develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
d) Advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.
e) Exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct;
f) Provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board;
g) Perform any other related duties that the governing board may direct.

Statutory Reference – N.C.G.S. Chapter 160D-301(b)

(Ord. 7/3/2003; Section 3.1.5. Powers)

4.6.3. Organization.

a) *Membership*.
1) *Regular Members.* The Planning Board shall consist of seven (7) members who shall be residents of Scotland County.
2) *Alternate Members.* The Board of Commissioners may appoint up to two alternate members of the Planning Board.
3) *Appointment*. Members shall be appointed by the Scotland County Board of Commissioners and shall serve at the pleasure of the Board.
4) Planning Board members should have basic knowledge of the County and its physical, social, and economic makeup. In addition, a basic understanding of the planning process and land-use planning in particular, are recommended.

(Ord. 7/3/2003; Section 3.1.1.1. – 3.1.1.2)

b) *Term*. Planning Board members shall be appointed for terms of four (4) years. Terms shall be staggered, but members may continue to serve until their successors have been appointed. Members may be appointed to not more than three successive terms.

(Ord. 7/3/2003; Section 3.1.1.2 – 3.1.1.3.)

c) *Vacancies*. Vacancies may be filled by the County Board of Commissioners for the unexpired terms. Vacancies which occur other than the expiration of term shall be filled by the County Board of Commissioners for the remaining period of the term vacated.

(Ord. 7/3/2003; Section 3.1.1.2)

d) *Attendance and Removal*. Attendance is mandatory. If an appointee is habitually absent from meetings, and such absences are not caused by extraordinary events, the member is obligated to resign in writing. Planning and Zoning Board members may be removed by the Board of Commissioners at any time for failure to attend three consecutive meetings or for failure to attend thirty percent or more of the meetings within any twelve-month period or for any other reasonable cause related to performance of duties.

(Ord. 7/3/2003; Section 3.1.1.4.)

e) *Relocation*. If a member moves outside the county that shall constitute a resignation from the Planning Board, effective upon the date a replacement is appointed.

f) *Compensation.* Compensation is at the discretion of the County Board of Commissioners.

4.6.4. Meetings, Elections and Voting.

a) *Organizational Meeting*. The annual organizational meeting of the Planning Board shall be held in July of each year.

1) Officers including the Chairman, Vice-Chairman and Secretary shall be elected from among the appointed members at the annual organizational meeting.

2) The candidate for each office receiving a majority vote of the entire membership of the Planning Board shall be declared elected.

3) All officers shall be elected for a term of one (1) years and all officers shall be able to succeed themselves.

4) The Chairman shall appoint the Planning Department's Administrative Assistant to perform the Board's secretarial duties.

(Ord. 7/3/2003; Section 3.1.4.1.)
(See ***Section 4.6.5.*** for a description of offices and duties)

b) *Regular Meetings*. The Planning and Zoning Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take timely action in regard to all matters of Planning and Zoning. The Board shall conduct its meetings so as to obtain

necessary information and to promote the full and free exchange of ideas. Minutes shall be kept of all proceedings.

(Ord. 7/3/2003; Sections 3.1.2.1. - 3.1.2.3.)

c) *Public Meetings*. All regular and special meetings, hearings, records and accounts of the Planning Board and all committees thereof shall be open to the general public, and all meetings shall be advertised. Minutes shall be kept of all proceedings.

(Ord. 7/3/2003; Sections 3.1.2.3. - 3.1.2.4.)

d) *Special Meetings*. Special meetings shall be called at the request of the Chairman or a majority of the members of the Planning Board. The Chairman may designate, in advance, regular and special meetings. All of the requirements of N.C.G.S. 143-318.2 (b) *Public Notice of Official Meetings* shall be followed when calling and holding special meetings. Minutes shall be kept of all proceedings.

e) *Quorum*. A quorum for the Planning and Zoning Board shall consist of a majority of the board membership (excluding vacant seats). A quorum is necessary for the board to take official action. All actions of the Planning and Zoning Board shall be taken by a majority vote, a quorum being present. A roll call vote shall be taken upon the request of any member.

(Ord. 7/3/2003; Sections 3.1.3.1.- 3.1.3.3.)

f) *Voting*. Provided a quorum is present, the transaction of business, and the taking of official action by the Planning Board shall require a concurring vote of a majority of the voting members of the Planning Board.

(1) In voting on recommendations regarding quasi-judicial decisions:

(i) Vacant positions on the Planning Board, and members who are disqualified from voting due to a conflict of interest, shall not be considered "members of the Board" for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

Statutory Reference – N.C.G.S. Chapter 160D-406.

(ii) A member of the Planning Board shall not participate in, or vote on, any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation, and that member does not recuse himself/herself, the remaining members shall by majority vote rule on the objection.

Statutory Reference – N.C.G.S. Chapter 160D-109(d).

(2) Voting shall be by voice vote and the minutes shall show the names of those voting on each issue. A proxy signed by the board member shall be allowed when the member known in advance that he/she will not be able to attend the regular meeting.

(3) *Abstaining*. No member shall be excused from voting except upon matters which stem from a Conflict of Interest described in *Section (f)(1)(ii)* above. Such cases shall be brought to the attention of the Chairman as soon as possible. The position of such member in the vote taken shall be recorded as "Abstained". Members properly excused from voting shall not participate in the discussion on the matter which is subject to action. Members who abstain from voting without the consent of a majority of Board members present shall have their vote recorded in the affirmative.

g) *Order of Business.* The Secretary shall prepare an agenda for each meeting, and the order of business.

h) *Rules of Procedures and Records*. The Planning Board shall keep a record of its member attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record. The minutes of meetings shall be public record.

Statutory Authority – NCGS Chapter 160D-308

i) Cancellation of Meetings. Whenever there is no business for the Board, the Chair may dispense with a regular meeting by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

j) Reports. The Planning Board shall provide to the County Board of Commissioners a quarterly report which details the business before the Planning Board and actions taken. Reports shall be in writing and provided by the last day of the following months: January, April, July, and October.

4.6.5. Offices and Duties.

(a) **Chairman**. The Chairman shall preside at all meetings, appoint members to committees, and perform other duties and perform other duties as may be ordered by the board. The Chairman may take part in all deliberations and may vote on all issues.

(b) **Vice-Chairman.** The Vice-Chair shall serve as acting chair in the absence of the Chair, and at such times he shall have the same powers and duties as the Chair. The Vice-Chairman may take part in all deliberations and may vote on all issues.

(c) **Secretary**. The Secretary shall execute such documents as authorized by the Board, in the name of the Board, perform the duties hereinafter listed, and such other duties as

the Board shall determine. The Secretary shall keep all minutes and records; shall prepare all correspondence of the Board; receive and file all referrals, applications, papers, and records; and prepare, publish, and mail all notices as required.

4.6.6. Oath of Office.

All members appointed to boards under this Article shall, before entering their duties, qualify by taking an oath of office as required by N.C.G.S. 160D.

Statutory Authority – NCGS Chapter 160D-309

4.6.7. Advisory Committees.

(a) From time to time, County Board of Commissioners may appoint one (1) or more individuals to assist the Planning Board to carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Board of Commissioners may appoint advisory committees to consider thoroughfare plan(s), bikeway plan(s), housing plans, and economic development plans, etc.

(b) Members of such advisory committees shall sit as nonvoting members of the Planning Board when such issues are being considered and lend their talents, energies, and expertise to the Planning Board. However, all formal recommendations to the County Board of Commissioners shall be made by the Planning Board.

(c) Nothing in this Article shall prevent the County Board of Commissioners from establishing independent advisory groups, committees, or boards to make recommendations on any issue directly to the Council.

(Ord. 7/3/2003; Sections 3.1.6.1.- 3.1.6.2.)

4.7 BOARD OF ADJUSTMENT - GENERAL AUTHORITY AND DUTIES.

4.7.1. Authority. There is hereby created a Board of Adjustment pursuant to N.C.G.S. Chapter 160D-302 to be known as the Scotland County Board of Adjustment and referred to herein as the Board of Adjustment.

Statutory Authority - N.C.G.S. Chapter 160D-302.

(Ord. 7/3/2003; Section 40)

4.7.2. Powers and Duties.

(a) The Board of Adjustment shall hear and decide:

(1) Appeals from any final and binding order, decision, requirement, or interpretation made by the Zoning Officer or his authorized agent, in the enforcement of this Ordinance.

(2) Applications for variances concerning nonconforming uses, lots and structures. In cases where, due to special conditions, a literal enforcement of the provisions of this Ordinance will result in undue hardship, a variance may be appropriate in order that the spirit of this Ordinance shall be observed and substantial justice done.

(3) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines.

(4) Any other matter the Board is required to act upon by any other County ordinance.

(Ord. 7/3/2003, Section 44)

Statutory Authority - N.C.G.S. Chapter 160D-302.

4.7.3. Membership.

a) *Regular Members.* Board of Adjustment shall consist of at least five (5) members who shall be residents of Scotland County.

b) *Alternates*. Not more than two alternate members may be appointed to serve in the absence of regular members.

c) *Appointment*. Members shall be appointed by the Scotland County Board of Commissioners and shall serve at the pleasure of the Board.

d) *Terms*. All members and alternates shall be appointed by the Board of County Commissioners for overlapping terms of three years.

e) Board of Adjustment members should have basic knowledge of the County and its physical, social, and economic makeup. In addition, a basic understanding of the planning process and land-use planning in particular, are recommended.

Statutory Authority – NCGS Chapter 160D-302(a)

(Ord. 7/3/2003, Section 40)

d) *Service is Volunteer.* All members of the Board of Adjustment shall serve without pay, but may be reimbursed for any expense incurred while representing the Board.

4.7.4. *Officers*. At the first meeting of each year, the Board shall elect one of its members as Chairman, another as Vice-Chairman, and shall appoint a Secretary and such other subordinates as may be authorized by the Board of County Commissioners or as the Board

of Adjustment deems necessary. The chairman and vice-chairman of the Board of Adjustment may take part in all deliberations and may vote on all issues.

4.7.5. *Meetings*.

a) Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.

b) All meetings of the Board shall be open to the public and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

(Ord. 7/3/2003, Section 41)

4.7.6. Rules of Procedure. Rules of procedure that are consistent with the provisions of this Ordinance may be adopted by the Board of Adjustment. In the absence of action by the Board of Commissioners, the Board of Adjustment is authorized to adopt its own rules of procedure that are consistent with the provisions of this Ordinance. A copy of any adopted rules of procedure shall be maintained by the County Clerk. Each board shall keep minutes of its proceedings.

Statutory Reference – N.C.G.S. Chapter 160D-308

(Ord. 4/1/2003, Section 41)

4.7.7. *Minutes of Meetings*. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and also keep records of its examination and other official action.

Statutory Reference – N.C.G.S. Chapter 160D-308

(Ord. 4/1/2003, Section 41)

4.7.8. *Conflicts of Interest*. Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

Statutory Reference – N.C.G.S. Chapter 160D-10(b)

4.7.9. *Quorum*. A quorum is required for the Board of Adjustment to take official action. A member who has withdrawn from the meeting without being excused shall be counted as present for purposes of determining whether a quorum is present.

4.7.10. *Voting*.

(a) The concurring vote of four-fifths of the board shall be necessary to grant a variance.

Statutory Reference – N.C.G.S. Chapter 160D-406(i)

(b) A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.

Statutory Reference – N.C.G.S. Chapter 160D-406(i)

(c) For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

Statutory Reference – N.C.G.S. Chapter 160D-406(i)

(d) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has excused himself/herself or has been allowed to withdraw from the meeting.

(e) If an objection is raised to a member's participation, and that member does not recuse himself/herself, the remaining members shall by majority vote, rule on the objection.

(f) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(g) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

(h) A roll call vote shall be taken for each motion. The Board shall keep minutes of its proceedings showing the vote of each member, the Board's findings of fact, and the Board's decision.

4.7.11. *Oath of Office.* All members appointed to boards under this Article shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and G.S. 160A-61.

Statutory Reference – N.C.G.S. Chapter 160D-309

4.8 OTHER ADVISORY BOARDS.

Scotland County may establish by ordinance additional advisory boards as deemed appropriate. The ordinance establishing such boards shall specify the composition and duties of such board and shall make conflict of interest regulations applicable to members of such boards.

Statutory Reference – N.C.G.S. Chapter 160D-306.

ARTICLE 5 – PROCEDURE, PERMITS, ENFORCEMENT, and APPEALS: ADMINISTRATIVE

Table of Contents

5.1 Purpose 1
5.2 Administrative Development Approval (Permit) Required 1
5.3 Definitions 2
5.4 Zoning Administrator Established 3
5.5 Zoning Permit Procedure 3
5.6 Site Plan Requirements 6
5.7 Temporary Certificate of Zoning Compliance 6
5.8 Sign Permit Procedure 6
5.9 Administrative Determinations and Notice of Determinations 7
5.10. Duration of Development Approvals 8
5.11. Changes To Development Approvals 9
5.12. Inspections by Administrative Staff 9
5.13. Violations 9
5.14. Enforcement 10
5.15. Remedies 11
5.16. Revocations (Cancellations) of Development Approvals 14
5.17. Certificate of Occupancy 15
5.18. Appeals of Administrative Decisions 15

5.1 Purpose

This Article includes the regulations pertaining to Administrative procedures, development approvals, permits and appeals of Administrative actions.

5.2 Administrative Development Approval (Permit) Required

5.2.1. No person shall commence or proceed with development within the County's jurisdiction without first securing a Zoning Permit from the County. Unless elsewhere exempted by this ordinance, no use may change, and/or no building, sign or other structure can legally

be erected, moved, added lo, or structurally altered without a zoning permit. The Zoning Official will approve or deny the zoning permit based on compliance with the Zoning Ordinance unless evidence exists that there is a violation of county land development ordinances on the property.

(Ord. 7/7/2003, Section 15.2)

5.2.2. A development approval shall be in writing and shall contain a provision that the development work done shall comply with all applicable State and local laws.

(Ord. 7/7/2003, Section 15.1)

5.2.3. The County may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued.

5.2.4. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

Statutory Authority – NCGS Chapter 160D-403(a)

5.3 DEFINITIONS

5.3.1. As used under this Article and consistent with the definitions contained in **Article 2**, the term "Administrative Decision" shall mean decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS Chapter 160D and these development regulations. These are sometimes referred to as "ministerial" decisions or "administrative determinations."

a) Administrative decisions are decisions typically made by the planning and zoning staff of the County.

5.3.2. As used under this Article and consistent with the definitions contained in **Article 2**, the term "Administrative Hearing" shall mean a proceeding to gather facts needed to make an administrative decision.

5.3.3. As used under this Article and consistent with the definitions contained in **Article 2**, the term "Development" shall mean:

a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
b) The excavation, grading, filling, clearing, or alteration of land.

c) The subdivision of land as defined in G.S. 160D-802.
d) The initiation or substantial change in the use of land or the intensity of use of land.

5.3.4. As used under this Article and consistent with the definitions contained in **Article 2**, the term "Development Approval" shall mean an administrative approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project or development proposal. Administrative development approvals include, but are not limited to, zoning permits and site plan approvals.

5.3.5. As used under this Article and consistent with the definitions contained in **Article 2**, the term "Development Regulation" shall mean a unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to NCGS Chapter 160D, or a local act or charter that regulates land use or development.

5.3.6. As used under this Article and consistent with the definitions contained in **Article 2**, the term "Zoning Permit" shall mean a permit issued by the Zoning Administrator that certifies compliance with the Zoning Ordinance and authorizes the recipient to make use of property in accordance with the requirements of this Ordinance.

Statutory Authority – NCGS Chapter 160D-102

5.4 ZONING ADMINISTRATOR ESTABLISHED

The Board of Commissioners or County Manager shall appoint a Zoning Administrator to enforce the provisions of this Ordinance. The assistance of such other persons may be provided as the Board of Commissioners or County Manager may direct.

(Ord. 7/7/2003, Section 15.2)

5.5 ZONING PERMIT PROCEDURE

No land shall be used or occupied and no building hereafter erected, structurally altered, moved, or its use changed until a Certificate of Zoning Compliance (zoning permit) shall be issued by the Zoning Administrator.

5.5.1. **Form**. Requests for a zoning permit shall be submitted by filing an application with the Zoning Administrator. Said application shall be on a form approved by the County Board of Commissioners.

(Ord. 7/7/2003, Section 15.1)

5.5.2. **Health Department Approval for Zoning Permits.** The Scotland County Health Department or a private soil scientist licensed in the State of North Carolina shall evaluate properly in accordance with the "Laws and Rules for Sewage Treatment, And Disposal Systems" (15A NCAC 1SA.1900) to determine the overall site suitability.

(a) If the Scotland County Health Department evaluates the property, they may issue an Improvement Permit or advise the applicant accordingly, prior to the Scotland County Planning and Zoning Department issuance of a Zoning Permit.

(b) A Zoning Permit is required prior to the Scotland County Health Department release of an Authorization for Wastewater System Construction.

(c) No person shall commence or assist in the construction, location or relocation of a residence, place of business or place of public assembly unless the Scotland County Planning and Zoning Department has issued a Zoning Permit and Scotland County Health Department has issued an Improvement Permit and Authorization for Wastewater System Construction.

(d) The Scotland County Health Department may evaluate properly to determine the overall suitability for an on-site waste water system, but under no circumstances release an Authorization for Wastewater System Construction without first obtaining a copy of the zoning permit. The Scotland County Health Department may advise the applicant on the construction, installation, repair, abandonment, operation, and use of private water supply system.

(Ord. 7/7/2003, Section 23.1)

5.5.3. The Zoning Permit application shall be accompanied by either a Minor Site Plan or a Major Site Plan as determined by the Zoning Administrator. Requirements for Site Plans are outlined in Section 5.6.

(Ord. 7/7/2003, Section 15.1)

5.5.3. The Zoning Permit application shall also be accompanied by:

a) the required fee.
b) A deed and survey, provided that a tax map photocopy may be substituted at the discretion of the Zoning Administrator if a survey has not been conducted.
c) such information necessary to secure an environmental health “Improvement Permit” if no connection to public sewer is available.
d) a Sedimentation and Erosion Control Plan (if applicable) as submitted to the Land Quality Section, Department of Environment and Natural Resources.
e) Any other information, which the Zoning Administrator may deem necessary for consideration in enforcing all provisions of this Ordinance.

(Ord. 7/7/2003, Section 15.1)

5.5.4. *Review*. The Zoning Administrator will verify that the use application and site plan meet the requirements of this Ordinance and will verify that the development will be adequately served by necessary public facilities such as roads, schools, water, emergency services, and sewage disposal. During review, the Zoning Administrator may circulate the plan to relevant governmental agencies and officials. The agencies and officials may include, but not necessarily be limited to, the following: Sherriff's Department, Fire Department, Scotland County Building Inspections Department, Public Works, County Attorney, Other Utilities Providers, Scotland County Health Department, and the US Army Corps of Engineers.

5.5.5. *Approval*. If the zoning permit application is found to meet all of the applicable regulations of this Ordinance and is consistent with the requirements of this Ordinance, then the Zoning Administrator shall approve and issue a zoning permit. If approved by the Zoning Administrator, such approval shall be evidenced by his signature on the application form as certification of zoning compliance. See **Section 5.9** for Process of Delivery.

(Ord. 7/7/2003, Section 15.2)

5.5.6. The applicant shall provide a copy of the approved zoning permit from the Zoning Administrator to the Scotland County Building Inspector prior to obtaining a building permit from the county.

5.5.7. *Denial*. If the Zoning Permit application is found not to meet all applicable regulations of this Ordinance, it shall be marked "Denied" and returned to the applicant. If applicable, instructions on changes necessary to make the compliant shall also be delivered to the Applicant.

(Ord. 7/7/2003, Section 15.2)

(a) No zoning permit may be processed and/or issued when there is evidence that there is a violation of any of the above referenced codes on or in use upon the land and any portion thereof that is subject to the requested permit/approval. The permit/approval may be issued in cases where the issuance of the permit and/or approval would resolve the violation.

(b) If the permit/approval will not resolve the violation, the permit/approval shall not be issued until all violations are resolved and any fines levied are paid.

(c) In instances where evidence of a violation is noted after the acceptance, processing, and/or issuance of a permit/approval, all activity with regards to the processing of the application and/or inspections will cease until the property is brought into compliance and all fines levied are paid. No zoning permit will be issued except in conformity with the provisions of this ordinance, unless the

department receives a written order from the Board of Zoning Adjustment in the form of an administrative appeal or variance as provided by this ordinance.

(Ord. 7/7/2003, Section 15.3)

5.6 SITE PLAN REQUIREMENTS

5.6.1. Each applicant must provide to the Zoning Administrator two (2) copies of a map (or sketch), drawn to scale with sufficient clarity and detail to indicate the characteristics of the total property involved. One of these copies shall be returned to the applicant upon approval. The Site Plan shall contain the following:

(a) The boundary of the property;

(b) The location of adjacent rights-of-way (streets, highways, easements, etc.;

(c) The shape, dimensions, and location of all buildings, existing and proposed, and required setbacks. This shall include all accessory structures;

(d) The nature of the proposed use of the building or land;

(e) The location and dimensions of off-street parking and loading space and means of ingress and egress;

(f) The location of all required buffers;

(g) The shape and dimensions of the lot on which the proposed building is to be erected.

(Ord. 7/7/2003, Section 15.1)

5.6.2. No permanent power will be authorized and no Certificate of Occupancy will be issued until all the above items are provided and the Zoning Administrator deems the Site Plan complete, and an "as built plan" is submitted.

5.7 TEMPORARY CERTIFICATE OF ZONING COMPLIANCE

The Zoning Administrator may issue a temporary *Certificate of Zoning Compliance* for rallies, carnivals, religious revivals, and similar temporary uses. Such certificates shall be issued for a fixed period of time, but not to exceed fifteen (15) days, shall be subject to such limitations as the Zoning Administrator may impose to protect the character of the district affected, and may be considered for reapplication. A fee set by the Board of Commissioners shall be charged for the processing of such application. The adopted fee schedule shall be posted in the Planning Department and the office of the Zoning Administrator and his/her designee.

5.8 SIGN PERMIT PROCEDURE

5.8.1. Requests for a sign permit shall be submitted by filing an application with the Zoning

Administrator. Said application shall be on a form approved by the County Board of Commissioners.

5.8.2. The Zoning Administrator shall issue the sign permit unless he/she finds, after reviewing the application and consulting with the applicant, that:

a) The requested permit is not within his authority to approve according to the development regulations governing signs as detailed in **Article 10.**

b) The application is incomplete.

c) If completed as proposed in the application, the sign will not comply with one or more requirements of this Ordinance.

5.8.3. If approved by the Zoning Administrator, such approval shall be evidenced by the signature of the Zoning Administrator on the application form. See **Section 5.9** for process of delivery.

5.9 ADMINISTRATIVE DETERMINATIONS AND NOTICE OF DETERMINATIONS

5.9.1. *Written Notice.* The Zoning Administrator making the determination based upon the development regulations herein shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination if different from the owner. A decision is effective upon filing the written decision completed by the Zoning Administrator.

Statutory Authority – NCGS Chapter 160D-403(b)

5.9.2. *Delivery of Written Notice*. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

Statutory Authority – NCGS Chapter 160D-403(b)

5.9.3. *Addresses*. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

Statutory Authority – NCGS Chapter 160D-403(b)

5.9.4. *Constructive Notice by Posting of Signs.* It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, provided the sign remains on the property for at least 10 days. The sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least six inches high and shall

identify the means to contact a local government staff member for information about the determination.

Statutory Authority – NCGS Chapter 160D-403(b)

5.9.5. *Constructive Notice Not Limited to Posting of Signs.* Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs shall not be required.

Statutory Authority – NCGS Chapter 160D-403(b)

5.10. DURATION OF DEVELOPMENT APPROVALS

5.10.1. *Cases in Which Work is Not Substantially Commenced*. Unless a different period is specified by NCGS Chapter 160D or other specific applicable law, or a different period is provided by a quasi-judicial development approval, a development agreement, or the Ordinance, a development approval issued pursuant to this Ordinance shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced.

Statutory Authority – NCGS Chapter 160D-403(c); S.L. 2020-25

5.10.2. *Cases in Which Work or Activity is Commenced Then Discontinued*. Where the development approval is issued for temporary land uses, special events, temporary signs, and similar development, if the work or activity is discontinued for a period of 24 months after commencement, the development approval shall immediately expire.

Statutory Authority – NCGS Chapter 160D-403(c); 160D-108(d)

5.10.3. *During Appeal.* The time periods set out in this subsection shall be tolled during the pendency of any appeal.

Statutory Authority – NCGS Chapter 160D-403(c) 160D-1111.;

5.10.4. *New Development Approval Required.* No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured.

Statutory Authority – NCGS Chapter 160D-403(c); 160D-1111.

5.10.5. *Vested Rights.* This subsection shall not limit any vested rights secured by G.S. 160D-108.

Statutory Authority – NCGS Chapter 160D-403(c); 160D-1111.

Cross Reference – Article 17: Vested Rights and Moratoria.

5.11. CHANGES TO DEVELOPMENT APPROVALS

5.11.1. *Written Approval of Changes Required.* After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained.

Statutory Authority – NCGS Chapter 160D-403(d)

5.11.2. *Minor Modifications to Development Approvals.* Minor modifications to administrative development approvals shall include those that do not change the use approved or the zoning determination. Examples of minor modification include, but are not limited to, the correction of a name, address or other contact information.

Statutory Authority – NCGS Chapter 160D-403(d)

5.11.3. *Major Modification to Development Approvals*. Major modification to administrative development approvals shall include all other changes. The process for a major modification shall follow the same development review and approval process required for issuance of the development approval.

Statutory Authority – NCGS Chapter 160D-403(d)

5.11.4. The Zoning Administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections.

Statutory Authority – NCGS Chapter 160D-403(d)

5.12. INSPECTIONS BY ADMINISTRATIVE STAFF

Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the County at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

Statutory Authority – NCGS Chapter 160D-403(e)

5.13. VIOLATIONS

5.13.1. *Violations*. Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Article and by state law.

a) *Development Without Permit.* A 'development without a permit' violation means to engage in any development, use, construction, remodeling or other activities of any nature upon the land or improvements thereon subject to the jurisdiction

of this Ordinance without required permits, certificates or other forms of authorization as set forth in this Ordinance.

b) *Development Inconsistent With Permit.* A 'development inconsistent with a permit' violation means to engage in any development, use, construction. remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

c) *Violation by Act or Omission.* A 'violation by act or omission' means to violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the Board of Commissioners or its authorized boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon.

d) *Use in Violation***.** A 'use in violation' means to erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this Ordinance, or any other regulation made under the authority conferred thereby.

5.13.2. *Continuation of a Violation*. Each day's violation of any provision of this Ordinance is a separate and distinct offense.

5.14. ENFORCEMENT

5.14.1 *Enforcement Procedure.* When the Zoning Administrator or his agent finds a violation of this Ordinance or receives a complaint alleging a violation of this Ordinance, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation.

a) *Notices of Violation.* When the Administrative Staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to NCGS Chapter 160D or this ordinance, or other local development regulation or any State law delegated to the County for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued.

1) The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity.
2) The notice of violation may be posted on the property.

3) The person providing the notice of violation shall certify to the County that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud.
4) Except as provided by G.S. 160D-11-23, 160D-12-6, or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.

Statutory Authority – NCGS Chapter 160D-404

b) *Stop Work Orders.* Whenever any work or activity subject to regulation pursuant to NCGS Chapter 160D, this Ordinance, or other applicable County regulation or any State law delegated to the County for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped.

1) The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed.
2) A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first class mail.
3) The person or persons delivering the stop work order shall certify to the County that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud.
4) Except as provided by G.S. 160D-11-12 and 160D-12-8, a stop work order may be appealed pursuant to G.S. 160D-4-5.
5) No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

Statutory Authority – NCGS Chapter 160D-404

5.15. REMEDIES

5.15.1. If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, the owner or occupant shall be subject to such remedies including penalties as may be provided for by state law. If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

(Ord. 7/7/2003, Section 19)

5.15.2. Subject to the provisions of the development regulation, any development regulation adopted pursuant to authority conferred by NCGS Chapter 160D may be enforced by any remedy provided by G.S. 160A-175 or G.S. 153A- 123.

a) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used or developed in violation of NCGS Chapter 160D or this Ordinance, of any development regulation or other regulation made under authority of NCGS Chapter 160D, the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use in or about the premises.

b) *Historic Landmark.* In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this NCGS Chapter 160D is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the development regulation or other provisions of this Chapter, the County, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area or object. Such remedies shall be in addition to any others authorized by NCGS Chapter 160D for violation of an ordinance.

Statutory Authority – NCGS Chapter 160D-404

5.15.3. Any one or all of the following procedures may be used to enforce the provisions of this Ordinance.

a) *Injunction.* Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

(Ord. 7/7/2003, Section 19)

1) *Responsible Parties*. The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

(Ord. 7/7/2003, Section 19)

2) *Continuing Violation.* For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

(Ord. 7/7/2003, Section 19)

3) *Demand for Payment*. The Zoning Administrator shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

4) *Nonpayment*. If payment is not received or equitable settlement reached within thirty days; after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided however, if the civil penalty is not paid within the time prescribed, the Zoning Administrator may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to NCGS 14-4.

(d) *Bring Court Action Prior to Expiration of Statute of Limitations*. Be aware that a local government must bring a court action in advance of the applicable five and seven-year statutes of limitation.

(1) Five Years. Action by the County against the owner of an interest in real property for a violation of a land-use statute, ordinance, or permit or any other official action concerning land use carrying the effect of law must be brought within five years. The claim for relief accrues upon the occurrence of the earlier of any of the following:

i. The facts constituting the violation are known to the governing body, an agent, or an employee of the unit of local government.
ii. The violation can be determined from the public record of the unit of local government.

Statutory Authority – NCGS Chapter 1-51.

(2) Seven Years. Action by the County against the owner of an interest in real property for a violation of a land-use statute, ordinance, or permit or any other official action concerning land use carrying the effect of law must be brought from the earlier of the following:

i. The violation is apparent from a public right-of-way.
ii. The violation is in plain view from a place to which the public is invited.

Statutory Authority – NCGS Chapter 1-49(3).

d) *Denial of Permit or Certificate.* The Zoning Administrator may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted.

e) *State and Common Law Remedies.* In addition to other enforcement provisions contained in this Article, the Board of Commissioners may exercise any and all enforcement powers granted to it by state law or common law.

5.16. REVOCATIONS (CANCELLATIONS) OF DEVELOPMENT APPROVALS

In addition to initiation of enforcement actions under NCGS 160D-404, development approvals may be revoked by the County by notifying the holder of the development approval in writing stating the reason for the revocation.

5.16.1. The County shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.

5.16.2. *Failure to Comply with Development Approval*. Development approvals shall be revoked for any of the following:

a) Substantial departure from the approved application, plans, or specifications.

b) Refusal or failure to comply with the requirements of any applicable development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State.

c) For false statements or misrepresentations made in securing the approval.

5.16.3. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked.

5.16.4. *Appeal*. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-405(e) regarding stays shall be applicable.

Statutory Authority – NCGS Chapter 160D-403(f)

5.17. CERTIFICATE OF OCCUPANCY

No building, structure, or use of land that is subject to a building permit issued by Scotland County shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to G.S. 160D-11-14 has been issued.

Statutory Authority – NCGS Chapter 160D-403(g)

5.18. APPEALS OF ADMINISTRATIVE DECISIONS

5.18.1. Appeals of decisions made by the Administrative staff shall be made to the Board of Adjustment and shall follow the quasi-judicial procedure.

(Ord. 7/7/2003, Section 44.1)

a) Appeal of a decision made pursuant to an erosion and sedimentation control regulation, a stormwater control regulation, or a provision of the housing code shall not be made to the Board of Adjustment unless required by a County ordinance or code provision.

b) The official who made the decision (or his or her successor if the official is no longer employed) is to appear as a witness in the appeal.

5.18.2. Standing. Any person who has standing under G.S. 160D-1402(c) or the local government may appeal an administrative decision to the board. An appeal is taken by filing a notice of appeal with the local government clerk or such other local government official as designated by ordinance. The notice of appeal shall state the grounds for the appeal.

5.18.3. Time to Appeal. The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

5.18.4. Record of Decision. The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

5.18.5. Stays. An appeal of a notice of violation or other enforcement order stays enforcement of

the action appealed from and accrual of any fines assessed during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed.

Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or local government may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

5.18.6. Alternative Dispute Resolution. The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution. The development regulation may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

5.18.7. No Estoppel. G.S. 160D-1403.2, limiting a local government's use of the defense of estoppel, applies to proceedings under this section.

Statutory Authority – NCGS Chapter 160D-405

ARTICLE 6 – PROCEDURE, PERMITS, ENFORCEMENT, and APPEALS: QUASI-JUDICIAL (Variances, Special Use Permits, and Appeals)

Table of Contents

6.1. Development Approval Required 1
6.2. Definitions. 2
6.3. Appeals of Administrative Decisions: Procedure 2
6.4. Variances. 8
6.5. Special Use Permits. 15
6.6. Appeals of Variances, Special Use Permits, and Other Quasi-Judicial Decisions. 26
6.7. Subdivision Approvals 33
6.8. Appeal of Decisions on Subdivision Plats. 33
6.9. Civil Action for Declaratory Relief, Other Remedies; Joinder of Complaint and Petition for Writ of certiorari in Certain Cases 33
6.10. No Estoppel Effect When Challenging Development Conditions. 35
6.11. Other Civil Actions 35
6.12. Statutes of Limitations. 35

6.1. Development Approval Required

6.1.1. No building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this Ordinance. No person shall commence or proceed with development within the County's jurisdiction without first securing any development approvals from the County. This Article includes the regulations for development approvals that result from quasi-judicial procedures. These may include special use permits, variances, sub-division approvals, and other development approvals that result from the appeal of administrative decisions.

(Ord. 7/7/2003, Section 15.2)

6.1.2. A development approval shall be in writing and shall contain a provision that the development work done shall comply with all applicable State and local laws.

6.1.3. The County may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing

once issued.

6.1.4. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

Statutory Authority – NCGS Chapter 160D-403(a) and 404

6.2. DEFINITIONS

6.2.1. As used under this Article and consistent with the definitions contained in Article 2, the term "Quasi-Judicial Decision" shall mean a decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation.

a) Quasi-judicial decisions include but are not limited to decisions involving variances, special use permits, Subdivision approvals, and appeals of administrative determinations.

b) Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

c) Quasi-Judicial decisions require an evidentiary hearing. As used under this Article and consistent with the definition contained in Article 2, the term "evidentiary hearing" shall mean a hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under NCGS Chapter 160D and this ordinance.

Statutory Authority – NCGS Chapter 160D-102

6.3. APPEALS OF ADMINISTRATIVE DECISIONS: PROCEDURE

6.3.1. *Process Required.* The Board of Adjustment for Scotland County shall follow the quasi-judicial procedures in ***Section 6.6*** when hearing and deciding appeals of administrative decisions. Appeal of a decision made pursuant to an erosion and sedimentation control regulation, a stormwater control regulation, or a provision of the housing code shall not be made to the board of adjustment unless required by a local government ordinance or code provision. The regulations below apply specifically to the appeals of administrative decisions.

Statutory Authority – NCGS Chapter 160D-405(a); S.L. 2020-25; 160D-705

a) *Standing and Filing of Appeal.* Any person who has standing under G.S. 160D-1402(c) or the local government may appeal an administrative decision to the board. The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service. An appeal is taken by filing with the County Clerk an application for appeal of an administrative decision on a form approved by the County Board of Commissioners which specifies the grounds therefore. An application for appeal shall be considered filed when delivered to the office of the County Clerk, the required filing fee paid, and the date and time of filing entered on the application by the County Clerk. The Clerk shall forward the complete application to the Zoning Officer.

Statutory Authority – NCGS Chapter 160D-405(b); 160D-405(d); S.L. 2020-25.

b) *Date for Hearing*. The County's Board of Adjustment with the Zoning Officer shall establish a date for the evidentiary hearing.

c) Notice of Hearing. – There is no State mandate for publishing notice of an evidentiary hearing in the newspaper. Notice of evidentiary hearings conducted shall be mailed to:

(1) the person or entity whose appeal, application, or request is the subject of the hearing;

(2) the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and

(3) the owners of all parcels of land abutting the parcel of land that is the subject of the hearing;

(4) any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice.

(5) The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway

right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

Statutory Authority – NCGS Chapter 160D-406(b).

d) *Distribution of Materials*. The Zoning Officer shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The Zoning Officer shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(1) The materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant.

(2) The administrative materials shall become a part of the hearing record.

(3) The administrative materials may be provided in written or electronic form.

(4) Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

Statutory Authority – NCGS Chapter 160D-406(c).

(e) *Zoning Officer Present at Hearing*. The Zoning Officer shall be present at the hearing.

(f) *Continuations of Properly Advertised Hearings.* The board may continue an evidentiary hearing that has been convened without further advertisement.

Statutory Authority – NCGS Chapter 160D-406(b)

(g) *Quorum Required for Hearing, Continuance.* If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

Statutory Authority – NCGS Chapter 160D-406(b)

(h) *Presentation of Evidence*.

(1) *Parties in the Presentation of Evidence*. The applicant, the County, and any person who would have standing to appeal the decision under G.S. 160D-1402(d) shall have the right to participate as a party at the evidentiary hearing.

(2) *Other Witnesses.* Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

(3) *Objections*. Objections regarding jurisdictional and evidentiary issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board.

(4) *Ruling on Objections*. The board chair shall rule on any objections and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402.

(5) *Objections on Jurisdiction.* Objections based on jurisdictional issues may be raised for the first time on judicial review.

Statutory Authority – NCGS Chapter 160D-406(d).

(i) *Appearance of Official/New Issues*.

(1) *County Official Must Be Present.* The official who made the decision or the person currently occupying that position if the decision-maker is no longer employed by the County, shall be present at the evidentiary hearing as a witness.

(2) *Content.* The appellant shall not be limited at the hearing to matters stated in a notice of appeal.

(3) *Continuance.* If any party or the County would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

Statutory Authority – NCGS Chapter 160D-406(e).

(j) *Oaths*. The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board.

Statutory Authority – NCGS Chapter 160D-406(f)

(k) *Subpoenas*.

(1) *Who May Issue Subpoenas*. The board making a quasi-judicial decision under NCGS Chapter 160D through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence.

(2) *Request to be Made in Writing.* To request issuance of a subpoena, the applicant, the County, and any person with standing under G.S. 160D-1402(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive.

(3) *Ruling on Motions Regarding Subpoenas.* The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board.

(4) *Failure to Obey.* If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Statutory Authority – NCGS Chapter 160D-406(g)

(l) *Decisions*. The Board of Adjustment shall determine contested facts and make its decision within a reasonable time.

(1) *Appeals*. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made.

(2) *Power of the Board.* The board shall have all the powers of the official who made the decision.

(3) *Basis for Decision.* Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.

(4) *Decision to be in Writing.* Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards and be approved by the board and signed by the chair or other duly authorized member of the board.

(5) *When Decision is Effective.* A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies.

(6) *Delivery.* The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or by first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective.

(7) *Provide Notice.* The person required to provide notice shall certify to the County that proper notice has been made and the certificate shall be deemed conclusive in the absence of fraud.

Statutory Authority – NCGS Chapter 160D-406(j)

6.3.2. Stays. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after the request is filed.

Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or local government may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

Statutory Authority – NCGS Chapter 160D-405(f); S.L. 2020-25.

6.3.3. *Alternative Dispute Resolution.* The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution. The development regulation may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

Statutory Authority – NCGS Chapter 160D-405(g)

6.3.4. *No Estoppel.* G.S. 160D-1403.2, limiting a local government's use of the defense of estoppel, applies to proceedings under this section.

Statutory Authority – NCGS Chapter 160D-405(h)

6.4. VARIANCES

Variances are intended to address practical difficulties or unnecessary hardships resulting from strict application of zoning standards. Variances may not be used to permit a use in a zoning district that is not otherwise allowed in that district, nor shall variances be used to vary or waive the subdivision standards of the Scotland County Subdivision Regulations.

6.4.1. *Process Required*. The Board of Adjustment for Scotland County shall follow quasi-judicial procedures when deciding on variances. The regulations below apply specifically to variance decisions. See ***Figure 6-1***.

Statutory Authority – NCGS Chapter 160D-406(a) and 160D-705

a) Filing. An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application, on a form approved by the County Board of Commissioners, and the required filing fee to the County Clerk. The application must be filed at least three weeks prior to the Board of Adjustment meeting at which it is to be heard. An Agent designated by the property owner may file the application for a variance and must complete the Agent Form. Signature(s) of the Property Owners are required on that form. An application for a variance shall be considered filed when delivered to the office of the County Clerk, the required filing fee paid, and the date and time of filing entered on the application by the County Clerk. The Clerk submit the completed application to the Zoning Officer.

(Ord. 7/7/2003, Section 44.2)

b) Date for Hearing. The County's Board of Adjustment with the Zoning Officer shall establish a date for the evidentiary hearing.

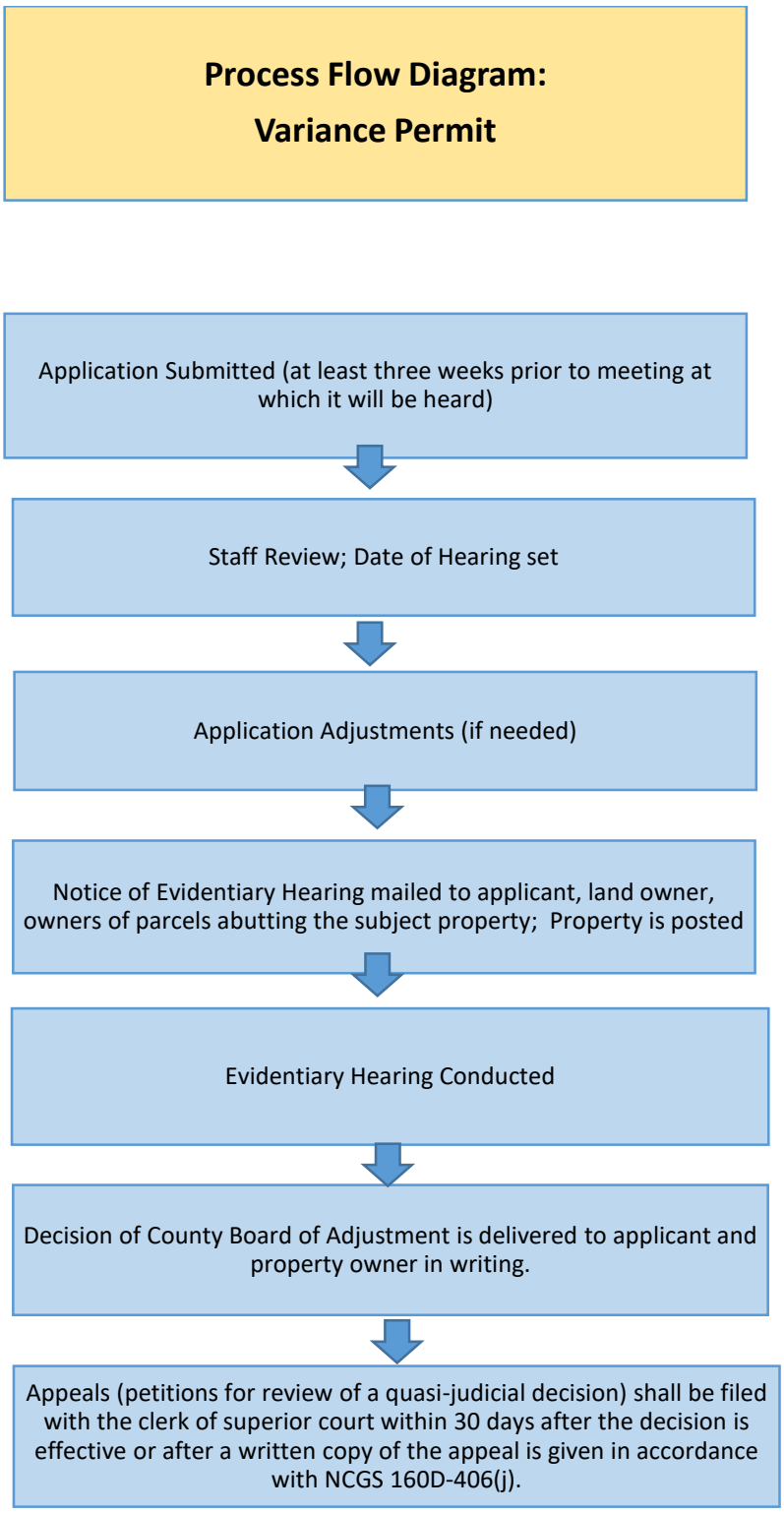
c) Notice of Hearing. – There is no State Statute requiring advertisement of an evidentiary hearing for a variance. Notice of evidentiary hearings conducted shall be mailed to:

(1) the person or entity whose appeal, application, or request is the subject of the hearing;

(2) the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and

(3) the owners of all parcels of land abutting the parcel of land that is the subject of the hearing;

Figure 6-1


Process Flow Diagram:
Variance Permit
Application Submitted (at least three weeks prior to meeting at which it will be heard)
Staff Review; Date of Hearing set
Application Adjustments (if needed)
Notice of Evidentiary Hearing mailed to applicant, land owner, owners of parcels abutting the subject property; Property is posted
Evidentiary Hearing Conducted
Decision of County Board of Adjustment is delivered to applicant and property owner in writing.
Appeals (petitions for review of a quasi-judicial decision) shall be filed with the clerk of superior court within 30 days after the decision is effective or after a written copy of the appeal is given in accordance with NCGS 160D-406(j).

(4) any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice.

(5) The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

Statutory Authority – NCGS Chapter 160D-406(b).

d) *Distribution of Materials*. The Zoning Officer shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The Zoning Officer shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(1) The materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant.

(2) The administrative materials shall become a part of the hearing record.

(3) The administrative materials may be provided in written or electronic form.

(4) Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

Statutory Authority – NCGS Chapter 160D-406(c).

(e) *Zoning Officer Present at Hearing*. The Zoning Officer shall be present at the hearing.

(f) *Continuations of Properly Advertised Hearings.* The board may continue an evidentiary hearing that has been convened without further advertisement.

Statutory Authority – NCGS Chapter 160D-406(b)

(g) *Quorum Required for Hearing, Continuance.* If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

Statutory Authority – NCGS Chapter 160D-406(b)

(h) *Presentation of Evidence*.

(1) *Parties in the Presentation of Evidence*. The applicant, the County, and any person who would have standing to appeal the decision under G.S. 160D-1402(d) shall have the right to participate as a party at the evidentiary hearing.

(2) *Other Witnesses.* Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

(3) *Objections*. Objections regarding jurisdictional and evidentiary issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board.

(4) *Ruling on Objections*. The board chair shall rule on any objections and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402.

(5) *Objections on Jurisdiction.* Objections based on jurisdictional issues may be raised for the first time on judicial review.

Statutory Authority – NCGS Chapter 160D-406(d).

(i) *Appearance of Official/New Issues*.

(1) *County Official Must Be Present.* The official who made the decision or the person currently occupying that position if the decision-maker is no longer employed by the County, shall be present at the evidentiary hearing as a witness.

(2) *Content.* The appellant shall not be limited at the hearing to matters stated in a notice of appeal.

(3) *Continuance.* If any party or the County would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

Statutory Authority – NCGS Chapter 160D-406(e).

(j) *Oaths*. The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board.

Statutory Authority – NCGS Chapter 160D-406(f)

(k) *Subpoenas*.

(1) *Who May Issue Subpoenas*. The board making a quasi-judicial decision under NCGS Chapter 160D through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence.

(2) *Request to be Made in Writing.* To request issuance of a subpoena, the applicant, the County, and any person with standing under G.S. 160D-1402(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive.

(3) *Ruling on Motions Regarding Subpoenas.* The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board.

(4) *Failure to Obey.* If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Statutory Authority – NCGS Chapter 160D-406(g)

(l) *Decisions*. The Board of Adjustment shall determine contested facts and make its decision within a reasonable time.

(1) *Basis for Decision.* Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.

(2) *Decision to be in Writing.* Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards and be approved by the board and signed by the chair or other duly authorized member of the board.

(3) *When Decision is Effective.* A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies.

(4) *Delivery.* The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or by first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective.

(5) *Provide Notice.* The person required to provide notice shall certify to the County that proper notice has been made and the certificate shall be deemed conclusive in the absence of fraud.

Statutory Authority – NCGS Chapter 160D-406(j)

(m) *Decision Basis for Variance*. When unnecessary hardships would result from carrying out the strict letter of the zoning ordinance, the Board of Adjustment shall vary any of provisions of the ordinance upon a showing of **all** of the following:

(Ord. 7/7/2003, Section 44.2)

1) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

Statutory Authority – NCGS Chapter 160D-405(e) and 160D-705(d); S.L. 2020-25.

(n) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.

Statutory Authority – NCGS Chapter 160D-405(e) and 160D-705(d; S.L. 2020-25.

6.4.2. *Voting*. The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. For the purposes of this subsection, vacant positions on the board

and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

Statutory Authority – NCGS Chapter 160D-406(i).

6.4.3. Statute of Limitations. A variance may be issued for an indefinite duration or for a specified duration only. Unless otherwise specified, any order or decision of the Board of Adjustment granting a variance shall expire if the applicant does not obtain a building permit or certificate of occupancy for such use within 60 days from the date of the decision or if construction of the use has not commenced within 180 days from the date of the issuance of a building permit.

Statutory Reference – N.C.G.S. Subchapter II of Chapter 1.

6.4.4. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

Statutory Reference – N.C.G.S. 160D-108.1(a).

6.4.5. Record. A record shall be made of all hearings and such record shall be kept as provided by state law. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings.

6.4.6. Revocation. In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. The conduct of any activity or the use, operation, construction, maintenance or removal of any facility in violation of any of the conditions of a variance shall be grounds for revocation of said variance. The Zoning Administrator shall set a date for public hearing before the Board of Adjustment and at such time said Board may revoke the variance, citing the reasons therefor. Notice of such hearing shall be made in the same manner as required for a variance application. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or

specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. Unless otherwise specified by the Board of Adjustment, all activities or facilities permitted by the variance shall cease and/or be removed not later than sixty calendar days following the date of determination to revoke the variance. The determination of the Board of Adjustment shall be deemed final and may not be appealed to the Board of Commissioners.

Statutory Authority – NCGS Chapter 160D-403(f).

6.4.7. Duration of Development Approval (Variance). Unless a different period is provided by a quasi-judicial development approval, a development agreement, or a local ordinance, a development approval issued pursuant to this Ordinance shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced.

If after commencement the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be deemed to limit any vested rights secured under G.S. 160D-108.

Statutory Authority – NCGS Chapter 160D-403(c).

6.5. SPECIAL USE PERMITS

6.5.1. *Definition.* As included in Article 2 of this ordinance, a Special Use Permit means a permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

Statutory Reference – N.C.G.S. Chapter 160D-102.

6.5.2. *General*: A land use designated as a "**special use**" in a particular zoning district is one that because of its nature, extent and external effects, generally is not appropriate in the district, but might be if subject to special standards and review that will ensure it is located, designed and operated in a manner that is in harmony with neighboring development and does not adversely affect the public health, safety and general welfare.

Therefore, development associated with a land use designated as a special use is allowed only pursuant to a Special Use Permit.

6.5.3. *Authority:* Special Use Permits shall be granted by the Scotland County Board of Commissioners as permitted by G.S. 160D-705 for all special uses enumerated in the Table of Uses. Special uses may only be established by approval of the Board of Commissioners.

(Ord. 7/7/2003, Section 35)
Statutory Authority – NCGS Chapter 160D-705(c)

6.5.4. *Conflict of Interest.* Refer to Article 4, Section 4.2 and to NCGS Chapter 160D-109(d).

6.5.5. *Process Required*. The following process shall apply to the consideration of all Special Use Permits. See ***Figure 6-2*** for *Process Flow Diagram*.

(a) Filing of Application. The owner or owners of all the property included in the petition for a Special Use Permit shall submit required application information to the County Planning Department at least three weeks prior to the Planning and Zoning Board meeting at which it is to be heard. Such application shall include all of the requirements pertaining to it in this Ordinance.

(i) Applications shall include a Site Plan as required in this Ordinance and be accompanied by a fee set according to the Planning Department Fee Schedule.

(Ord. 7/7/2003, Section 36.1)

(b) Staff Review. The Zoning Administrator will review the petition for full compliance with all submittal requirements. If it does not fully comply, they will notify the petitioner of submittal deficiencies and allow him/her ten (10) calendar days to submit corrected information.

(c) Review by Planning and Zoning Board. No special use permit shall be approved until a review of the application has been conducted by the Planning and Zoning Board. The Planning and Zoning Board shall hear all requests for Special Use Permits within 30 days from submission to the Planning Department. However, this requirement is not intended to prevent the Planning and Zoning Board from delaying action after review. The Planning and Zoning Board shall make a written recommendation to the Board of Commissioners.

Statutory Authority – NCGS Chapter 160D-301(b).
(Ord. 7/7/2003, Section 37.1)

(1) In its review of the application for a Special Use Permit, the Planning and Zoning Board may consider the following:

(i) The proposed use will not materially endanger the public health or safety. Considerations shall include:

a. traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts;
b. provision of services and utilities, including sewer, water, electrical, garbage collections, fire protection;
c. soil erosion and sedimentation; and
d. protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

(ii) The proposed use will comply with all regulations and standards generally applicable within the zoning district and any development regulations applicable to that specific use as included in this Ordinance.

(iii) The proposed development will not substantially injure the value of adjoining property, or is a public necessity. Considerations shall include:

a. the relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved; and
b. whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

(iv) The proposed development will be in harmony with the area in which it is located. Considerations shall include:

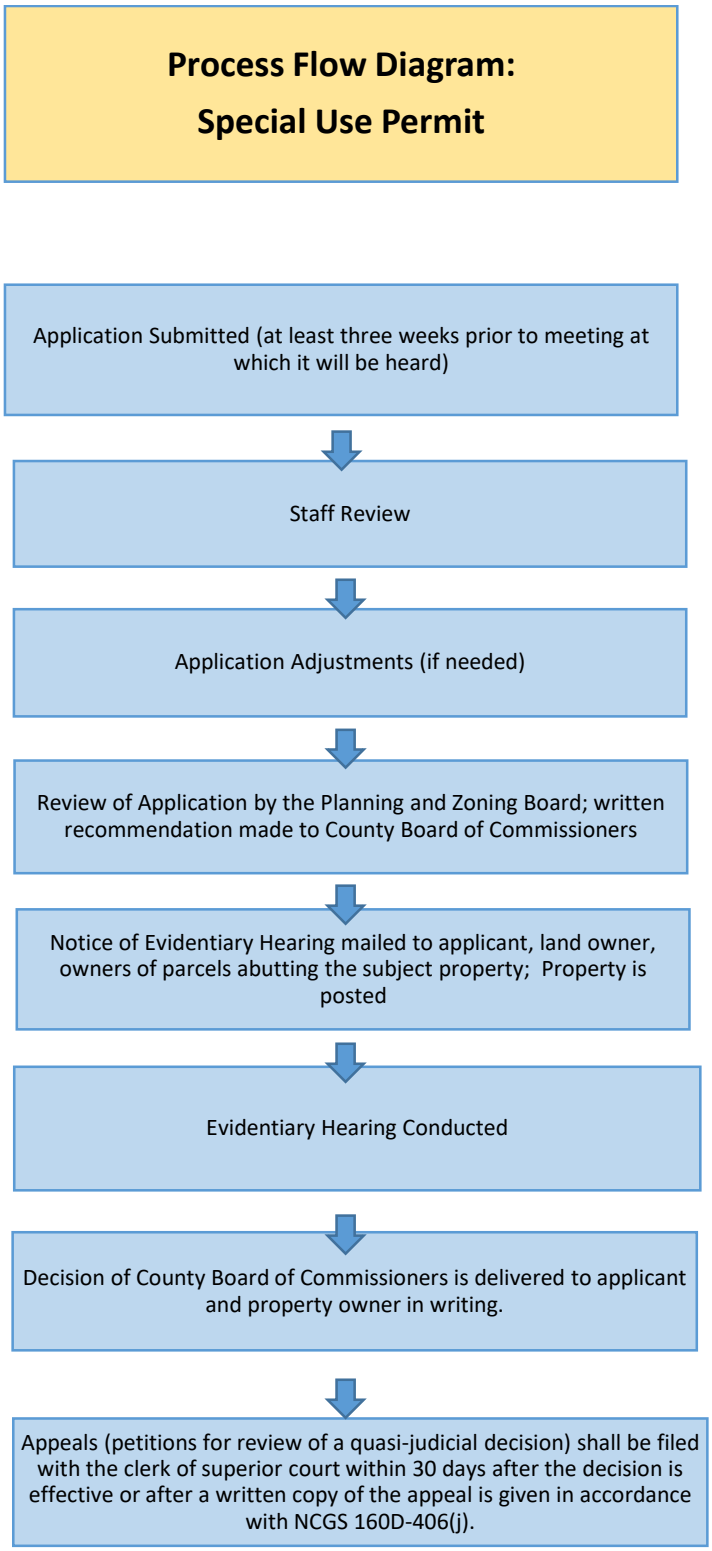
a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

(v) The proposed development will be consistent with the Scotland County Comprehensive Land Use Plan. Considerations shall include:

a. consistency with the Plan's objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.

Statutory Reference – N.C.G.S. Chapter 160D-705(c); S.L. 2020-25, Section 17.
(Ord. 7/7/2003, Section 38)

Figure 6-2


Process Flow Diagram:
Special Use Permit
Application Submitted (at least three weeks prior to meeting at which it will be heard)
Staff Review
Application Adjustments (if needed)
Review of Application by the Planning and Zoning Board; written recommendation made to County Board of Commissioners
Notice of Evidentiary Hearing mailed to applicant, land owner, owners of parcels abutting the subject property; Property is posted
Evidentiary Hearing Conducted
Decision of County Board of Commissioners is delivered to applicant and property owner in writing.
Appeals (petitions for review of a quasi-judicial decision) shall be filed with the clerk of superior court within 30 days after the decision is effective or after a written copy of the appeal is given in accordance with NCGS 160D-406(j).

(d) Review and Decision by the Board of Commissioners. A quasi-judicial, evidentiary hearing shall be held by the County Board of Commissioners prior to deciding on approval or denial of the application for a Special Use Permit in compliance with Sections 6.5.5.(e) – 6.5.5.(o).

(e) Notice of Hearing. – There is no State Statute requiring advertisement in a newspaper for an evidentiary hearing. Notice of evidentiary hearings conducted shall be mailed to:

(1) the person or entity whose appeal, application, or request is the subject of the hearing;
(2) the owner of the property that is the subject of the hearing if the owner did not initiate the hearing;
(3) the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and
(4) any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice.
(5) The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

Statutory Authority – NCGS Chapter 160D-406(b).
(Ord. 7/7/2003, Section 37.1)

(f) *Administrative Materials.* The Zoning Officer shall transmit to the board all applications, reports, and written materials relevant to the matter being considered.

(1) The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant.

(2) The administrative materials shall become a part of the hearing record.

(3) The administrative materials may be provided in written or electronic form.

(4) Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made

by the board at the hearing.

Statutory Authority – NCGS Chapter 160D-406(c).

(g) *Continuations of Properly Advertised Hearings.* The board may continue an evidentiary hearing that has been convened without further advertisement.

Statutory Authority – NCGS Chapter 160D-406(b)

(h) *Quorum Required for Hearing, Continuance.* If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

Statutory Authority – NCGS Chapter 160D-406(b)

(i) *Presentation of Evidence*.

(1) *Parties in the Presentation of Evidence*. The applicant, the County, and any person who would have standing to appeal the decision under G.S. 160D-1402(d) shall have the right to participate as a party at the evidentiary hearing.

(2) *Other Witnesses.* Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

(3) *Objections*. Objections regarding jurisdictional and evidentiary issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board.

(4) *Ruling on Objections*. The board chair shall rule on any objections and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402.

(5) *Objections on Jurisdiction.* Objections based on jurisdictional issues may be raised for the first time on judicial review.

Statutory Authority – NCGS Chapter 160D-406(d).

(j) *Appearance of Official/New Issues*.

(1) *County Official Must Be Present.* The official who made the decision or the person currently occupying that position if the decision-maker is no longer employed by the County, shall be present at the evidentiary hearing as a witness.

(2) *Content.* The appellant shall not be limited at the hearing to matters stated in a notice of appeal.

(3) *Continuance.* If any party or the County would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

Statutory Authority – NCGS Chapter 160D-406(e).

(k) *Oaths*. The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board.

Statutory Authority – NCGS Chapter 160D-406(f)

(l) *Subpoenas*.

(1) *Who May Issue Subpoenas*. The board making a quasi-judicial decision under NCGS Chapter 160D through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence.

(2) *Request to be Made in Writing.* To request issuance of a subpoena, the applicant, the County, and any person with standing under G.S. 160D-1402(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive.

(3) *Ruling on Motions Regarding Subpoenas.* The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board.

(4) *Failure to Obey.* If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Statutory Authority – NCGS Chapter 160D-406(g)

(m) Consideration by County Board of Commissioners. In considering Special Use Permit applications, reasonable and appropriate conditions and safeguards may be imposed on these permits.

(1) Where appropriate such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be

made for recreational space and facilities.

(2) Conditions and safeguards imposed under this subsection shall not include requirements for which the County does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the local government nor requirements for which the courts have held to be unenforceable if imposed directly by the local government, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

Statutory Authority – NCGS Chapter 160D-705(c).

(3) Before the Board of Commissioners approves any Special Use Permit application, it may consider the following:

(i) The proposed use will not materially endanger the public health or safety. Considerations shall include:

a. traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts;
b. provision of services and utilities, including sewer, water, electrical, garbage collections, fire protection;
c. soil erosion and sedimentation; and
d. protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

(ii) The proposed use will comply with all regulations and standards generally applicable within the zoning district and any development regulations applicable to that specific use as included in this Ordinance.

(iii) The proposed development will not substantially injure the value of adjoining property, or is a public necessity. Considerations shall include:

a. the relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved; and
b. whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of

adjoining property.

(iv) The proposed development will be in harmony with the area in which it is located. Considerations shall include:

a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

(v) The proposed development will be consistent with the Scotland County Comprehensive Land Use Plan. Considerations shall include:

a. consistency with the Plan's objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.

Statutory Reference – N.C.G.S. Chapter 160D-705(c); S.L. 2020-25, Section 17.
(Ord. 7/7/2003, Section 38)

(n) *Voting*. The Planning and Zoning Board may decide to approve the application as submitted, modify and approve the application or deny the application for a Special Use Permit. Reasons for denial shall be clearly stated in writing by the Board. When issuing or denying special use permits, no vote greater than a majority vote shall be required for the city council to issue such permits, and every such decision of the Board shall be subject to review by the superior court by proceedings in the nature of a certiorari.

(1) *Votes Needed to Determine Appeals in Nature of Certiorari.* A majority of the members shall be required to determine an appeal made in the nature of certiorari.
(2) *Votes Needed on Other Quasi-Judicial Matters.* A majority of the members shall be required to decide any other quasi-judicial matter.
(3) *Vacancies.* For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-1-9(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

Statutory Authority – NCGS Chapter 160D-406(i)

(o) *Decisions.* The Planning and Zoning Board shall determine contested facts and make its decision within a reasonable time.

(1) *Appeals*. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made.

(2) *Power of the Board.* The board shall have all the powers of the official who made the decision.

(3) *Basis for Decision.* Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.

(4) *Decision to be in Writing.* Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards and be approved by the board and signed by the chair or other duly authorized member of the board.

(5) *When Decision is Effective.* A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies.

(6) *Delivery.* The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or by first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective.

(7) *Provide Notice.* The person required to provide notice shall certify to the County that proper notice has been made and the certificate shall be deemed conclusive in the absence of fraud.

Statutory Authority – NCGS Chapter 160D-406(j)

(p) *Modifications*. Minor modifications to special use permits shall be those that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any modifications approved shall only be applicable to those properties whose owners apply for the modification. If the change requested involves a change in permitted uses or the density of the overall development, these are considered major changes and shall require a new Special Use Permit process.

Statutory Reference – N.C.G.S. Chapter 160D-705(c), Special Use Permits; 403(d); 703(b).

(q) *Cancellation by Surrender of a Special Use Permit*.

(1) Any Special Use Permit which has been previously approved may be offered for surrender by the property owner or his agent by submitting a written application to the County Clerk.

(2) The County will accept the offer of surrender and cancel the Special Use Permit if all the following conditions are met: (i) there are no existing zoning violations of the Special Use Permit; and (ii) the property is undeveloped or the existing use is permitted in the underlying zoning

district.

(3) Approval of the application will result in the Special Use Permit being cancelled and the property becoming subject to the existing underlying zoning district. Upon the cancellation of a Special Use Permit, any expansion of an existing use or any new development must conform to all the requirements of the underlying zoning district.

(4) Following the cancellation, the designation of the previously approved Special Use Permit will be removed from the Official Zoning Map and the property will be shown to be in the appropriate underlying zoning district.

(r) *Revocation*. Revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit.

(1) The Zoning Officer or his or her designee, will have the authority to issue a notice of violation of a Special Use Permit. The notice of violation will provide thirty (30) days to correct the violation. If the violation is not corrected to the satisfaction of the planning director, then the planning director, or his or her designee, has the authority to send a letter of revocation of the Special Use Permit. The owner of the property will have thirty (30) days from receipt of the letter of revocation of the Special Use Permit to appeal the violation determination to the zoning board of adjustment.

(2) Subsequent to the completion of any appeals provided for in pertaining to the revocation of a Special Use Permit, the special use for which the Special Use Permit was granted must cease and the future use of the property must be in conformance with the standards of this ordinance for the district where the property is located. Any use or development of the property commenced pursuant to the Special Use Permit must conform or be brought into conformance with the standards of the district where the property is located.

Statutory Reference – N.C.G.S. Chapter 160D-705(c), Special Use Permits.

(s) *Multiple Parcels*. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations.

Statutory Reference – N.C.G.S. Chapter 160D-705(c), Special Use Permits.

6.5.6. ***Duration***.

(a) A Special Use Permit issued by the County shall become null and void if construction or occupancy of the proposed use as specified on the Special Use Permit has not commenced within one (1) year of the date of issuance.

(b) Extension of time for a Special Use Permit, not to exceed one (1) one-year extension may be granted by the County upon review and recommendation by the Planning and Zoning Board, provided a request for such extension is submitted in writing prior to the original expiration date. In granting an extension, the County shall have no authority to amend the conditions of the Special Use Permit or approve any major modifications to the approved plan.

(c) If the project is vested as prescribed under **Section17.1**, the statutory vesting expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. the 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

Statutory Reference – N.C.G.S. Chapter 160D-108(d) Vesting.
(Ord. 4/1/2003, Section 7.7)

6.6. APPEALS OF VARIANCES, SPECIAL USE PERMITS, AND OTHER QUASI-JUDICIAL DECISIONS

6.6.1. *Judicial Review*. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d).

Statutory Authority – NCGS Chapter 160D-406(k)

6.6.2. *Appeals in the Nature of Certiorari.*

(a) *Applicability*. This section applies to appeals of quasi-judicial decisions of decision-making boards when that appeal is to superior court and in the nature of certiorari as required by this Article.

Statutory Authority – NCGS Chapter 160D-1402(a)

(b) *Filing the Petition*. An appeal in the nature of certiorari shall be initiated by filing a petition for writ of certiorari with the superior court. The petition shall do all of the following:

(1) State the facts that demonstrate that the petitioner has standing to seek review.
(2) Set forth allegations sufficient to give the court and parties notice of the grounds upon which the petitioner contends that an error was made.
(3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of an impermissible conflict as described in G.S. 160D-1-9, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.
(4) Set forth the relief the petitioner seeks.

Statutory Authority – NCGS Chapter 160D-1402(b)

(c) *Standing*. A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons have standing to file a petition under this section:

(1) Any person meeting possessing any of the following criteria:

(i) Has an ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.
(ii) Has an option or contract to purchase the property that is the subject of the decision being appealed.
(iii) Was an applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A local government whose decision-making board has made a decision that

the governing board believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by that governing board.

Statutory Authority – NCGS Chapter 160D-1402(c)

(d) *Respondent*. The respondent named in the petition shall be the local government whose decision-making board made the decision that is being appealed, except that if the petitioner is a local government that has filed a petition pursuant to **Subsection 6.6.2(c)(4),** above, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision-making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

Statutory Authority – NCGS Chapter 160D-1402(d)

(e) *Writ of Certiorari*. Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of the county in which the matter arose. The writ shall direct the respondent local government, or the respondent decision-making board if the petitioner is a local government that has filed a petition pursuant to **Subsection 6.6.2(c)(4),** to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct the petitioner to serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5) d. of the Rules of Civil Procedure applies in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court. Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion, and on such conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

Statutory Authority – NCGS Chapter 160D-1402(e)

(f) *Response to the Petition*. The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in

a response served on all petitioners at least 30 days prior to the hearing on the petition. If it is not served within that time period, the matter may be continued to allow the petitioners time to respond pursuant to subparagraph (j) of this section.

Statutory Authority – NCGS Chapter 160D-1402(f)

(g) *Intervention*. Rule 24 of the Rules of Civil Procedure governs motions to intervene as a petitioner or respondent in an action initiated under this section with the following exceptions:

(1) Any person described in **Section 6.6.2(c)(1)** has standing to intervene and shall be allowed to intervene as a matter of right.

(2) Any person, other than one described in **Section 6.6.2(c)(1)** who seeks to intervene as a petitioner must demonstrate that the person would have had standing to challenge the decision being appealed in accordance with **Section 6.6.2(c)(2) through (4).**

(3) Any person, other than one described in **Section 6.6.2(c(1))** of this section, who seeks to intervene as a respondent must demonstrate that the person would have had standing to file a petition in accordance with **Section 6.6.2(c) (2) through (4).** if the decision-making board had made a decision that is consistent with the relief sought by the petitioner.

Statutory Authority – NCGS Chapter 160D-1402(g)

(h) *The Record.* The record shall consist of the decision and all documents and exhibits submitted to the decision-making board whose decision is being appealed, together with the minutes of the meeting or meetings at which the decision being appealed was considered. Upon request of any party, the record shall also contain an audio or videotape of the meeting or meetings at which the decision being appealed was considered if such a recording was made. Any party may also include in the record a transcript of the proceedings, which shall be prepared at the cost of the party choosing to include it. The parties may agree, or the court may direct, that matters unnecessary to the court's decision be deleted from the record or that matters other than those specified herein be included. The record shall be bound and paginated or otherwise organized for the convenience of the parties and the court. A copy of the record shall be served by the local government respondent, or the respondent decision-making board, upon all petitioners within three days after it is filed with the court.

Statutory Authority – NCGS Chapter 160D-1402(h)

(i) *Hearing on the Record*. The court shall hear and decide all issues raised by the petition

by reviewing the record submitted in accordance with **Section 6.2.2(h) above.** The court shall allow the record to be supplemented with affidavits, testimony of witnesses, or documentary or other evidence if, and to the extent that, petition raises any of the following issues, in which case the rules of discovery set forth in the North Carolina Rules of Civil Procedure apply to the supplementation of the record of these issues:

(1) Whether a petitioner or intervener has standing.

(2) Whether, as a result of impermissible conflict as described in G.S. 160D-1-9 or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(3) Whether the decision-making body erred for the reasons set forth in **Section 6.6.2(l) (1) and (2)** below.

Statutory Authority – NCGS Chapter 160D-1402(i)

(j) *Scope of Review*.

(1) When reviewing the decision of a decision-making board under the provisions of this section, the court shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

(i) In violation of constitutional provisions, including those protecting procedural due process rights.

(ii) In excess of the statutory authority conferred upon the local government, including preemption, or the authority conferred upon the decision-making board by ordinance.

(iii) Inconsistent with applicable procedures specified by statute or ordinance.

(iv) Affected by other error of law.

(v) Unsupported by competent material and substantial evidence in view of the entire record.

(vi) Arbitrary or capricious.

(2) When the issue before the court is one set forth in sub-subdivisions (i) through (iv). of subdivision (a) of this subsection, including whether the decision-making board erred in interpreting an ordinance, the court shall review that issue de novo. The court shall consider the interpretation of the decision-making board, but is not bound by that interpretation, and may freely substitute its judgment as appropriate. Whether the record contains competent, material, and substantial evidence is a conclusion of law, reviewable de novo.

(3) The term "competent evidence," as used in this subsection, ~~shall~~ does not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) except for the items noted in sub-

subdivisions (i), (ii), and (iii) of this subdivision that are conclusively incompetent, the evidence was admitted without objection or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall, regardless of the lack of a timely objection, not be deemed to include the opinion testimony of lay witnesses as to any of the following:

(i) The use of property in a particular way would affects the value of other property.

(ii) The increase in vehicular traffic resulting from a proposed development would poses a danger to the public safety.

(iii) Matters about which only expert testimony would generally be admissible under the rules of evidence.

Statutory Authority – NCGS Chapter 160D-1402(j)

(k) *Action Not Rendered Moot by Loss of Property*. Subject to the limitations in the State and federal constitutions and State and federal case law, an action filed under this section is not rendered moot, if during the pendency of the action, the aggrieved person loses the applicable property interest as a result of the local government action being challenged and exhaustion of an appeal described herein is required for purposes of preserving a claim for damages under G.S. 160D-1403.1.

Statutory Authority – NCGS Chapter 160D-1402(j1)

(l) *Decision of the Court*. Following its review of the decision-making board in accordance with subsection (j) of this section, the court may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings. If the court does not affirm the decision below in its entirety, then the court shall be guided by the following in determining what relief should be granted to the petitioners:

(1) If the court concludes that the error committed by the decision-making board is procedural only, the court may remand the case for further proceedings to correct the procedural error.

(2) If the court concludes that the decision-making board has erred by failing to make findings of fact such that the court cannot properly perform its function, then the court may remand the case with appropriate instructions so long as the record contains substantial competent evidence that could support the decision below with appropriate findings of fact. However, findings of fact are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.

(3) If the court concludes that the decision by the decision-making board is not supported by competent, material, and substantial evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action

should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:

(i) If the court concludes that a permit was wrongfully denied because the denial was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court ~~may~~ shall remand with instructions that the permit be issued, subject to any conditions expressly consented to by the permit applicant as part of the application or during the board of adjustment appeal or writ of certiorari appeal.

(ii) If the court concludes that a permit was wrongfully issued because the issuance was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.

(iii) If the court concludes that a zoning board decision upholding a zoning enforcement action was not supported by substantial competent evidence or was otherwise based on an error of law, the court shall reverse the decision.

Statutory Authority – NCGS Chapter 160D-1402(k)

(m) *Effect of Appeal and Ancillary Injunctive Relief.*

(1) If a development approval is appealed, the applicant shall have the right to commence work while the appeal is pending. However, if the development approval is reversed by a final decision of any court of competent jurisdiction, the applicant shall not be deemed to have gained any vested rights on the basis of actions taken prior to or during the pendency of the appeal and must proceed as if no development approval had been granted.

(2) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal.

Statutory Authority – NCGS Chapter 160D-1402(l)

(n) *Joinder*. A declaratory judgment brought under G.S. 160D-14-1 or other civil action relating to the decision at issue may be joined with the petition for writ of certiorari and decided in the same proceeding.

Statutory Authority – NCGS Chapter 160D-1402(m)

(o) *Stays.* An appeal under this section is stayed as provided in G.S. 160D-405.

Statutory Authority – NCGS Chapter 160D-1402(n)

6.7. SUBDIVISION APPROVALS

6.7.1. *Process Required.* The Board of Commissioners shall follow quasi-judicial procedure when deciding on subdivision approvals.

Statutory Authority – NCGS Chapter 160D-405(a) and 406(a)
See Scotland County Subdivision Regulations, Article 4, Procedure for Review and Approval of Subdivision Plats.

6.8. APPEAL OF DECISIONS ON SUBDIVISION PLATS

6.8.1. Appeal of decisions made by the Scotland County Board of Commissioners on preliminary or final subdivision plats shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of Chapter 160D-406 and this section shall apply to those appeals.

Statutory Authority – NCGS Chapter 160D-1403(a)

6.8.2. When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is administrative, then that decision of the board shall be subject to review by filing an action in superior court seeking appropriate declaratory or equitable relief within 30 days from receipt of the written notice of the decision, which shall be made as provided in G.S. 160D-403(b).

Statutory Authority – NCGS Chapter 160D-1403(b)

6.8.3. For purposes of this section, a subdivision regulation shall be deemed to authorize a quasi-judicial decision if the decision-making entity under Chapter 160D-803(c) is authorized to decide whether to approve or deny the plat based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision to be made.

Statutory Authority – NCGS Chapter 160D-1403(c)

6.9. CIVIL ACTION FOR DECLARATORY RELIEF, OTHER REMEDIES; JOINDER OF COMPLAINT AND PETITION FOR WRIT OF CERTIORARI IN CERTAIN CASES

6.9.1. *Civil Action.* Except as otherwise provided in this section for claims involving questions of interpretation, in lieu of any remedies available under G.S. 160D-405 or 160D-108(h), a person with standing, as defined in subsection (b) of this section, may bring an original civil action seeking declaratory relief, injunctive relief, damages, or any other remedies provided by law or equity, in superior court or federal court to challenge the enforceability, validity, or effect of a local land development regulation for any of the following claims:

(a) The ordinance, either on its face or as applied, is unconstitutional.

(b) The ordinance, either on its face or as applied, is ultra vires, preempted, or

otherwise in excess of statutory authority.

(c) The ordinance, either on its face or as applied, constitutes a taking of property.

If the decision being challenged is from an administrative official charged with enforcement of a local land development regulation, the party with standing must first bring any claim that the ordinance was erroneously interpreted to the applicable board of adjustment pursuant to G.S. 160D-405. An adverse ruling from the board of adjustment may then be challenged in an action brought pursuant to this subsection with the court hearing the matter de novo together with any of the claims listed in this subsection.

Statutory Authority – NCGS Chapter 160D-1403.1(a)

6.9.2. *Standing*. Any of the following criteria provide standing to bring an action under this section:

(a) The person has an ownership, leasehold, or easement interest in, or possesses an option or contract to purchase the property that is the subject matter of a final and binding decision made by an administrative official charged with applying or enforcing a land development regulation.

(b) The person was a development permit applicant before the decision-making board whose decision is being challenged.

(c) The person was a development permit applicant who is aggrieved by a final and binding decision of an administrative official charged with applying or enforcing a land development regulation.

Statutory Authority – NCGS Chapter 160D-1403.1(b)

6.9.3. *Time for Commencement of Action*. Any action brought pursuant to this section shall be commenced within one year after the date on which written notice of the final decision is delivered to the aggrieved party by personal delivery, electronic mail, or by first-class mail.

Statutory Authority – NCGS Chapter 160D-1403.1(c)

6.9.4. *Joinder*. An original civil action authorized by this section may, for convenience and economy, be joined with a petition for writ of certiorari and decided in the same proceedings. The Rules of Civil Procedure govern the parties for the claims raised in the original civil action. The record of proceedings in the appeal pursuant to G.S. 160D-1402 shall not be supplemented by discovery from the civil action unless supplementation is otherwise allowed under G.S. 160D-1402(i). The standard of review in the original civil action for the cause or causes of action pled as authorized by subsection (a) of this section is de novo. The standard of review of the petition for writ of certiorari is the standard established in G.S. 160D-1402(j).

Statutory Authority – NCGS Chapter 160D-1403.1(d)

6.9.5. *Action Not Rendered Moot by Loss of Property*. Subject to the limitations in the State and federal constitutions and State and federal case law, an action filed under this section is not rendered moot, if during the pendency of the action, the aggrieved person loses the applicable property interest as a result of the local government action being challenged

and exhaustion of an appeal described herein is required for purposes of preserving a claim for damages under this section.

Statutory Authority – NCGS Chapter 160D-1403.1(e)

6.9.6. Stays. An appeal under this section is stayed as provided in G.S. 160D-405.

Statutory Authority – NCGS Chapter 160D-1403.1(f)

6.9.7. *Definitions*. The definitions in G.S. 143-755 apply in this section.

Statutory Authority – NCGS Chapter 160D-1403.1(g)

6.10. NO ESTOPPEL EFFECT WHEN CHALLENGING DEVELOPMENT CONDITIONS

6.10.1. A local government may not assert before a board of adjustment or in any civil action the defense of estoppel as a result of actions by the landowner or permit applicant to proceed with development authorized by a development permit as defined in G.S. 143-755 if the landowner or permit applicant is challenging conditions that were imposed and not consented to in writing by a landowner or permit applicant.

Statutory Authority – NCGS Chapter 160D-1403.2

6.11. OTHER CIVIL ACTIONS

6.11.1. Except as expressly stated, Chapter 160D does not limit the availability of civil actions otherwise authorized by law or alter the times in which they may be brought.

Statutory Authority – NCGS Chapter 160D-1404.

6.12. STATUTES OF LIMITATIONS

6.12.1. *Zoning Map Adoption or Amendments.* A cause of action as to the validity of any regulation adopting or amending a zoning map adopted under this Ordinance or other applicable law or a development agreement adopted under Article 16 of this Ordinance accrues upon adoption of the ordinance and shall be brought within 60 days as provided in G.S. 1-54.1.

Statutory Authority – NCGS Chapter 160D-1405(a).

6.12.2. *Text Adoption or Amendment*. Except as otherwise provided in Section 6.13.1. above, an action challenging the validity of a development regulation adopted under this Chapter or other applicable law shall be brought within one year of the accrual of such action. Such an action accrues when the party bringing such action first has standing to challenge the ordinance. A challenge to an ordinance on the basis of an alleged defect in the adoption process shall be brought within three years after the adoption of the ordinance.

Statutory Authority – NCGS Chapter 160D-1405(b).

6.12.3. *Enforcement Defense*. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 bars a party in an action involving the enforcement of a development regulation 1403.1 or in an action under G.S. 160D-from raising as a claim or defense in the proceedings the enforceability or the invalidity of the ordinance. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 bars a party who files a timely appeal from an order, requirement, decision, or determination made by an administrative official contending that the party is in violation of a development regulation from raising in the judicial appeal the invalidity of the ordinance as a defense to the order, requirement, decision, or determination. A party in an enforcement action or appeal may not assert the invalidity of the ordinance on the basis of an alleged defect in the adoption process unless the defense is formally raised within three years of the adoption of the challenged ordinance.

Statutory Authority – NCGS Chapter 160D-1405(c).

6.12.4. *Termination of Grandfathered Status*. When a use constituting a violation of a zoning or unified development ordinance is in existence prior to adoption of the zoning or unified development ordinance creating the violation, and that use is grandfathered and subsequently terminated for any reason, a local government shall bring an enforcement action within 10 years of the date of the termination of the grandfathered status, unless the violation poses an imminent hazard to health or public safety.

Statutory Authority – NCGS Chapter 160D-1405(d).

6.12.5. *Quasi-Judicial Decisions*. Unless specifically provided otherwise, a petition for review of a quasi-judicial decision shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with G.S. 160D-406(j). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

Statutory Authority – NCGS Chapter 160D-1405(e).

6.12.6. *Others*. Except as provided by this section, the statutes of limitations shall be as provided in Subchapter II of Chapter 1 of the General Statutes.

Statutory Authority – NCGS Chapter 160D-1405(f)

6.13-6.20. RESERVED

ARTICLE 7 – PROCEDURE, PERMITS, ENFORCEMENT, and APPEALS: LEGISLATIVE (Text Amendments and Rezoning)

Table of Contents

7.1. Development Approval Required 1
7.2. Definitions 2
7.3. Procedure for Text or Zoning Map Amendment (Rezoning) 2
7.4. Legislative Decisions: Citizen Comments 7
7.5. Legislative Decisions: Planning Board Review and Comments 8
7.6. Legislative Decisions: Governing Board Statement 10
7.7. Legislative Decisions: Duration 11
7.8. Legislative Decisions: Revocation 12
7.9. Legislative Decisions: Statute of Limitations 12
7.10. Legislative Decisions: Judicial Review and Appeal 13
7.11. Legislative Decisions: Down-Zoning 14
7.12. – 7.20. Reserved 14

7.1. Development Approval Required

7.1.1. No person shall commence or proceed with development within the County's jurisdiction without first securing any development approvals from the County. This article includes the regulations for amendments to the text of the County's Zoning Ordinance or an amendment to the Official Zoning Map required by a rezoning of property within the County's jurisdiction.

7.1.2. A development approval shall be in writing and shall contain a provision that the development work done shall comply with all applicable State and local laws.

7.1.3. The County may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued.

7.1.4. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.

Statutory Authority – NCGS Chapter 160D-403(a)

7.2. DEFINITIONS

7.2.1. As used under this Article the definition of "Legislative Decision" is contained in **Article 2**.

(a) Legislative decisions are decisions made by the Board of Commissioners as the governing body of Scotland County.

(b) Hearings which accompany Legislative decisions are referred to as Legislative Hearings and these seek public comment and opinion on a proposed policy change.

7.2.2. As used under this Article the definition of "Development Regulation" is contained in **Article 2**.

7.3. PROCEDURE FOR TEXT OR ZONING MAP AMENDMENT (REZONING)

7.3.1. *Procedure*. The procedure for an amendment to the text of this Ordinance or to the Zoning Map shall include:

(a) Initiation of amendment by notification of the Planning Administrator and filing with the County Clerk.

(b) Planning Board review and recommendation.

(c) Legislative Hearing held by the Board of Commissioners.

(d) Board of Commissioners review and action.

(e) A written determination by the Board of Commissioners in accordance with **Section 7.6**.

(Ord. 7/7/2003, Section 32)

7.3.2. *Withdrawal*. The petitioner shall have the right to withdraw, in writing, a zoning amendment petition at any time prior to a final decision by the Board of Commissioners. However, petitions that have been withdrawn shall be reconsidered only as a new petition.

7.3.3. *Initiation of Amendment.* Any person or organization, including the County Board of Commissioners, Planning and Zoning Board, Board of Zoning Adjustments, or one or more owners or lessees of property within the county, may petition the to amend this Ordinance. The petition, on a form approved by the Board of Commissioners, and the required filing fee shall be filed with the County Clerk two weeks prior to the date of the Planning and Zoning Board meeting at which the petition will be considered. The petition shall include, among other information that may be deemed relevant by the County Clerk:

(a) The name, address, and phone number of the applicant.

(b) A metes and bounds description and a scaled map of the land affected by the amendment if a change in zoning district classification is proposed.

(c) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this Ordinance.

(Ord. 7/7/2003, Section 32)

7.3.4. *Planning Board Review and Recommendation.*

(a) Upon receipt of a petition for an amendment, the County Clerk shall forward the request to the Planning and Zoning Board for its consideration.

(b) All proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.

(c) The Planning Board may, at its discretion, hold a separate public hearing from that held by the Board of Commissioners. Public hearings held by the Planning Board need not adhere to the hearing requirements outlined in Article 7 for public hearings held by the Board of Commissioners.

(d) The Planning Board shall advise and comment on whether the proposed amendment (text or map) is consistent with any comprehensive plan or land development/use plan that has been adopted, and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board; however, a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan or land development/use plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.

(e) In accordance with the requirements of NCGS 160D-109, members of Planning Board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

(Ord. 7/7/2003, Section 33)
***Statutory Reference** - NCGS 160D-109(b)*

7.3.5. *Hearing for Text Amendments.* Before adopting, amending, or repealing any ordinance *or* development regulation authorized by NCGS Chapter 160D, the County Board of Commissioners shall hold a legislative hearing.

(a) A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

The notice required or authorized by this Section shall:

(i) State the date, time, and place of the public hearing;
(ii) Summarize the nature and character of the proposed change;
(iii) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
(iv) State that the full text of the amendment can be obtained from the County Clerk;
(v) State that substantial changes in the proposed amendment may be made following the public hearing; and

(Ord. 7/7/2003, Section 34.1)
Statutory Authority – NCGS Chapter 160D-601(a)

7.3.6. *Notice to Military Bases.* If the adoption or modification would result in changes to the zoning map or would change or affect the permitted uses of land located five miles or less from the perimeter boundary of a military base, the local government shall provide written notice of the proposed changes by certified mail, return receipt requested, to the commander of the military base not less than 10 days nor more than 25 days before the date fixed for the hearing. If the commander of the military base provides comments or analysis regarding the compatibility of the proposed development regulation or amendment with military operations at the base, the governing board of the local government shall take the comments and analysis into consideration before making a final determination on the ordinance.

Statutory Authority – NCGS Chapter 160D-601(b)

7.3.7. *Adoption by Ordinance Required.* A development regulation adopted pursuant to this Chapter shall be adopted by ordinance.

Statutory Authority – NCGS Chapter 160D-601(c)

7.3.8. *Down-Zoning.* No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

(a) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

(b) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

Statutory Authority – NCGS Chapter 160D-601(d)

7.3.9. *Hearing for Proposed Zoning Map Amendments (Rezonings).* Before amending the Zoning Map as authorized by NCGS Chapter 160D, the County Board of Commissioners shall hold a legislative hearing.

(Ord. 7/7/2003, Section 34.1)
Statutory Authority – NCGS Chapter 160D-602(a)

7.3.10. *Mailed Notice*.

(a) The owner of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first class mail at the last addresses listed for such owners on the county tax abstracts.

(b) For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor.

(c) This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing.

(d) If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-202, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

(Ord. 7/7/2003, Section 34.1)
Statutory Authority – NCGS Chapter 160D-602(a)

7.3.11 *Option to Mailed Notice for Large-Scale Zoning Map Amendments.* The first class mail notice required under **Subsection 7.3.10(a)** of this section shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the County elects to use the expanded published notice provided for in this subsection. In this instance, the County may elect to make the mailed notice provided for in **Subsection 7.3.10(a)** of this section, or as an alternative, elect to publish notice of the hearing as required by G.S. 160D-6-1,302 provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of **Subsection 7.3.10(a)** of this section.

Statutory Authority – NCGS Chapter 160D-602(b)

7.3.12. *Posted Notice*. When a zoning map amendment is proposed, the County shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way.

(a) The notice shall be posted within the same time period specified for mailed notices of the hearing.

(b) When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the County shall post sufficient notices to provide reasonable notice to interested persons.

Statutory Authority – NCGS Chapter 160D-602(c)

7.3.13. *Optional Communication Requirements.* When a zoning map amendment is proposed, a zoning regulation may require communication by the person proposing the map amendment to neighboring property owners and residents and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents.

Statutory Authority – NCGS Chapter 160D-602(e)

7.3.14. Decision by Board of Commissioners.

(a) At the conclusion of a public hearing on the proposed amendment, the Board of Commissioners may proceed to vote on the proposed amendment, refer it to a

committee for further study, or take any other action consistent with its usual rules of procedure.

(b) The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(c) Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan, land development/use plan, or other officially adopted plan, and explaining why the Board considers the action taken to be reasonable and in the public interest. The statement is not subject to judicial review.

(d) A majority vote, excluding vacant seats and disqualified members as indicated in subsection (2), shall be sufficient for the purpose of taking any official action excluding vacant seats and disqualified members.

(e) *Conflict of Interest.* In accordance with the requirements of NCGS Chapter 160D-109(a) and Section 4-2 of this Ordinance, a member of the Board of Commissioners shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. This shall include any zoning map or text amendment.

Statutory Authority – NCGS Chapter 160D-109(a)
Cross Reference – Conflict of Interest, Section 4-2.

7.4. LEGISLATIVE DECISIONS: CITIZEN COMMENTS

7.4.1. Subject to the limitations of this Ordinance, zoning regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the local government submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment that has been properly initiated as provided in G.S. 160D-601, to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the governing board. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705 or any other statute, the clerk shall provide only the names and addresses of the individuals

providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

Statutory Reference – NCGS 160D-603

7.5. LEGISLATIVE DECISIONS: PLANNING BOARD REVIEW AND COMMENTS

7.5.1. *Initial Zoning*. In order to exercise zoning powers conferred by this Article 7 of NCGS Chapter 160D for the first time, the County shall create or designate a planning board under the provisions of this Article or of a special act of the General Assembly.

(a) The planning board shall prepare or shall review and comment upon a proposed zoning regulation, including the full text of such regulation and maps showing proposed district boundaries. The planning board may hold public meetings and legislative hearings in the course of preparing the regulation.

(b) Upon completion, the planning board shall make a written recommendation regarding adoption of the regulation to the County Board. The County Board shall not hold its required hearing or take action until it has received a recommendation regarding the regulation from the planning board.

(c) Following its required hearing, the County Board may refer the regulation back to the planning board for any further recommendations that the board may wish to make prior to final action by the governing board in adopting, modifying and adopting, or rejecting the regulation.

Statutory Authority – NCGS Chapter 160D-604(a)

7.5.2. *Zoning Amendments*. Subsequent to initial adoption of a proposed amendment to a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board.

Statutory Authority – NCGS Chapter 160D-604(b)

(a) Every proposed amendment, supplement, change, modification or repeal of this Ordinance shall be referred to the Planning Board for its written comments, recommendation, and report. The Planning Board shall consider and make written comments and recommendations to the Board of Commissioners concerning each proposed zoning amendment.

(b) The Planning Board shall follow policy guidelines for all zoning amendments. A proposed zoning amendment will not receive favorable recommendation unless:

(1) The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
(2) There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
(3) There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state that they intend to make of the property involved.)
(4) There is convincing demonstration that the character of the neighborhood will not be materially or adversely affected by any use permitted in the proposed change.
(5) The proposed change is in accord and consistent with the Land Use Plan, any other officially adopted plan that is applicable, and sound planning principles.

(c) The Planning Board shall render its decision on any properly filed petition within thirty (30) days after the introduction of such petition and shall transmit its written comments, recommendation, and report, including the reasons for its determinations, to the Board of County Commissioners. A comment by the Planning
Board that a proposed amendment is inconsistent with the Land Use Plan shall not preclude consideration or approval of the proposed amendment by the Board of County Commissioners.

7.5.3. *Review of Other Ordinances and Actions.* Any development regulation other than a zoning regulation that is proposed to be adopted pursuant to NCGS Chapter 160D may be referred to the planning board for review and comment.

(a) Any development regulation other than a zoning regulation may provide that future proposed amendments of that ordinance be submitted to the planning board for review and comment.
(b) Any other action proposed to be taken pursuant to NCGS Chapter 160D may be referred to the planning board for review and comment.

Statutory Authority – NCGS Chapter 160D-604(c)

7.5.4. *Plan Consistency.* When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any Comprehensive Plan that has been adopted and any other officially adopted plan that is applicable.

(a) The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that

a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

(b) If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and polices in the relevant adopted plans were considered in the recommendation made.

Statutory Authority – NCGS Chapter 160D-604(d)

7.5.5. *Separate Board Required*. Notwithstanding the authority to assign duties of the planning board to the governing board as provided by this Chapter, the review and comment required by this section shall not be assigned to the governing board and must be performed by a separate board.

Statutory Authority – NCGS Chapter 160D-604(e)

7.6. LEGISLATIVE DECISIONS: GOVERNING BOARD STATEMENT

7.6.1. *Plan Consistency*. When adopting or rejecting any zoning text or map amendment, the County Board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted Comprehensive Plan.

(a) The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the County Board that at the time of action on the amendment the County Board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan.

(b) If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required.

(c) A plan amendment and a zoning amendment may be considered concurrently.

(d) The plan consistency statement is not subject to judicial review.

(e) If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and polices in the relevant adopted plans were considered in the action taken.

Statutory Authority – NCGS Chapter 160D-605(a)

7.6.2. *Statement of Reasonableness.* When adopting or rejecting any petition for a zoning text or map amendment, a brief statement explaining the reasonableness of the proposed rezoning shall be approved by the Board of Commissioners. The statement of reasonableness may consider, among other factors:

(a) The size, physical conditions, and other attributes of any area proposed to be rezoned.

(b) The benefits and detriments to the landowners, the neighbors, and the surrounding community.

(c) The relationship between the current actual and permissible development and the development permissible under the proposed amendment.

(d) Why the action taken is in the public interest.

(e) Any changed conditions warranting the amendment.

(f) If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the governing board statement on reasonableness may address the overall rezoning.

Statutory Authority – NCGS Chapter 160D-605(b)

7.6.3. *Single Statement Permissible.* The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

Statutory Authority – NCGS Chapter 160D-605(c)

7.7. LEGISLATIVE DECISIONS: DURATION

7.7.1. *Duration of Development Approval.* Unless a different period is specified by this Ordinance or other specific applicable law, including for a development agreement, a development approval issued pursuant to this Ordinance expires one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. Local development regulations may provide for development approvals of shorter duration for temporary land uses, special events, temporary signs, and similar development. Local development regulations may also provide for development approvals of longer duration for specified types of development approvals. Nothing in this subsection limits any vested rights secured under G.S. 160D-108 or G.S. 160D-108.1.

If after commencement the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be deemed to limit any vested rights secured under G.S. 160D-108.

Statutory Authority – NCGS Chapter 160D-403(c)

7.8. LEGISLATIVE DECISIONS: REVOCATION

7.8.1. *Revocation*. In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. The conduct of any activity or the use, operation, construction, maintenance or removal of any facility in violation of any of the conditions of a variance shall be grounds for revocation of said variance. The Zoning Administrator shall set a date for public hearing before the Board of Adjustment and at such time said Board may revoke the variance, citing the reasons therefor. Notice of such hearing shall be made in the same manner as required for a variance application. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. Unless otherwise specified by the Board of Adjustment, all activities or facilities permitted by the variance shall cease and/or be removed not later than sixty calendar days following the date of determination to revoke the variance. The determination of the Board of Adjustment shall be deemed final and may not be appealed to the Board of Commissioners.

Statutory Authority – NCGS Chapter 160D-403(f)

7.9. LEGISLATIVE DECISIONS: STATUTE OF LIMITATIONS

7.9.1. *Zoning Map Adoption or Amendments*. A cause of action as to the validity of any regulation adopting or amending a zoning map adopted under this Chapter or other applicable law or a development agreement adopted under Article 10 of this Chapter accrues upon adoption of the ordinance and shall be brought within 60 days as provided in G.S. 1-54.1.

Statutory Authority – NCGS Chapter 160D-1405(a)

7.9.2. *Text Adoption or Amendment*. Except as otherwise provided in subsection (a) of this section, an action challenging the validity of a development regulation adopted under this Chapter or other applicable law shall be brought within one year of the accrual of such action. Such an action accrues when the party bringing such action first has standing to challenge the ordinance. A challenge to an ordinance on the basis of an alleged defect in the adoption process shall be brought within three years after the adoption of the ordinance.

Statutory Authority – NCGS Chapter 160D-1405(b)

7.9.3. *Enforcement Defense*. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 bars a party in an action involving the enforcement of a development regulation 1403.1 or in an action under G.S. 160D-from raising as a claim or defense in the proceedings the enforceability or the invalidity of the ordinance. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 bars a party who files a timely appeal from an order, requirement, decision, or determination made by an administrative official contending that the party is in violation of a development regulation from raising in the judicial appeal the invalidity of the ordinance as a defense to the order, requirement, decision, or determination. A party in an enforcement action or appeal may not assert the invalidity of the ordinance on the basis of an alleged defect in the adoption process unless the defense is formally raised within three years of the adoption of the challenged ordinance.

Statutory Authority – NCGS Chapter 160D-1405(c)

7.9.4. *Termination of Grandfathered Status*. When a use constituting a violation of a zoning or unified development ordinance is in existence prior to adoption of the zoning or unified development ordinance creating the violation, and that use is grandfathered and subsequently terminated for any reason, a local government shall bring an enforcement action within 10 years of the date of the termination of the grandfathered status, unless the violation poses an imminent hazard to health or public safety.

Statutory Authority – NCGS Chapter 160D-1405(a)

7.9.5. *Quasi-Judicial Decisions*. Unless specifically provided otherwise, a petition for review of a quasi-judicial decision shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with G.S. 160D-406(j). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

Statutory Authority – NCGS Chapter 160D-1405(e)

7.9.6. *Others*. Except as provided by this section, the statutes of limitations shall be as provided in Subchapter II of Chapter 1 of the General Statutes.

Statutory Authority – NCGS Chapter 160D-1405(f)

7.10. LEGISLATIVE DECISIONS: JUDICIAL REVIEW AND APPEAL

7.10.1. *Declaratory Judgments*. Challenges of legislative decisions of Scotland County, including the validity and constitutionality of development regulations adopted pursuant to this ~~Chapter~~, Ordinance, and actions authorized by G.S. 160D-108(h) or (i) and G.S. 160D-1403.1, may be brought pursuant to Article 26 of Chapter 1 of the General Statutes. The governmental unit making the challenged decision shall be named a party to the action.

Statutory Authority – NCGS Chapter 160D-1401

7.11. LEGISLATIVE DECISIONS: DOWN-ZONING

7.11.1. *Down-Zoning*. No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

(a) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

(b) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

Statutory Authority – NCGS Chapter 160D-601(d)

7.12. – 7.20. RESERVED

ARTICLE 8 – ZONING DISTRICTS AND TABLE OF USES

Table of Contents

8.1. Purpose and Boundaries. 1
8.2. Types of Uses Within Districts. 3
8.3. Residential Agriculture District 7
8.2. Residential Single Family District R-1 9
8.3. Residential District R-2 11
8.4. Neighborhood Commercial District C-1 13
8.5. Highway Commercial District HC 15
8.6. Light Industrial District I-1 17
8.7. Heavy Industrial District I-2 19
8.8. Open Space District OS 21
8.9. Overlay Districts Established 23
8.10. Manufactured Home Overlay District (MHOD) 23
8.11. Highway Commercial Overlay District for the Residential Agricultural District (RAHC) 23
8.12. Airport Overlay District (AOD) 24
8.13. Table of Uses 30
8.14. Flood Damage Prevention Ordinance 43
8.15. Water Supply Watershed Ordinance 66

8.1. Purpose and Boundaries.

8.1.1. In order to promote public health, safety and general welfare, all property within the planning and zoning jurisdiction of Scotland County, which excludes all territory under jurisdiction of municipalities, is hereby divided into districts with the designations and purposes listed in **Sections 8.2 through 8.8**. Districts detailed here include the following:

RA – Residential Agricultural District
R-1 – Residential Single Family District
R-2 – Residential District

CI – Neighborhood Commercial District
HC – Highway Commercial District
I-1 – Light Industrial District
I-2 - Heavy Industrial District
OS – Open Space District
MHA, MHB – Manufactured Home Overlay District
RAHC – Residential Agricultural Highway Commercial Overlay District
AO – Airport Overlay District

(Ord. 7/7/2003, Section 4)

8.1.2. *Uniformity Within Districts*. Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

Statutory Authority – NCGS Chapter 160D-703(c)

8.1.3. *Standards Applicable Regardless of District*. This zoning ordinance also includes development standards that apply uniformly jurisdiction-wide rather than being applicable only in particular zoning districts.

Statutory Authority – NCGS Chapter 160D-703(d)

8.1.4. *Boundaries*. The boundaries and location of ~~said~~ these districts are hereby established as designated on the Official Zoning Map or maps accompanying this ordinance and made a part hereof, entitled "Scotland County Zoning Map, (Four Volumes) August 1998." Said map or maps, together with all notations and designations thereon and amendments thereto, are hereby made fully a part of this Ordinance just as if the same were fully described herein.

(Ord. 7/7/2003, Section 4)

8.1.5 *Interpretation of District Boundaries*. When uncertainty exists with respect to the boundaries of any district as shown on the Official Zoning Map, the following shall apply:

a) District boundary lines are intended to be along or parallel to property lines or lot lines and to the center of streets, highways, railroads, easements, other rights-of-way, and creeks, streams and other water channels.
b) In the absence of specified distances on the map, dimensions or distance shall be determined by the scale of the zoning map.
c) When the street or property layout existing on the grounds is at variance with that shown on the official zoning map, the Board of Adjustments shall interpret the district boundaries of the ordinance.

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

8.2. TYPES OF USES WITHIN DISTRICTS.

8.2.1. Regulations for each district shall be enforced and interpreted according to the following rules:

a) Uses by Right. All uses listed as permitted uses are permitted by right according to the terms of this ordinance.

b) Uses with Conditions. Uses with conditions are permitted subject to compliances with standards outlined in ***Article 11***.

c) Special Uses. Special Uses are permitted only as reviewed by the Planning and Zoning Board and approved by the Board of Commissioners. See ***Article 6*** for further information on Special Uses.

8.2.2 *Minimum Regulations*. Regulations set forth by this ordinance shall be minimum regulations. If the requirements set forth in this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive or higher standard shall govern.

8.2.3. *Restrictive Covenants*. If a restrictive covenant is less restrictive than an applicable zoning regulation, the zoning law prevails. If the restrictive covenant is more restrictive, it prevails over the zoning regulation. A valid restrictive covenant that is consistent with applicable law will not be superseded or terminated by the passage of a later zoning ordinance inconsistent with that covenant.

8.2.4. *Bona Fide Farms*. Nothing in this ordinance shall in any way regulate, restrict, prohibit or otherwise deter any bona fide farms within the jurisdiction of this ordinance, except that any use of such property for non-farm purposes shall be subject to these regulations.

8.2.5. *Permanent v. Temporary Dwellings.* Dwelling Unit is defined in NCGS 160D-102 as, **"**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." Dwellings are further classified as either "Permanent" or "Temporary" and specific zoning district can permit these based on district regulations. The most useful distinction between these terms is that permanent dwellings are built to the NC Building Code Standards and temporary dwellings, which are most often recreational vehicles, are not and are not meant for use as permanent residences. the Figures 8-1 and 8-2 provide a visual representation of typical permanent and temporary dwelling types.

Figure 8-1: Typical Examples of Permanent Dwellings



Single-Family Dwelling, Stick Built



Single-Family Modular Dwelling, Factory Built



Duplex Dwelling



Triplex Dwelling



Tiny House (Granny Pod) Dwelling



Town Home Dwelling



Condominium Dwelling



Multi-Family Apartment Dwelling



Singlewide Mobile Home Dwelling



Doublewide Manufactured Home Dwelling

Figure 8-2: Typical Examples of Temporary Dwellings



Recreational Vehicle, Class A Motorhome



Recreational Vehicle, Class B Motorhome



Recreational Vehicle, Class C Motorhome



Pop-Up Camper



Pull-Behind Camper



Fifth-Wheel Pull Behind Camper

8.3. RESIDENTIAL AGRICULTURE DISTRICT

(a) **District Description and Dimensional Standards**.

Residential Agricultural District "RA"	The RA Residential-Agricultural District is established as a district in which the principal use of the land is for low-density residential and agricultural purposes. These districts are intended to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at sufficiently low density to provide a healthful environment. In addition, some uses that are necessary in a rural environment, which are nonresidential in nature may be allowed with conditions or by special use.

Typical Uses and Structures



Rural Fire and Rescue



Farming Operations



Residential Housing



Agricultural Processing Operations

DIMENSIONAL STANDARDS

Requirements	Public Water And Sewer	Public Water, No Public Sewer	No Public Water No Public Sewer
Minimum Lot Area in Square Feet	11,250 Sq. Ft.	15,000 Sq. Ft.	20,000 Sq. Ft.
Minimum Lot Width in Feet	80 ft.	80 ft.	80 ft.
Minimum Lot Depth in Feet	150 ft.	150ft.	n/a
Minimum Setback Lines In Feet:			
Front	40 ft.	40 ft.	40 ft.
Side	10 ft.	10 ft.	10 ft.
Corner Lot, side abutting street	20 ft.	20 ft.	20 ft.
Rear	20% of the mean lot depth, not to exceed 30 ft.	20% of the mean lot depth, not to exceed 30 ft.	20% of the mean lot depth, not to exceed 30 ft.
Maximum Building Height [1]	35 ft.	35 ft.	35 ft.
Maximum Lot Coverage	40%	30%	20%

[1] Height of buildings shall not exceed thirty-five (35) feet, unless the depth of the front and total width of the side yards required herein shall be increased by one(!) foot for each two (2) feet, or fraction thereto, of building height in excess of thirty-five (35) feet. (Section 24.4(d))

(d) Parking and Loading: Refer to ***Article 10, Part I.***

(b) Signs: Refer to ***Article 10, Part II*****.**

(c) Landscaping and Buffering: Refer to ***Article 10, Part III*****.**

(d) Outdoor Lighting: Refer to ***Article 10, Part IV.***

(Ord. 7/7/2003, Sections 24.1 - 24.4)

8.2. RESIDENTIAL SINGLE FAMILY DISTRICT R-1

(a) **District Description and Dimensional Standards**.

Residential Single Family District "R-1"	The R-1 district is designed for medium density residential development and other compatible uses. It provides an environment for residential use at densities that correspond with the available services while protecting residential use from non-residential use that may create a public health, safety, or general welfare conflict or nuisance. The district also protects residential development that is primarily dependent on private wells and septic tanks to insure a safe and healthy living environment.

Typical Uses and Structures



Schools, Colleges and Community Centers



Manufactured Home Parks



Churches, Fellowship Halls and Cemeteries



Single Family Stick Built Housing

DIMENSIONAL STANDARDS			
Requirements	**Public Water And Sewer**	**Public Water, No Public Sewer**	**No Public Water No Public Sewer**
Minimum Lot Area in Square Feet	7,000 Sq. Ft.	15,000 Sq. Ft.	20,000 Sq. Ft.
Minimum Lot Width in Feet	60 ft.	70 ft.	80 ft.
Minimum Lot Depth in Feet	100 ft.	120 ft.	150 ft.
Minimum Setback Lines in Feet:			
Front	30 ft.	30 ft.	30 ft.
Side	10 ft.	10 ft.	10 ft.
Corner Lot-Side abutting Street	20 ft.	20 ft.	20 ft.
Rear	20% of the mean lot depth, provided that the rear yard depth not exceed 30 ft.	20% of the mean lot depth, provided that the rear yard depth not exceed 30 ft.	20% of the mean lot depth, provided that the rear yard depth not exceed 30 ft.
Maximum Building Height [1]	35 ft.	35 ft.	35 ft.
Maximum Lot Coverage	40%	30%	20%

[1] Height of buildings shall not exceed thirty-five (35) feet, unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet, or fraction thereto, of building height in excess of thirty-five (35) feet. (Section 24.4(d))

(b) Minimum lot areas may change for uses in the R District which are permitted with conditions. **Refer to Section 11.4.**

(e) Parking and Loading: Refer to ***Article 10, Part I***.

(d) Signs: Refer to ***Article 10, Part II.***

(e) Landscaping and Buffering: Refer to ***Article 10, Part III***.

(f) Outdoor Lighting: Refer to ***Article 10, Part IV***.

(Ord. 7/7/2003, Section 25.1 – 25.4)

8.3. RESIDENTIAL DISTRICT R-2

(a) **District Description and Dimensional Standards**.

Residential District "R-2"	The R-2 district is designed to promote rural residential neighborhoods in areas adjacent to municipalities. These consist primarily of single family dwellings, home occupations related to rural living, and services that support them. It provides an environment for residential use at densities that correspond with the available services while protecting residential use from non-residential use that may create a public health, safety, or general welfare conflict or nuisance.

Typical Uses and Structures



Single Family Homes



Duplex Homes



Multi-Family Housing



Group Homes

DIMENSIONAL STANDARDS

Requirements	Public Water And Sewer	Public Water, No Public Sewer	No Public Water No Public Sewer
Minimum Lot Area in Square Feet	7,000 Sq. Ft.	15,000 Sq. Ft.	20,000 Sq. Ft.
Minimum Lot Width in Feet	60 ft.	75 ft.	80 ft.
Minimum Lot Depth in Feet	100 ft.	120 ft.	150 ft.
Minimum Setback Lines in Feet:			
Front	30 ft.	30 ft.	30 ft.
Side	10 ft.	10 ft.	10 ft.
Corner Lot-Side abutting Street	20 ft.	20 ft.	20 ft.
Rear	20% of the mean lot depth, provided that the rear yard depth not exceed 30 ft.	20% of the mean lot depth, provided that the rear yard depth not exceed 30 ft.	20% of the mean lot depth, provided that the rear yard depth not exceed 30 ft.
Maximum Building Height [1]	35 ft.	35 ft.	35 ft.
Maximum Lot Coverage	40%	30%	20%

[1] Height of buildings shall not exceed thirty-five (35) feet, unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet, or fraction thereto, of building height in excess of thirty-five (35) feet. (Section 24.4(d))

(c) Minimum lot areas may change for uses in the R District which are permitted with conditions. **Refer to Section 11.4.**

(f) Parking and Loading: Refer to ***Article 10, Part I***.

(e) Signs: Refer to ***Article 10, Part II.***

(f) Landscaping and Buffering: Refer to ***Article 10, Part III***.

(g) Outdoor Lighting: Refer to ***Article 10, Part IV.***

(Ord. 7/7/2003, Section 26.1 – 26.4)

8.4. NEIGHBORHOOD COMMERCIAL DISTRICT C-1

a) **District Description and Dimensional Standards**.

Neighborhood Commercial District "C-1"	The Neighborhood Commercial District accommodates retail goods and services to the surrounding residential neighborhood. It is the intent of this district to permit existing residences to continue until removed. No new residences are permitted.

Typical Uses and Structures



Banks and Financial Services



Grocery Stores



Government Offices, Post Offices, Courts



Childcare Services

DIMENSIONAL STANDARDS			
Requirements	**Public Water And Sewer**	**Public Water, No Public Sewer**	**No Public Water No Public Sewer**
Minimum Lot Area in Square Feet	20,000 Sq. Ft.	30,000 Sq. Ft.	40,000 Sq. Ft.
Minimum Lot Width in Feet	75 ft.	75 ft.	75 ft.
Minimum Lot Depth in Feet	120 ft.	120 ft.	120 ft.
Minimum Setback Lines In Feet:			
Front	40 ft.	40 ft.	40 ft.
Side	None required except where a lot abuts a residential district, then 15 ft. required.	None required except where a lot abuts a residential district, then 15 ft. required.	None required except where a lot abuts a residential district, then 15 ft. required.
Side Abutting Street	None required	None required	None required
Rear	15 ft.	15 ft.	15 ft.
Maximum Lot Coverage	60%	50%	40%
Maximum Building Height	45 ft.	45 ft.	45 ft.

(b) Minimum lot areas for uses in the C District which are permitted with conditions remain as stated above.

(c) Parking and Loading: Refer to ***Article 10, Part I***.

(d) Signs: Refer to ***Article 10, Part II***.

(e) Landscaping and Buffering: Refer to ***Article 10, Part III***.

(f) Outdoor Lighting: Refer to ***Article 10, Part IV***.

(Ord. 7/7/2003, Section 27.1 – 27.4)

8.5. HIGHWAY COMMERCIAL DISTRICT HC

a) **District Description and Dimensional Standards**.

Highway Commercial District "HC"	The Highway Commercial District accommodates many commercial uses that are essential services to passing motorists. The purpose is to provide primarily for auto-dependent uses in areas not amenable to easy pedestrian access and a comfortable pedestrian environment. It is expected that the Highway Commercial District will serve not only interstate travelers as well.

Typical Uses and Structures



Fire and Emergency Operations



Feed and Seed Stores



Restaurants and Eating Establishments



Banks and Financial Services

DIMENSIONAL STANDARDS			
Requirements	**Public Water And Sewer**	**Public Water, No Public Sewer**	**No Public Water No Public Sewer**
Minimum Lot Area in Square Feet	20,000 Sq. Ft.	30,000 Sq. Ft.	40,000 Sq. Ft.
Minimum Lot Width in Feet	75 ft.	75 ft.	75 ft.
Minimum Lot Depth in Feet	120 ft.	120 ft.	120 ft.
Minimum Setback Lines In Feet:			
Front	40 ft.	40 ft.	40 ft.
Side	None required except where a lot abuts a residential district, then 15 ft. required.	None required except where a lot abuts a residential district, then 15 ft. required.	None required except where a lot abuts a residential district, then 15 ft. required.
Side Abutting Street	None required	None required	None required
Rear	15 ft.	15 ft.	15 ft.
Maximum Building Height	45 ft.	45 ft.	45 ft.
Maximum Lot Coverage	60%	50%	40%

(b) Minimum lot areas for uses in the C District which are permitted with conditions remain as stated above.

(c) Parking and Loading: Refer to ***Article 10, Part I.***

(d) Signs: Refer to ***Article 10, Part II.***

(e) Landscaping and Buffering: Refer to ***Article 10, Part III***.

(f) Outdoor Lighting: Refer to ***Article 10, Part IV.***

(Ord. 7/7/2003, Section 28.1 – 28.4)

8.6. LIGHT INDUSTRIAL DISTRICT I-1

a) **District Description and Dimensional Standards**.

Light Industrial District "I-1"	The purpose of the Light Industrial District is to promote and protect both existing and potential sites which are considered suitable for industrial use and to prohibit uses of land which would substantially interfere with the continuation of uses permitted in the district, and to promote the operation of well-planned and maintained industrial facilities. The Light Industrial District is intended to provide locations for enterprises engaged in manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembly of goods, merchandise or equipment which have low levels of dust, noise, vibration and waste generation.

Typical Uses and Structures



Manufacturing companies



Manufacturing Companies



Public or Private Water and Sewer Infrastructure



Printing and Publishing Companies

DIMENSIONAL STANDARDS			
Requirements	**Public Water And Sewer**	**Public Water, No Public Sewer**	**No Public Water No Public Sewer**
Minimum Lot Area	One acre	One acre	One acre
Minimum Lot Width in Feet	200 ft.	200 ft.	200 ft.
Minimum Lot Depth in Feet	250 ft.	250 ft.	250 ft.
Minimum Setback Lines In Feet:			
Front	50 ft.	50 ft.	50 ft.
Side	15 ft.	15 ft.	15 ft.
Side abutting Street	15 ft.	15 ft.	15 ft.
Rear	20 ft.	20 ft.	20 ft.
Maximum Lot Coverage	40%	40%	40%
Maximum Building Height	50 ft. unless the depth of the front and total width of the side yards shall be increased by one foot for every two feet, or fraction thereof, of building height in excess of 50 ft.	50 ft. unless the depth of the front and total width of the side yards shall be increased by one foot for every two feet, or fraction thereof, of building height in excess of 50 ft.	50 ft. unless the depth of the front and total width of the side yards shall be increased by one foot for every two feet, or fraction thereof, of building height in excess of 50 ft.

(b) **Development Guidelines**.

1) The total ground area covered by the principal building and all accessory buildings shall not exceed 40 % of the total lot area.
2) Complete fencing with vegetative screening if the abutting land is in a residential district. The fence shall be a minimum of 6 feet.

(c) Minimum lot areas for uses in the I District which are permitted with conditions remain as stated above.

(d) Parking and Loading: Refer to ***Article 10, Part I***.

(e) Signs: Refer to ***Article 10, Part II***.

(f) Landscaping and Buffering: Refer to ***Article 10, Part III.***

(g) Outdoor Lighting: Refer to ***Article 10, Part IV***.

(Ord. 7/7/2003, Section 29.1 – 29.4)

8.7. HEAVY INDUSTRIAL DISTRICT I-2

a) **District Description and Dimensional Standards**.

Heavy Industrial District "I-2"

The purpose of the Heavy Industrial District is to promote and protect both existing and potential industrial sites which are considered suitable for heavy industrial use and to prohibit uses of land which would substantially interfere with the continuation of uses permitted in the district, and to promote the operation of well-planned and maintained industrial facilities. The Heavy Industrial District is intended for manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembly of goods, merchandise or equipment with significant noise, dust, vibration and waste generation which may not be compatible with other uses.

Typical Uses and Structures



Heavy Industrial Manufacturing



Junk Yards and Salvage Yards



Freight/Trucking Companies



Public or Private Water and Sewer Infrastructure

DIMENSIONAL STANDARDS			
Requirements	**Public Water And Sewer**	**Public Water, No Public Sewer**	**No Public Water No Public Sewer**
Minimum Lot Area in Square Feet	One acre	One acre	One acre
Minimum Lot Width in Feet	200 ft.	200 ft.	200 ft.
Minimum Lot Depth in Feet	250 ft.	250 ft.	250 ft.
Minimum Setback Lines In Feet:			
Front	50 ft.	50 ft.	50 ft.
Side	15 ft.	15 ft.	15 ft.
Rear	20 ft.	20 ft.	20 ft.
Rear abutting a lot zones RA or R	150 ft.	150 ft.	150 ft.
Maximum Lot Coverage	40%	40%	40%
Maximum Building Height	50 ft.	50 ft.	50 ft.

(b) **Development Guidelines**.

1) Additional building height is allowed to exceed 50 ft. up to 80 ft., when all building setbacks are increased 20' for every 10' in building height.

2) Complete fencing with vegetative screening if the abutting land is in a residential district. The fence shall be a minimum of 6 feet.

(c) The total ground area covered by the principal structure and all accessory structures shall not exceed 40% of the total area.

(d) Minimum lot areas for uses in the I District which are permitted with conditions remain as stated above.

(e) Parking and Loading: Refer to ***Article 10, Part I***.

(f) Signs: Refer to ***Article 10, Part II***.

(g) Landscaping and Buffering: Refer to ***Article 10, Part III.***

(h) Outdoor Lighting: Refer to ***Article 10, Part IV***.

(Ord. 7/7/2003, Section 30.1 –30.4)

8.8. OPEN SPACE DISTRICT OS

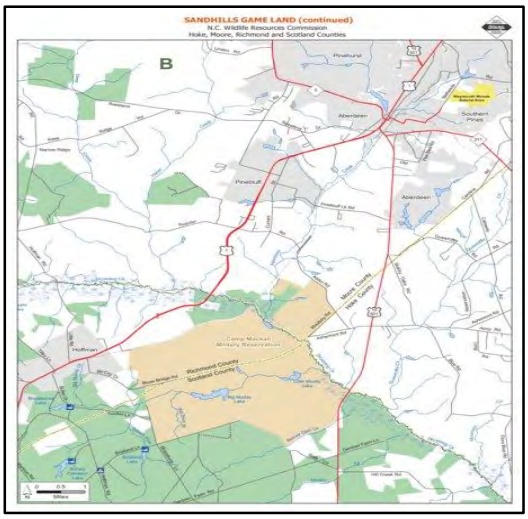
(a) **District Description and Dimensional Standards**.

Open Space District "OS"	The purpose of the Open Space district is to protect undisturbed open space, and to prohibit building and urban land use in the land areas subject to flooding preserve land for public recreation, community facility sites, airport approaches, natural or man-made bodies of water, forest, and other similar open space uses.

Typical Uses and Structures



Gum Swamp Lake



Sandhills Game Lands



State Forests



Recreational Areas

DIMENSIONAL STANDARDS			
Requirements	**Public Water And Sewer**	**Public Water, No Public Sewer**	**No Public Water No Public Sewer**
Minimum Lot Area in Square Feet	one acre	one acre	one acre
Minimum Lot Width in Feet	n/a	n/a	n/a
Minimum Lot Depth in Feet	n/a	n/a	n/a
Minimum Setback Lines In Feet:			
Front	50 ft.	50 ft.	50 ft.
Side	15 ft.	15 ft.	15 ft.
Side abutting Street or Road	20 ft.	20 ft.	20 ft.
Rear	25 ft.	25 ft.	25 ft.
Maximum Lot Coverage	20%	20%	20%
Maximum Building Height	35 ft.	35 ft.	35 ft.

(b) Parking and Loading: Refer to ***Article 10, Part I***.

(c) Signs: Refer to ***Article 10, Part II***.

(d) Landscaping and Buffering: Refer to ***Article 10, Part III.***

(e) Outdoor Lighting: Refer to ***Article 10, Part IV.***

(Ord. 7/7/2003, Section 31.1 –31.4)

8.9. OVERLAY DISTRICTS ESTABLISHED

There are hereby established overlay districts for use in zoning of Scotland County. Overlay Districts are implemented in targeted areas to supplement the base zoning districts. Overlay districts are meant to achieve a specific purpose, such as preservation of existing neighborhood built characteristics, protecting public safety and welfare, or conserving natural areas.

8.10. MANUFACTURED HOME OVERLAY DISTRICT (MHOD)

8.10.1 *Purpose*. In accordance with the comprehensive plan and based on local needs, and as authorized by G.S. I53A-383.I and G.S. 160A-383. I{e,) two types of manufactured home overlay areas may be established. Such overlay areas may not consist of an individual lot or scattered lots, but shall consist of a delineated area within which additional requirements or standards are placed upon manufactured homes. The intent of this approach is to allow manufactured homes in parts of a zoning district where they would not otherwise be allowed, subject to appropriate conditions. The Planning and Zoning Board and the Board of Commissioners will give close consideration to whether manufactured homes would be compatible with surrounding land use.

8.10.2 *Description*. Manufactured Home Class A (MHA) and Manufactured Home Class B (Ml-1B), overlay areas which overlay or overlap existing zoning districts, the extent and boundaries of which are or may be indicated on the zoning map as approved by the Board of Commissioners.

In addition to other permitted uses, Class A manufactured homes shall be permitted in Ml-IA overlay areas, and Class A and B homes shall be pem1tited in MHB overlay areas. These uses are in addition to other permitted uses. All other applicable requirements, including but not limited to setback and accessory structure requirements, also shall apply to manufactured homes allowed in overlay areas.

(Ord. 7/7/2003, Section 5.1.1 –5.1.3)

8.11. HIGHWAY COMMERCIAL OVERLAY DISTRICT FOR THE RESIDENTIAL AGRICULTURAL DISTRICT (RAHC)

In accordance with G.S. I53A-342, a Highway Commercial Overlay Area (HC) is established and may be applied to selected portions of RA (Residential Agricultural) districts for the purpose of controlling commercial activities along entrance corridor highways on a selective basis. All commercial activities in the overlay areas shall be approved only as a Special Use, on a case-by-case basis, in accordance with Section 6.5.

(Ord. 7/7/2003, Section 5.2)

8.12. AIRPORT OVERLAY DISTRICT (AOD)

8.12.1. **Intent**.

It is hereby found that an obstruction has a potential for endangering the lives and property of users of Scotland County Airports, and property or occupants of land in its vicinity; that an obstruction may affect existing or future instrument approaches of Scotland County Airports; and that an obstruction may reduce the size of areas available for landing, take-off and maneuvering of aircrafts, thus tending to destroy or impair the unity of Scotland County Airports and the public investment therein.

Further, it is the intent and purpose of this section to promote the public health, safety, and general welfare by regulating and restricting the development of structures for human occupancy within an area surrounding airports within Scotland County to protect residents from harmful noise. Therefore, the Airport Overlay District is established, which includes Height restriction and Noise restriction zones within the overlay (see section 11 for definition of Overlay District).

(Ord. 7/7/2003, Section 6.1)

8.12.2. **Airport zones.**

In order to carry out the provisions of this Ordinance, there are hereby created and established ce1tain zones which include all ofU1e land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Laurinburg-Maxton Airport. Such zones are shown on Laurinburg-Maxton Airport Zoning Map consisting of one sheet, prepared by the Scotland County Department of Planning and Zoning, as amended from time to time, which is attached to this Ordinance and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

(Ord. 7/7/2003, Section 6.2)

(a) *Runway Larger Than Utility, Visual Approach Zone* - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of l,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(b) *Runway Larger Than Utility - With A Visibility Minimum Greater Than 3/4 Mile, Nonprecision Instrument Approach Zone* - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(c) *Runway Larger Than Utility - With A Visibility Minimum up Lo 3/4 Mile, Nonprecision Instrument Approach Zone* - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of4,000 feet at a horizontal distance of 10 ,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(d) *Runway, Precision Instrument Approach Zone* - The inner edge of this approach zone coincides with the width of the primary surface and is l,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(e) *Transitional Zones* - The transitional zones are the areas beneath the transitional surfaces.

(f) *Horizontal Zone* - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and I0,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(g) *Conical Zone* - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there for a horizontal distance or 4,000 feel.

8.12.3. **Airport Zone Height Limitations**.

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

(a) *Runway Larger Than Utility Visual Approach Zone* - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. The elevations of the Runway Larger Than Utility Visual Approach Zone range from 216.6 to 466.6 feet depending upon horizontal distance from the primary surface.

(b) *Runway Larger Than Utility with A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone* - Slopes thirty-four (34) *feet* outward for each foot upward beginning at the end of and at tl1e same elevation as the primary surface and extending lo a horizontal distance of I0,000 feet along the extended runway centerline. The elevations of the Runway Larger Than Utility with A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone range from 216.6 to *510.6* feet depending upon horizontal distance from the primary surface.

(c) *Runway Larger Than Utility with A Visibility Minimum As Low As 3/4 Nonprecision Instrument Approach Zone* - Slopes thirty-four (34) feet outward for each foot upward beginning at the end at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline. The elevations of the Runway Larger Than Utility with A Visibility Minimum As Low As 3/4 Nonprecision Instrument Approach Zone range from 2I6.6 to 510.6 feel depending upon horizontal distance from the primary surface.

(d) *Precision Instrument Runway Approach Zone* - Slopes fifty (50) feet outward for each *foot* upward beginning at the end of and at the same elevation as the primary surface and extending 10 a horizontal distance of l0,000 feel (breakpoint) along the extended runway centerline; thence slopes upward forty (40) feet horizontally for eacl1 fool vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline. The elevations of the Precision Instrument Runway Approach Zone range from 216.6 to 1,216.6 feet (416.6 feet at breakpoint) depending upon horizontal distance from the primary surface.

(e) *Transitional Zones* – Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surfaces, and extending to a height of l50 feet above the airport elevation, which is 216.6 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surfaces, and extending *to* where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surfaces, and extending a horizontal distance of 50,000 feet measured at 90 degree angles to the extended runway centerline. The elevations of the Transitional Zones range from 216.6 to 7,359.4 feet depending upon horizontal distance from the primary surface.

(f) *Horizontal Zone* - Established at 150 feet above the airport elevation or at a height of366.6 feet above mean sea level. The elevations of the Runway Larger Than Utility Visual Approach Zone range from 216.6 to 466.6 feet depending upon horizontal distance from the primary surface.

(g) *Conical Zone* - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of350 feet above the airport elevation. The elevations of the Runway Larger Than Utility Visual Approach Zone range from 216.6to 466.6 feet depending upon horizontal distance from the primary surface.

(h) *Excepted Height Limitations* - This Ordinance shall not be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land, unless otherwise specified by this ordinance.

8.12.4. **Use Restriction.**

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to:

(a) Create electrical interference with navigational signals or radio communication between the airport and aircraft,
(b) Make it difficult for pilots to distinguish between airport light and others,
(c) Result in glare in the eyes of pilots using the airport,
(d) Impair visibility in the vicinity of the airport, create bird strike hazards, or
(e) Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

8.12.5. **Nonconforming Use**

(a) *Regulations Not Retroactive* - The regulations prescribed in this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations at the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and completion of has been diligently pursued in accordance with scheduled and passed inspections.

(b) *Marking and Lighting* - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Federal Aviation Administration to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Laurinburg-Maxton Airport Commission.

8.12.6. **Permits**

(a) Future Uses - Except as specifically provided in a, b, and c in this section, no material change shall be made in the use of land, no structure shall be erected or use otherwise established in any zone hereby created unless a zoning permit indicates the purpose for which the permit is desired and that the proposed use would conform to the regulations contained in this section. If the proposed use conforms to requirements, the permit shall be issued. No permit for a use inconsistent with the provisions of this ordinance shall be granted unless a variance has been approved in accordance with this section.

1. In the area lying within the limits of the horizontal zone and conical zone, a zoning permit must specify maximum heights for any tree or structure. Such tree or structure shall not exceed an elevation of 366.6 feet within the horizontal zone or the range of 366 .6 to 384.1 feet (depending upon horizontal distance) within the conical zone.
2. In areas lying within the limits of the approach zones but at a horizontal distance of more than 4,200 feet from each end of the runway, zone, a zoning permit must specify maximum heights for any tree or structure. Such tree or structure shall not exceed an elevation of defined by the geographic location with the approach zone.
3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, zone, a zoning permit must specify maximum heights for any tree or structure. Such tree or structure shall not exceed an elevation of 366.6 feet witl1in the horizontal zone or the rang e of 366.6 to 384.1 feet (depending upon horizontal distance) within the conical zone.

(b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance.

8.12.7. **Existing Uses**

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of this Ordinance or any amendments thereto or than it is when tl1e application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

8.12.8. **Nonconforming Uses Abandoned or Destroyed**

Whenever the Zoning Administrator determines that a nonconfom1ing tree or structure has been abandoned or more than 80 percent tom down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

8.12.9. **Variances**

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Adjustment, (BZA) for a variance from such regulations. The application for variance shall be accompanied by a detem1ination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. Additionally, no application for a variance to the requirements of this Ordinance may be considered by the Board of Adjustment, (BZA) unless the county has furnished a copy of the application to the Airport Manager for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 10 days after receipt, the Board of Adjustment, (BZA) may act on its own to grant or deny said application.

8.12.10. **Obstruction Marking and Lighting**

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, (BZA), this condition may be modified to require the owner to pcrmit the Laurinburg-Ma'(ton Airport Commission, at its own expense, to install, operate, and maintain the necessary markings and lights.

8.12.11. **Enforcement**

It shall be the duty of the Scotland County Zoning Administrator lo administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Scotland County Planning Director upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Scotland County Planning Director shall be promptly considered and granted or denied. Application for action by the Board of Adjustment (BZA) shall be forthwith transmitted by the Scotland County Zoning Administrator.

8.12.12. **Board of Adjustment**

(a) The mandate of the existing Board or Adjustment, (BZA), shall be expanded to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the County Planning Director in the enforcement of this Section; (2) to hear and decide special exceptions to the terms of this Section upon which such Board of Adjustment, (BZA) under such regulations may be required to pass; and (3) to hear and decide specific variances.

(b) Except as noted above, the existing Board of Adjustment, (BZA), shall remain as previously constituted by the Scotland County Board of Commissioners.

8.12.13. **Appeals**

(a) Any person aggrieved by a decision of the County Zoning Administrator, made in the administration of the Ordinance, may appeal to the Board of Adjustment.

(b) All appeals hereunder must be taken within thirty days from the day the Board of Zoning Adjustment decision was rendered and communicated, by filing with the Scotland County Planning Director a notice of appeal specifying tl1e grounds thereof. The Scotland County Planning Director shall forthwith transmit to the Board of Adjustment, (BZA) all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Scotland County Planning Director certifies to the Board of Adjustment, (BZA), after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Scotland County Zoning Administrator cause imminent peril to life or property. In such case, proceedings shall not be stayed

except by order of the Board of Adjustment, (BZA) or notice to the Scot land County Planning Director and on due cause shown.

(d) The Board of Adjustment (BZA) shall fix a reasonable time for hearing appeals, give public notice and due notice to the pm1ies in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

(e) The Board of Adjustment may, in conformity with the provisions of this Section 63-63 of the General Statutes of the State of North Carolina, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or detem1ination appealed from and may make such order, requirement decision, or determination as may be appropriate under the circumstances.

8.12.14. **Judicial Review**

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, (BZA), may appeal to the Superior Court as provided in Section 63-63 of the Genera l Statutes of the State of North Carolina.

8.12.15. **Enforcement and Remedies**

Each violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a Class 3 misdemeanor. Each day a violation continues to exist shall constitute a separate offense. In addition, the county may institute court action to prevent, retain, correct, or abate any violation of this ordinance, or of airport zoning regulations or of an order or ruling made in connection with its administration or enforcement. Such actions shall include, but not be limited to those for injunctive relief.

8.12.16. **Conflicting Regulations**

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

(Ord. 7/7/2003, Section 6)

8.13. TABLE OF USES

TABLE OF USES

Key: P = Permitted Use C = Permitted Use with Conditions S = Special Use Permit Required

Use Type	Zoning Districts								Specific Development Regulation
	RA	R-1	R-2	C-1	HC	I-1	I-2	OS	
AGRICULTURAL USES									
Agricultural Uses (including Bona fide farms and Agritourism Uses , (including the sale of products at a retail stand), Greenhouses, Plant Nurseries and Turf Farms	P			P	P	P	P	P	
Bona Fide Farms	P	P	P	P	P	P	P	P	
Farmer's Markets – Commercial; Open Air Markets				C	C	C	C		**11.33**
Forestry and Forestry Support Services	P	P	P	P	P	P	P	P	
RESIDENTIAL USES									
Cluster Housing Development	S	S	S						**11.24**
Dwelling, Accessory Residential		S	S						**11.29**
Dwelling, Duplex (Two-Family)			P						
Dwelling, Mixed Use	C		C	C	C				**11.30**
Dwelling, Single Family (incl. Modular Homes) on Individual Lots	P	P	P						
Dwelling, Multi-Family, including structures with three or more units such as apartments, condominiums, and townhouses			S						**11.31**
Granny Pods (See Temporary Health Care Structures)									

	RA	R-1	R-2	C-1	HC	I-1	I-2	OS	
Manufactured Home, Class A, on Individual Lots	P								
Manufactured Home, Class B; However, Class B Manufactured Homes are not permitted where a Manufactured Home Class A Overlay has been applied to any part of an RA District.	P								
Manufactured Home, Class C on Individual Lot or in MHP	**PROHIBITED**								
Manufactured Home Park	S	S	S			S	S		**See Article 13: Manufactured Home Parks**
Manufactured Home as a Temporary Use	C	C	C	C	C	C	C		**11.57**
Residential Subdivision	P	P	P						**See Article 15: Subdivisions**
Rooming and Boarding Houses			P						
CIVIC AND INSTITUTIONAL USES									
Ambulance Service, Public or Private				C	C				**11.7**
Animal Shelters				C	C				**11.9**
Arenas, Assembly and Exhibition Halls - Public or Private				C	C				**11.10**
Athletic Fields, Recreational Buildings, and Playgrounds	P	P	P			C	C	C	**11.11**
Cemeteries – Independent and Family Cemeteries; Religious Institutions with Cemetery	S	S	S						**11.22**
Churches, Synagogue and Other Places of Worship not including cemeteries, but including other customary uses				P	P				
Clubs (Civic), Lodge, Community Center, Meeting and Assembly Halls-Public or Private, non-profit		C	C	P	P	P	P		**11.23**

	RA	R-1	R-2	C-1	HC	I-1	I-2	OS	
Day Care Center Adult (facility with more than eight persons)	C	C			C				**11.25**
Day Care Center, Child (facility with more than eight children)	C	C			C				**11.26**
Family Child Care Home/Day Care Home (two to eight children. A family child care home is licensed by the NC Div. of Child Development and Early Ed.)	C								**11.27**
Day Care Home, Adult (seven or more beds)	C								**11.28**
Family Care Home (no more than six residents)	C	C	C						**11.32**
Fire and Rescue Station/Law Enforcement Station	C					P	P		**11.34**
Government Office/Facility (such as a Post Office, Veteran's Affairs or Social Security Office)				P	P				
Industrial trade schools and research labs						P	P		
Nature Observation Points and Reserves	P							P	
Nursing homes, rest homes and convalescent centers	C			C	C				**11.62**
Offices - Business, professional and medical				P	P				
Public Airports (must meet Airport Overlay District requirements)						S	S		**See Section 8.6**
Radio and Television Studios, including towers	S			S	S	S			**11.67**
Recreation, Outdoor - including but not limited to ball fields, swimming pools, horseback riding trails, equestrian clubs, etc.	C	C	C					C	**11.68**
Schools (Public or Private) - K-12; Colleges and Universities; Technical, Trade and Business	P	P	P						
Solid Waste Convenience Sites and Recycling Sites	C	C	C	C	C	C	C	C	**11.71**
Urgent Care Facility/Medical Care Clinics/Hospitals - Public or Private			C	C	C	P	P		**11.76**
Wireless Communication Towers and other steel framework towers	S			S	S	S	S		**See Article 16**

	RA	R-1	R-2	C-1	HC	I-1	I-2	OS	
COMMERCIAL AND RECREATIONAL									
Adult Businesses and Entertainment Establishments(including bookstores)							S		**11.6**
Animal Kennels (outdoor) and Boarding and Grooming Facilities; Vet Clinics	C				P	P	P		**11.8**
Auction House, no livestock	C				C	P			**11.12**
Auction/sales barn for livestock							P		
Auto Service Station, no storage, no junk vehicles				P	P	P	P		
Bakery Products, Candy, Confectionary Shops				P	P				
Bank, Savings and Loan, or Credit Union (with or without drive-in)				P	P				
Barber or Beauty Shop				P	P				
Bakery Products, Candy, Confectionary Shops				P	P				
Bank, Savings and Loan, or Credit Union (with or without drive-in)				P	P				
Barber or Beauty Shop				P	P				
Bed and Breakfast Inns	P	P	P						
Boat and trailer works and sales						P	P		
Bookstores				P	P				
Building Supply Sales					P				
Cabinet, casket, woodworking and upholstery shops						P	P		
Campgrounds (Public and Private); Recreational Vehicle Parks; Travel Trailer Parks									**11.17**

	RA	R-1	R-2	C-1	HC	I-1	I-2	OS	
Car Renting, Leasing and Sales				P	P				
Car (Vehicle) Repair and Services - including but not limited to body shops, engine repair, garages, wrecker services. Does not include junk vehicle storage.					P	P	P		
Car Wash				P	P	P	P		
Carnivals and Fairs (see Temporary Events)									
Contractors/Construction Business - including but not limited to general contractors, subcontractors/trades (grading, landscaping, tree services, equipment services) etc.)	P					P	P		
Convenience Store with or without gas pumps	P			P	P	P	P		
Driving Range		P							
Drive-In Theatre					P				
Drugstores and Gift Shops				P	P				
Dry Cleaners						P	P		
Eating and Drinking Establishments, excluding drive-ins				P	P				
Eating and Drinking Establishments, including drive-ins					P	P	P		
Electrical supply houses and repair shops						P	P		
Extermination and Pest Control Services						P	P		
Farm Equipment Sales and Service					P	P	P		
Feed and Seed Sales, with or without outdoor storage	P			P	P	P	P		
Flea Market - Permanent Location (See Temporary Uses for Temporary Flea Markets)					C				**11.36**
Firing Range						S			**11.35**
Florists				P	P				

	RA	R-1	R-2	C-1	HC	I-1	I-2	OS	
Fuel Oil Sales (Retail)					C	C	C		**11.41**
Funeral Home, no Crematorium	C			C	C				**11.42**
Funeral Home with Crematorium	S			S	S	S	S		**11.43**
Go-Cart and Motor Cross Raceway/Track					S				**11.44**
Golf Course, Par 3	C	C							**11.45**
Golf Course, excluding miniature golf - Public or Private	C	C							**11.46**
Golf Course, Miniature Golf					P				
Grocery Stores				P	P				
Hardware Store				P	P				
Heating and refrigeration shops						P	P		
Helipads and Heliports	S					S	S		**11.50**
Health and Wellness establishments				P	P				
Hotels and Motels					P				
Ice Vending Machine, unmanned				C	C				**11.51**
Laundries, Laundromats and dry-cleaning pick-up stations				P	P				
Lumber Yards; Building materials storage and sales yards including storage						P	P		
Manufactured/Modular Home Sales Lots					P	P	P		
Manufactured Home Storage and Repair yard	S				S	S	S		**11.58**
Mini-Warehouse/Storage Facility	C								**11.60**
Mixed Use Development (commercial is primary use)				P	P				
Movie Theaters not including drive-ins				P	P				
Moving Companies					P	P	P		

	RA	R-1	R-2	C-1	HC	I-1	I-2	OS	
Off-Premise Advertising (Billboards)	C					C	C		**See Section 10.8**
Other vehicle and equipment sales and services, including farm equipment, trucks, motorcycles, motor homes and campers, boats.					P	P	P		
Parking lots and structures as principal uses				P	P	P	P		
Printing, publishing and binding establishments						P	P		
Recreation, Indoor including bowling alleys, skating rinks, etc.				P	P				
Real Estate Offices				P	P				
Recreational Vehicle Sales					P	P	P		
Riding Stables	P								
Shopping Centers				S	S	S			**11.70**
Sign painting and manufacturing establishments						P	P		
Tax Preparation Offices				P	P				
Tire recapping establishment						P	P		
Tobacco and Vape Shops				P					
Vehicle Towing Services	C					P	P		**11.77**
Vehicle Parts and Supply Sales						P	P		
Transportation and Freight Terminals/Truck Stop						S	S		**11.75**
Wholesale Trade such as building supplies, farm equipment, feed and seed, office equipment and supplies, large household appliances, plumbing and electrical fixtures, wholesale businesses, lumberyards, etc.)						P	P		

INDUSTRIAL AND MANUFACTURING USES									
	RA	**R-1**	**R-2**	**C-1**	**HC**	**I-1**	**I-2**	**OS**	
Air conditioning and heating equipment manufacturing						P	P		
Aircraft or missile manufacturing							S		**11.13**
Alcohol or alcoholic beverage manufacturing						S	S		**11.14**
Amusement, recreational and sporting goods manufacturing						P	P		
Apparel and clothing manufacturing, including hosiery						P	P		
Bakeries and other establishments manufacturing food products for wholesale distribution						P	P		
Belting and brake lining manufacturing						P	P		
Book Binding establishments						P	P		
Bottling Plants						P	P		
Business machine manufacturing						P	P		
Carbon or battery manufacturing							S		**11.18**
Ceramic Tile and Glass Manufacturing							S		**11.19**
Coffee. tea and spice processing						P	P		
Commercial or industrial incineration							S		**11.20**
Concrete and asphalt plants							S		**11.21**
Dairy products processing and distributing facilities						P	P		
Drugs, medicines and cosmetics manufacturing						P	P		
Dry Cleaning and laundry plants						P	P		
Electrical appliances and electronic equipment manufacturing						P	P		

	RA	R-1	R-2	C-1	HC	I-1	I-2	OS	
Extraction Operations (See Mining and Quarrying)									
Farm machinery assembly, sales, storage and repairs							P		
Feed Processing and Packaging						P	P		
Felt and sandpaper manufacturing						P	P		
Fertilizer manufacturing							S		**11.37**
Flour and feed mills						P	P		
Food Processing and Slaughterhouses							S		**11.38**
Foundries							S		**11.39**
Freezer lockers and ice plants						P	P		
Furniture Manufacturing						P	P		
Hardware and housewares manufacturing						P	P		
Hazardous and Toxic Chemical Processing and Disposal							S		**11.47**
Home furnishings manufacturing						P	P		
Industrial Research Laboratories						P	P		
Industrial Supplies and Equipment Sales						C			**11.52**
Ink Manufacturing							S		**11.53**
Insulation and wallboard manufacturing							P		
Leather products including luggage and shoe manufacturing						P	P		
Light machine and tool manufacturing						P	P		
Machine and welding shops						P	P		
Manufactured homes manufacturing and on-site display and sales						P	P		
Manufacturing or Industrial Use not elsewhere listed						S	S		**11.59**
Metal Fabricating plants including boiler and tank works							P		

	RA	R-1	R-2	C-1	HC	I-1	I-2	OS	
Mining/Quarrying/Sandpits and General Extraction Industries							S		**11.61**
Monument works and sales						P	P		
Motorcycle, lawn mower and power equipment sales and service						P	P		
Musical Instrument Manufacturing						P	P		
Offices pertaining to any permitted use						P	P		
Oil Cloth and linoleum manufacturing						P	P		
Pharmaceutical manufacturing						S	S		**11.78**
Pickle processing						P	P		
Plumbing and heating supply houses						P	P		
Pottery, porcelain or vitreous clay Manufacturing						P	P		
Precision instruments and jewelry Manufacturing						P	P		
Printing, engraving and publishing establishments						P	P		
Rubber manufacturing, natural or synthetic							S		**11.79**
Sawmills, planing mills, pallet and basket manufacturing							P		
Sheet metal, roofing and plumbing materials manufacturing							P		
Textile Products Manufacturing						P	P		
Vinegar and yeast manufacturing						P	P		
Waste materials reduction, disposal or treatment							P		
Wholesale and warehousing establishment not including the storage of volatile chemicals and explosives						P	P		
Wholesale storage of gasoline and oil products, including bottled gas and oxygen manufacturing, and other volatile and explosive chemicals (See Hazardous Chemical Storage 11.49)							S		**11.49**
Wood, pressure treating plants						P	P		

	RA	R-1	R-2	C-1	HC	I-1	I-2	OS	
Waste Management, Storage and Utility Uses									
Automobile parking lots and structures				P	P	P	P		
Automobile and other junk, wrecking or salvage yards					S	S	S		**11.16**
Automobile Service Station – Including Storage of Junk Vehicles					S	S	S		**11.15**
Fuels, Bulk Storage						S	S		**11.40**
Hazardous Chemical Storage							S		**11.49**
Junk Yards/Salvage Yards and Auto Graveyards						S	S		**11.54**
Landfill, Demolition	S					S	S		**11.55**
Landfill, Sanitary	S					S	S		**11.56**
Private Utilities, Equipment, Lines, Substation, Storage Yards	C	C	C	P	P	P	P	C	**11.65**
Public Utilities, Equipment, Lines, Substation, Storage Yards	C	C	C	P		P	P	C	**11.66**
Solar Farms	S					S	S		**See Article 14 – Solar Farms**
OTHER RELATED USES									
Combat Training Facility							S		**11.74**
ACCESSORY STRUCTURES AND USES									
Outdoor Sales and Display Areas				C	C	P	P		**11.63**

	RA	R-1	R-2	C-1	HC	I-1	I-2	OS	
Customary accessory structures other than those listed here, including detached garages, swimming pools, etc. when located in the rear yard where they shall not cover more than 30% of said rear yard area.	C	C	C	C	C	C	C	C	**11.5**
Home Occupation	C	C		C		C	C		**11.48**
Outdoor Storage	C	C	C	C	C				**11.64**
Satellite Dish Antenna	C	C	C	C	C	P	P		**11.69**
TEMPORARY STRUCTURES AND USES									
Manufactured Home as a Temporary Use	C	C		C		C	C	C	**11.53**
Temporary Sawmill	S								**11.72**
Temporary Structures and Uses	C	C	C	C	C	C	C	C	**11.73**
Temporary Construction Buildings (See Temporary Structures and Uses Section 11.73.6)	C	C	C	C	C	C	C	C	**11.73(c)**
Temporary Real Estate Offices/Model Home Sales Offices	C	C	C	C	C	C	C	C	**11.73(b)**
Temporary Storage in a Portable Container	C	C	C	C	C	C	C	C	**11.73(d)**
Temporary Emergency, Construction and Repair Residence	C	C	C	C	C	C	C	C	**11.73(e)**
Temporary Farm Worker Housing	C	C	C	C	C	C	C	C	**11.73(g)**
Garage, Yard, Auction and Estate Sales	C	C	C	C	C	C	C	C	**11.73(h)**
Temporary Outdoor Seasonal Sales	C	C	C	C	C	C	C	C	**11.73(i)**
Temporary Flea Markets	C	C	C	C	C	C	C	C	**11.73(j)**
Temporary Special Events	C	C	C	C	C	C	C	C	**11.73(k)**
USES NOT OTHERWISE CLASSIFIED									
Any Use Not Otherwise Prohibited By Law Or By This Ordinance	S	S	S	S	S	S	S	S	**11.80**

8.14. FLOOD DAMAGE PREVENTION ORDINANCE

Scotland County
Flood Damage Prevention Ordinance

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Commissioners of Scotland County, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT.

(1) The flood prone areas within the jurisdiction of Scotland County are subject to periodic inundation which results in loss of life, property, health and safety hazards, dis iption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, an impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

SECTION C. STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(1) restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(2) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(5) prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this ordinance are to:

(1) protect human life, safety, and health;

(2) minimize expenditure of public money for costly flood control projects;

(3) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) minimize prolonged business losses and interruptions;

(5) minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

(6) help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(7) ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Accessory Structure (Appurtenant Structure)" means 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. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

"Addition (to an existing building)" means an extension or increase in the floor area or height of a building or structure.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of Shallow Flooding" means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)".

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure".

"Chemical Storage Facility" means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings

or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Development Activity" means any activity defined as Development which will necessitate a Floodplain Development Permit.

"Disposal" means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Elevated Building" means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Encroachment" means the advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

"Existing Manufactured Home Park or Manufactured Home Subdivision" means 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 the initial effective date of the floodplain management regulations adopted by the community.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) the overflow of inland or tidal waters; and/or
(2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Boundary and Floodway Map (FBFM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

"Flood Insurance" means the insurance coverage provided under the National Flood Insurance Program.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

"Flood Insurance Study (FIS)" means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

"Flood Prone Area" see "Floodplain"

"Flood Zone" means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

"Floodplain" means any land area susceptible to being inundated by water from any source.

"Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain Development Permit" means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing

flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain Management Regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"Floodway encroachment analysis" means an engineering analysis of the impact a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries, base flood elevations, and floodway surcharge elevations. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

"Freeboard" means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the "Regulatory Flood Protection Elevation".

"Functionally Dependent Facility" means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Hazardous Waste Management Facility" means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

"Highest Adjacent Grade (HAG)" means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

"Historic Structure" means any structure that is:

(a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
(b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
(c) individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
(d) certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program".

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

"Letter of Map Change (LOMC)" mean an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

(a) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood

Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

"Lowest Adjacent Grade (LAG)" means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market Value" means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

"Mean Sea Level" means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.



"Non-Encroachment Area" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground.

"Public Safety" and/or "Nuisance" means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational Vehicle (RV)" means a vehicle, which is:

(a) built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projection;
(c) designed to be self-propelled or permanently towable by a light duty truck; and
(d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Reference Level" is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone AE, A, A99 or AO.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

"Remedy a Violation" means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

"Solid Waste Disposal Site" means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement". Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(a) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
(b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

"Variance" is a grant of relief from the requirements of this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation (WSE)" means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of Scotland County.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated December 6, 2019 for Scotland County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Scotland County are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

(a) considered as minimum requirements;
(b) liberally construed in favor of the governing body; and
(c) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Scotland County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall be guilty of a Class 3 misdemeanor and shall be fined more than fifty dollars 9($50.00) for each violation or failure to comply. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Scotland County from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Director of Building Inspections or designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(i) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(ii) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;

(iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;

(iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;

(v) the Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;

(vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

(vii) the certification of the plot plan by a registered land surveyor or professional engineer.

(b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

(i) elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

(ii) elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be floodproofed; and

(iii) elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

(c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34 (7/12)) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

(d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:

(i) the proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

(ii) openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(c) when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.

(e) Usage details of any enclosed areas below the lowest floor.

(f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

(h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.

(i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

(a) A description of the development to be permitted under the floodplain development permit.

(b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.

(c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.

(d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.

(e) All certification submittal requirements with timelines.

(f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(g) The flood openings requirements, if in Zones A, AO, AE or A1-30.

(h) Limitations of below BFE enclosure uses (if applicable). (I.e., parking, building access and limited storage only).

(3) **Certification Requirements.**

(a) Elevation Certificates

(i) An Elevation Certificate (FEMA Form 086-0-33 (7/12)) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. ***(STATE RECOMMENDED BUT OPTIONAL)***

(ii) A final as-built Elevation Certificate *(FEMA Form 086-0-33 (7/12))* is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificate

If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate *(FEMA Form 086-0-34 (7/12))*, with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).

(d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a

professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(e) Certification exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/flood proofing certification requirements specified in items (a) and (b) of this subsection:

(i) recreational vehicles meeting requirements of Article 5, Section B(6)(a);

(ii) temporary structures meeting requirements of Article 5, Section B(7); and

(iii) accessory structures less than 150 square feet meeting requirements of Article 5, Section B(8).

(4) **Determinations for existing buildings and structures.** For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.

(2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).

(7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been flood proofed, in accordance with the provisions of Article 4, Section B(3).

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Article 4, Section B(3).

(9) When flood proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).

(10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(11) When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D(2)(b), in order to administer the provisions of this ordinance.

(12) When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.

(13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

(14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable

hour for the purposes of inspection or other enforcement action.

(19) Follow through with corrective procedures of Article 4, Section D.

(20) Review, provide input, and make recommendations for variance requests.

(21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. CORRECTIVE PROCEDURES.

(1) Violations to be Corrected: When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(a) that the building or property is in violation of the floodplain management regulations;

(b) that a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(c) that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. (*One-hundred-eighty (180) calendar days or less is recommended)* Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

SECTION E. VARIANCE PROCEDURES.

(1) The Board of Adjustment as established by Scotland County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.

(2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) Variances may be issued for:

(a) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

(b) functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(c) any other type of development, provided it meets the requirements of this Section.

(4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(a) the danger that materials may be swept onto other lands to the injury of others;

(b) the danger to life and property due to flooding or erosion damage;

(c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) the importance of the services provided by the proposed facility to the community;

(e) the necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;

(f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) the compatibility of the proposed use with existing and anticipated development;

(h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(5) A written report addressing each of the above factors shall be submitted with the application for a variance.

(6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(9) Conditions for Variances:

(a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

(b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued prior to development permit approval.

(e) Variances shall only be issued upon:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

(a) The use serves a critical need in the community.

(b) No feasible location exists for the use outside the Special Flood Hazard Area.

(c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.

(d) The use complies with all other applicable Federal, State and local laws.

(e) Scotland County has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

In all Special Flood Hazard Areas, the following provisions are required:

(1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to

prevent flotation, collapse, and lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.

(9) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

(10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).

(11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(15) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

(16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE)

shall apply.

SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

(1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.

(2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section G(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and the inspection and maintenance plan.

(3) Manufactured Homes.

(a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.

(b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

(c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4).

(d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(b) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

(c) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(i) a minimum of two flood openings on different sides of each enclosed area subject to flooding;

(ii) the total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

(iii) if a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(iv) the bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;

(v) flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(vi) enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/Improvements.

(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(i) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(b) Additions to post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(i) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

(ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a (one) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the (one) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(i) any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

(ii) any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) Temporary Placement

(i) be on site for fewer than 180 consecutive days; or

(ii) be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions)

(b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary placement shall meet all the requirements for new construction.

(7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(a) a specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

(b) the name, address, and phone number of the individual responsible for the removal of the temporary structure;

(c) the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(d) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(e) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall not be temperature-controlled;

(c) Accessory structures shall be designed to have low flood damage potential;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A(1);

(f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below

Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(c).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of $3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or flood proofing standards of Article 5, Section B (2). Elevation or flood proofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

(9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

(d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(i) at or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(ii) anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.

(b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance

(c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

(a) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or flood proofed in accordance with standards in Article 5, Sections A and B.

(b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.

(c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.

(d) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or flood proofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(1) Standards of Article 5, Sections A and B; and

(2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in

Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

(a) it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or

(b) a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

(2) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(3) Manufactured homes may be permitted provided the following provisions are met:

(a) the anchoring and the elevation standards of Article 5, Section B(3); and

(b) the encroachment standards of Article 5, Section F(1).

SECTION G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be flood proofed to the same level as required in Article 5, Section G(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B(3) and Article 5, Section B(2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

ARTICLE 6. LEGAL STATUS PROVISIONS.

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted January 6, 1992 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Scotland County enacted on January 6, 1992, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for each municipal jurisdiction within Scotland County is as follows:

Town of East Laurinburg, July 24, 2007
City of Laurinburg, March 19, 1985
Town of Wagram, March 6, 2014

SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

SECTION C. SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION D. EFFECTIVE DATE.

This ordinance shall become effective upon adoption.

SECTION E. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Board of Commissioners of Scotland County, North Carolina, on the 13th day of August 2019.

WITNESS my hand and the official seal of Scotland County, this the 13th day of August, 2019.

Bob Davis, Chairman

J. Jason Robinson, Deputy Clerk to the Board

Edward H. Johnston, Jr., County Attorney



August 9, 2019 23

8.15. WATER SUPPLY WATERSHED ORDINANCE

Note: The County's Water Supply Watershed Ordinance is in the process of being updated. When completed it will occupy this section.

REVISED ORDINANCE #24

SCOTLAND COUNTY WATER SUPPLY WATERSHED ORDINANCE

ARTICLE 9 – ZONING DISTRICTS: OTHER DESIGN STANDARDS

Table of Contents

9.1. PURPOSE. 1

9.2. STANDARDS APPLICABLE TO ALL DISTRICTS. 1

9.1. PURPOSE.

It is the purpose of this Ordinance, including the following dimensional and other design standards, to promote the public health, safety, and general welfare of the residents of Scotland County

9.2. STANDARDS APPLICABLE TO ALL DISTRICTS.

9.2.1. **Minimum Lot Area.**

(a) The minimum lot sizes set forth in this Article are permissible only if and to the extent that adequate water and sewer facilities are or can be made available to serve the lots. Where public water and sewer services are not available, a greater lot area may be required. The designation of "C" (use with conditions) or "S" (Special Use Permit required) will indicate this as may be required.

(Ord. 4/1/2003, Section 6.4)

(b) Deviations from the applicable lot size requirements of this Article may be made under special circumstances, for nonconforming lots in accordance with **Article 18.**

9.2.2. **Minimum Lot Width.**

(a) The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with side property lines.

(b) No lot created after the effective date of this Ordinance that is less than the recommended width shall be entitled to a variance from any building setback requirement.

(c) Deviations from the applicable lot width requirements of this Section may be made for nonconforming lots in accordance with **Article 18.**

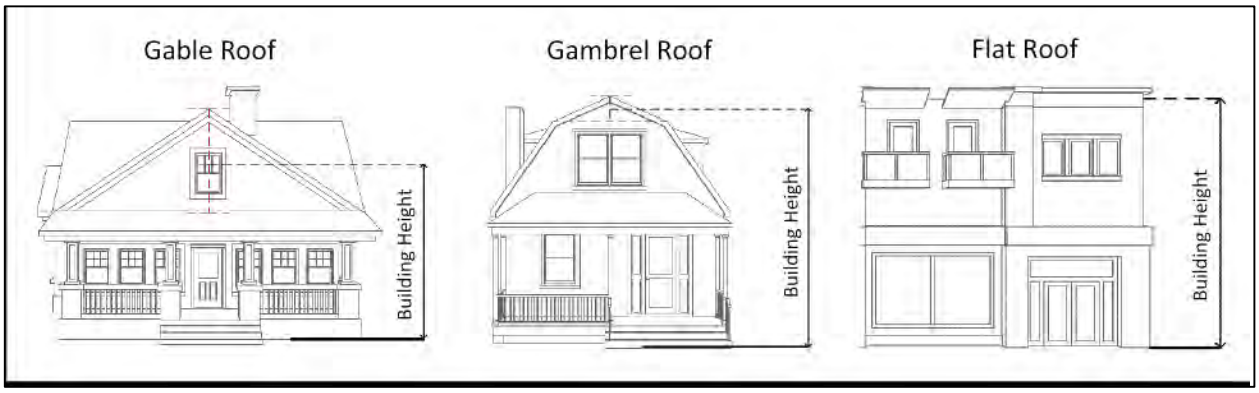
(d) Minimum lot width requirements for individual units in a condominium or townhouse project are waived. However, the development parcel must adhere to the minimum lot width requirements of the zoning district in which it is located.

9.2.3. **Building Height.**

(a) The vertical distance measured from the average elevation of the proposed finished grade at the front of the structure to one of the following (see *Figure 9.1: Building Height Measurement):*

(1) The midpoint between eave and ridgeline on a simple sloped roof (e.g., gable or hip roof) or curved roof (e.g., barrel roof);
(2) Where there are multiple roof planes (e.g., gambrel or mansard roof), the highest midpoint on a sloped or curved roof surface or the highest flat roof plane, whichever is highest; or
(3) The highest roof plane on a flat roof (not including any parapet wall). Appurtenances usually required to be placed above the roof level and not intended for human occupancy (e.g., antennas, chimneys, solar panels) shall not count toward the building height.

Figure 9.1: Building Height Measurement



9.2.4. **Lot Access Requirements.**

(a) Subject to the remaining provisions of this Section, every lot or parcel to be built upon shall abut a public or private street or a private easement and no structure shall be built upon a lot which does not abut a public or private street or a private easement for required ingress and egress.

(b) Every lot or parcel shall have a driveway access that meets or exceeds the requirements of the NCDOT.

Current NCDOT Requirement: A driveway with two-way operations shall have a minimum 20 foot and a maximum of 36-foot width. A driveway with one-way operation shall have a minimum 12 foot and a maximum 24-foot width. The need for wider driveways will be considered on a case-by-case basis only after justification of actual

necessity, but should not exceed 50 feet. ***Policy on Street and Driveway Access to North Carolina Highways, July 2003.***

(c) Lot access requirements for individual units in condominium and townhouse projects are waived. However, the individual units shall have right of access through common areas containing private streets and/or private drives.

9.2.5. **Building Setback Requirements.**

(a) Setback distances shall be measured from the street right-of-way line, street centerline, or property line to a point on the lot that is the nearest extension of any part of the building that is substantially a part of a building itself and not a mere appendage to it nor a building part allowed to encroach into a setback.

(b) Building setbacks from approved private streets shall be measured from the private street right-of-way, private street easement, or the boundary line of the common area reserved for the private street.

(c) Setbacks for flag lots and lots served by access easements shall comply with the requirements of the district in which they are located.

(d) Where fifty percent or more of the lots in a recorded subdivision on the same side of the block as the lot in question are developed with less than the required street setbacks, the average setback of the two principal buildings nearest that lot shall be observed as the required minimum setback.

(e) Deviations from the applicable setback requirements of this Section may be made for nonconforming lots.

9.2.6. **Dimensional Requirements for Accessory Buildings, Structures and Uses.**

(a) Only one accessory structure/building shall be permitted on lots less than twenty thousand (20,000) sq. ft. Larger lots are allowed an extra accessory building/structure for each additional thirty thousand (30,000) sq. ft. provided that such accessory buildings/structures are a minimum of thirty (30) feet apart from any other principal or secondary building/structures.

(b) Minimum Setbacks for Accessory Buildings, Structures and Uses are:
(1) Minimum side setback: 10 ft.
(2) Minimum rear setback: 10 ft.
(3) Minimum setback from principal structure: 10 ft.
(4) Maximum building height shall not exceed 20 ft. from mean roof height.

(c) Accessory buildings not exceeding 50 sq. ft. and used exclusively to house well and pump equipment may be permitted in front, side or rear yards, provided such

accessory buildings are at least five (5) feet from any property lines and do not encroach into any required easements or other site angles.

(d) An accessory building may be located on another contiguous or non-contiguous lot from the principal use with which it is associated, only to the extent that the principal use itself would also be permitted on such lot.

(e) Residential use of an accessory structure is only permitted for one accessory structure per principal structure and is only allowed in the RA district.

(f) Accessory structures shall not be used for commercial purposes unless properly permitted.

(Ord. 4/1/2003, Section 4.13); (Amendment # 6 effective September 22, 2003)

(g) **Accessory Structures and Uses in Residential Districts.** In all residential zoning districts, accessory structures and uses must be placed in back of or on the side of the principal structure on the lot and must meet the setback requirements for the applicable zoning district.

(h) **Lot Coverage:** Accessory structures to a residential use shall not have a ground floor area which exceeds 50 percent of the ground floor area of the principal building.

(i) **Expansion of Non-Conforming Use Not Permitted**: If a property is nonconforming under the zoning ordinance, then the addition of an accessory use or structure must not violate and restriction concerning the expansion or change involving the nonconforming features of the site.

9.2.7. **Encroachments in Setbacks.**

(a) The following encroachments, examples depicted in **Figure 9-2** are permitted in required setbacks provided there is no interference with any sight area:

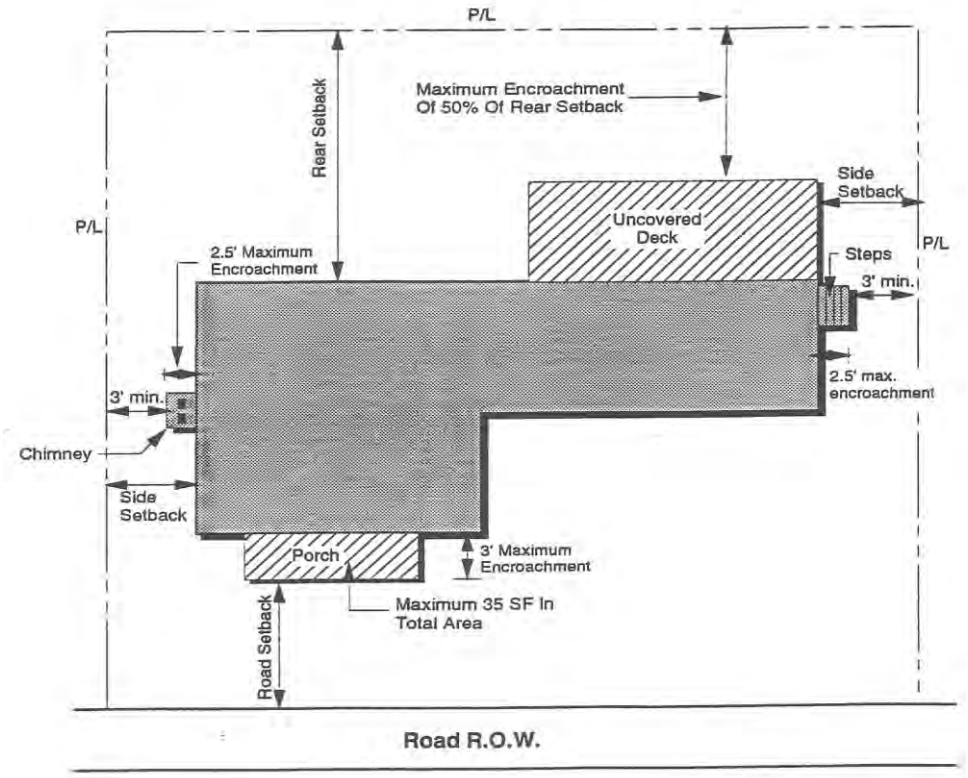
(1) Landscaping features, including but not limited to, ornamental pools, planting boxes, sculptures, arbors, trellises, and birdbaths;

(2) At grade patios, play equipment or outdoor furniture, ornamental entry columns and gates, flag poles, lamp posts, address posts, HVAC equipment, mailboxes, outdoor fire places, public utility wires and poles, pumps or wells, and fences or retaining walls; and

(3) Handicapped ramps.

Figure 9-2

Encroachments Permitted in Setbacks



9.2.8. **Visibility at Intersections.** No building, structure, wall, fence, shrub or tree shall be erected, maintained, or planted on any lot which will allow an obstruction in the horizontal or vertical sight distance area.

9.2.9. **Principal Building Per Lot.** No more than one principal building shall be permitted on a buildable lot or parcel in RA, R, C and CON districts.

ARTICLE 10 – OFF-STREET PARKING AND LOADING, SIGNS, LANDSCAPING AND BUFFERING, OUTDOOR LIGHTING

Table of Contents

PART I. OFF-STREET PARKING, STACKING AND LOADING REQUIREMENTS 2

10.1. General Requirements. 2

10.2. Reserved. 16

PART II. SIGNS. 17

10.3. Purpose of Sign Regulations. 17

10.4. General Sign Regulations. 17

10.5. Signs Not Requiring a Permit from the Zoning Officer 19

10.6. Permanent Signs for Subdivisions 21

10.7. Business and Industrial Signs 21

10.8. Outdoor Advertising Signs (Off-Premises Billboards) 22

10.9. Signs on County Property 27

10.10. Reserved 27

PART III. LANDSCAPING, BUFFERING AND SCREENING 28

10.11. Purpose of Buffering and Screening 28

10.12. Parking and Loading Area Landscaping 28

10.13. Screening of Dumpsters 29

10.14. Screening of Adjoining Incompatible Land Uses 29

10.15. Fences, Walls and Screens 31

10.16. Line of Sight 33

10.17. Alternative Screening Methods 33

10.18. Use of Existing Screening 34

10.19. Guarantee in Lieu of Immediate Installation 34

10.20 – 10.29 Reserved 34

PART IV. OUTDOOR LIGHTING 35

10.31. Purpose. 35

10.32. Definitions. 35

10.33. Outdoor Advertising Signs 36

10.34. Recreational Facilities. 36

10.35. – 10.40. Reserved. 36

PART I. OFF-STREET PARKING, STACKING AND LOADING REQUIREMENTS

10.1. GENERAL REQUIREMENTS.

10.1.1. **Off-Street Parking Required.**

At the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guestrooms, seats, or floor area, or before conversion from one type of use or occupancy to another, permanent off-street parking space shall be provided in the amount specified by this Section. Such parking space may be provided in a parking garage or properly prepared open space.

(Ord. 7/7/2003, Section 11)

10.1.2. **Certification of Minimum Parking Requirements.**

Each application for a Zoning Permit shall include information as to the location and dimensions of off-street parking and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the Zoning Officer to determine whether the requirements of this Article are met.

(Ord. 7/7/2003, Section 11.1)

10.1.3. **Interpretation by Zoning Administrator.** Number of Off-Street Parking Spaces Required

(a) All land uses in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.

(b) Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered.

(c) The Board of Commissioners recognizes that the Parking Requirements set forth in Table 10-1 cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the Zoning Official is authorized to determine the parking requirements using this table as a guide. The Zoning Official may also require more parking or allow less parking whenever s/he finds that such a deviation is more likely to satisfy the standard set forth. in 11.2.l (above).

(Ord. 7/7/2003, Section 11.2)

10.1.4. **Combination of Required Parking Space**.

The required parking space for any number of separate uses may be combined in one (1) lot, but the required space assigned to the one (1) use may not be assigned to another use, with one exception. One-half (½) of the parking space required for churches whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays or in shopping centers where uses may have different peak hours.

10.1.5. **Remote Parking Space**.

If the off-street parking space required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within reasonable distance of the main entrance to such principal use, provided such land is in the same ownership as the principal use and in the same zoning district. Said land shall be used for no other purposes so long as no other adequate provisions of parking space meeting the requirements of this Ordinance have been made for the principal use.

(a) In such cases, the applicant for a permit for the principal use shall submit with his application for a Zoning Permit or a Certificate of Occupancy an instrument duly executed and acknowledged, which subjects said land to parking use in connection with the principal use for which it is made available.

(b) Such instrument shall become a permanent record and be attached to the Zoning Permit or Certificate of Occupancy application.

(c) In the event such land is ever used for other than off-street parking space for the principal use to which it is encumbered and no other off-street parking space meeting the terms of this Ordinance is provided for the principal use, the Certificate of Occupancy or Zoning Permit for such principal use shall become void.

10.1.6. **Requirements for Parking Lots.**

Where parking lots for more than five (5) cars are permitted or required, the following provisions shall be complied with in addition to the requirements below:

(a) The lot may be used only for parking and not for any type of loading, sales, dead storage, repair work, dismantling or servicing, but shall not preclude convention exhibits or parking of rental vehicles.

(b) All entrances, exits, barricades at sidewalks, and drainage plans shall be approved and constructed before occupancy.

(c) A strip of land five (5) feet wide adjoining any street line or any lot zoned for residential uses shall be preserved as open space, guarded with wheel bumpers and planted in grass and/or shrubs or trees.

(d) Any parking lot of more than five (5) cars which is adjacent, along the side or rear property lines, to property used or zoned for residential uses, shall be provided with screening.

(e) Only one (1) entrance and one (1) exit sign no larger than two (2) square feet prescribing parking regulations may be erected at each entrance or exit.

10.1.7. **Manufactured Home Parking and Storing**.

It shall be unlawful to park or otherwise store for any purpose whatsoever any manufactured home within any zoning district except as follows:

(a) At a safe, lawful, and non-obstructive location on a street, alley highway, or other public place, providing that the trailer or mobile home shall not be parked overnight;

(b) Within a mobile home park, provided, however, the mobile home shall either have a North Carolina or HUD Label of Compliance permanently attached thereto; and,

(c) On any other lot or plot provided that trailers shall be stored in a garage or carport or in the rear or side yard.

(d) Junk or Dilapidated Mobile Home/Manufactured Home Storage or repair yards must obtain a special use permit.

10.1.8. **Vehicle Storage.**

(a) Only vehicles intended for personal use shall be parked or stored on any property zoned R-A, R-1 and R-2 Residential. No storage of commercial inventory whatsoever shall be permitted and no inoperative or unlicensed vehicles shall be permitted to be parked or stored longer than (14) fourteen days. Commercial trucks or vans driven home by employees or owners must be parked in the side or rear yard.

(b) Customer and employee parking is permitted along with the parking and storing of governmental or commercial vehicles, in any public and conservation, commercial, or industrial district. Inoperative vehicles shall only be permitted to be parked or stored while undergoing repairs at a commercial garage or automobile service station or if stored in an approved junk or wrecking yard where a Special Use Permit has been secured.

10.1.9. **Design Requirements.**

(a) All parking spaces shall have minimum dimensions of nine (9) feet in width and eighteen (18) feet in length. All access or backup aisles shall conform to the following minimum dimensions:

Figure 10-1
Parking Space Dimensional Requirements

Parking Angle	Aisle Dimension
90 degrees	24 feet
60 degrees	18 feet
45 degrees	14 feet
30 degrees	12 feet

0 degrees	12 feet

(a) The use of streets, sidewalks, alleys or other public rights-of-way for parking or maneuvering to and from off-street parking spaces is prohibited, except where such maneuvering is necessary in the use of driveways for access to and from single-family and two family dwellings. All off-street parking areas shall be so arranged that ingress and egress is by forward motion of the vehicle.

(b) Parking area edges shall be protected by suitable curbing, wheel guards, or other means to prevent vehicular encroachment on a public right-of-way or on adjacent property, and to protect the public right-of-way and adjoining properties from the damaging effects from surface drainage from parking lots.

(c) Where parking or loading areas are provided adjacent to the public street, ingress and egress thereto shall be made only through driveways not exceeding twenty-five (25) feet in width at the curb line of said street, except where the Zoning Officer finds that a greater width is necessary to accommodate the vehicles customarily using the driveway.

(d) Businesses adjacent to, or integrated in, a shopping center or cluster of commercial facilities shall use the common access with other business establishments in the center.

(e) No driveway shall be located closer than twenty-five (25) feet to any street intersection.

(f) Any lighting of parking areas shall be shielded so as to cast no light upon adjacent properties and streets.

(g) All applicable ADA (American Disabilities Act) standards shall apply.

(h) Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

(i) Vehicle accommodation areas that include lanes for drive-in windows, or contain parking areas that are required to have more than ten (10) parking spaces and that are used regularly at least live days per week shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust.

(j) Vehicle accommodation areas that are not provided with the type of surface specified in Section 10.1.9.(d) shall be graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a vehicle

accommodation area abuts a paved street, the driveway leading from such a street to such area (or if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets) shall be paved as provided in Section 10.1.9.(d) for a distance of 15 feet back from the edge or the paved street. This subsection shall not apply to single-family or two-family residences or other uses that are required to have only one or two parking spaces.

(k) Parking spaces in areas surfaced in accordance with Section 10.1.9.(d) shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Section 10.1.9.(e)shall be demarcated whenever practicable.

(l) Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

(Ord. 7/7/2003, Section 11.3.4. – 11.3.9.)

10.1.10. **Number of Spaces Required.**

The number of off-street spaces required by this Article shall be provided on the same lot with the principal use except as provided in ***Section 10.1.5*** and the required number of off-street parking spaces specified for each use shall be considered as the absolute minimum. In addition, a developer shall evaluate his own needs to determine if they are greater than the minimum specified by this Ordinance. See *Figure 10-2* below.

Figure 10-2

Number of Spaces Required

Residential Uses	***Maximum***	***Minimum***
Residential	2.5 per unit	0-1 bedroom 1.5; 2 bedrooms 2; 3 bedrooms or more 2.25. If the County determines that the parking requirements of the anticipated resident population requires additional parking, the County may require up to 2.5 spaces per unit. Elderly housing may be reduced up to 1 space per 2 units.
Day care, adult or child		1 per 8 participants
Dwellings, Duplex		Two (2) parking spaces per dwelling unit.
Dwellings, Multi-Family		Two (2) parking spaces per dwelling unit.
Family care home		1 per 4 beds and 1 per supervisor and staff person
Group home residential		2 plus 1 per 4 beds and 1 per supervisor and staff person
Nursing homes/Convalescent Home		1 per 4 beds and 1 per supervisor and staff person

Nonresidential	***Maximum***	***Minimum***
Amusement and recreation services, indoor	1 per 200 square feet of gross floor area	1 per 400 sq. ft. gross floor area
Assembly hall, Exhibit Hall	1 per 250 sq. ft. gross floor area or 1 per every 3 seats, whichever is greater	1 per 400 sq. ft. gross floor area or 1 per every 4 seats, whichever is greater

Nonresidential	***Maximum***	***Minimum***
Automobile renting, leasing and sales		1 per 400 sq. ft. gross floor area
Automobile repair shop	1 per 400 sq. ft. gross floor area max	1 per 600 sq. ft. gross floor area and 1 per 2,000 sq. ft. gross floor areaof display area
Automotive services, except repair and towing	1 per 400 sq. ft. gross floor area max	per 600 sq. ft. gross floor area and 1 per 2,000 sq. ft. gross floor areaof display area
Banking services	1 per 200 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Bowling alleys and pool halls		1 per alley plus requirements for any other use associated with the establishment, such as a restaurant
Building material dealers	1 per 250 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Business services	1 per 250 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Communications facilities	1 per 250 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Contractor's equipment and supply dealers and service	1 per 200 sq. ft. gross floor area	1 per 300 sq. ft. gross floor area
Contractor, general or special trade	1 per 200 sq. ft. gross floor area	1 per 300 sq. ft. gross floor area
Contractor's storage yard	1 per 200 sq. ft. gross floor area	1 per 300 sq. ft. gross floor area
Cultural arts center, Library, Museum	1 per 250 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area

Nonresidential	***Maximum***	***Minimum***
Drive-in theater	1 per 1,000 sq. ft. gross floor area	1 per 1,500 sq. ft. gross floor area or 1 per 1.5 employees
Electric motor repair shop	1 per 250 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Farmer's market, Open Air Markter	1 per 200 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Fire Station, EMS Stations, Law Enforcement Operations		One and one-half (1½) parking spaces per employee on duty at one time.
Funeral Homes		One (1) parking space for each four (4) seats in the chapel or parlor.
Golf course, private or public		50 per 18 holes
Home Occupations	One (1) parking space per home occupation in addition to residence requirements.	
Hospitals, except animal hospitals	1 per each 2 licensed beds intended for patient use, plus 1 per each staff person, including medical and support staff based on the largest employee shift	
Hotels and Motels		One (1) parking space for each two (2) rooms to be rented, plus one (1) additional parking space for each (2) employees, plus additional parking spaces as may be required for any commercial or business uses located in the same building.
Industrial	1 per 1,000 sq. ft. gross floor area	1 per 1,500 sq. ft. gross floor area
Kennels, commercial boarders and breeders	1 per 250 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area

Nonresidential	***Maximum***	***Minimum***
Laboratories	1 per 400 sq. ft. gross floor area	1 per 600 sq. ft. gross floor area and 1 per 2,000 sq. ft. gross floor area of display area
Libraries	1 per 200 sq. ft. gross floor area	1 per 300 sq. ft. gross floor area
Marinas		1 per 4 dry slips, plus 1 per 2 wet slips
Manufactured housing dealers		1 per 100 sq. ft. gross floor area
Mini-warehousing		1 per 400 sq. ft. gross floor area of office space and 1 per 5,000 sq. ft. gross floor area of additional indoor area. When calculating required parking for single-story mini-warehousing, internal drive aisles adjacent to units with exterior access may be included
Motels and hotels		1 per guest room plus 50% of the required spaces for any accessory uses
Motor freight companies		1 per 1,000 sq. ft. gross floor area of non-office floor area plus 1 per 300 sq. ft. gross floor area office floor area
Movers, van lines and storage		1 per 1,000 sq. ft. gross floor area
Movie theaters, except drive-in		1 per 4 seats
Offices, medical	1 per 170 sq. ft. gross floor area	1 per 250 sq. ft. gross floor area
Offices, professional	1 per 200 sq. ft. gross floor area	1 per 300 sq. ft. gross floor area
Parks and recreation areas, municipal	1 per 200 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area

Nonresidential	***Maximum***	***Minimum***
Personal services	1 per 225 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Public Utility Buildings		One (1) parking space for each employee.
Recreation facility, Wellness Center	1 per 200 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Recreational Facilities Not otherwise listed, without spectator seating		One (1) parking space for each employee plus one (1) parking space for every two (2) participants at full capacity.
Recreational Facilities Not otherwise listed, with spectator seating		Same as recreational facilities without spectators plus one (1) parking space for every four (4) spectator seats.
Religious institutions	1 per 3 seats	1 per 4 seats
Repair shops, not elsewhere classified	1 per 250 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Research and development laboratories	1 per 250 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Restaurant: standard and fast food carry-out	1 per 2.5 seats or 1 per 65 sq. ft. gross floor area exclusive of kitchen and restroom facilities	1 per 4 seats or 1 per 80 sq. ft. gross floor area exclusive of kitchen restroom facilities
Retail sales establishment	1 per 200 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Sales office, off-premises	1 per 1,000 sq. ft. gross floor area	1 per 1,500 sq. ft. gross floor area or 1 per 1.5 employees

Nonresidential	***Maximum***	***Minimum***
Schools: colleges and universities; industrial trade schools	1 per 5 students, or 1 per 3 seats in auditoriums and other places of assembly or facilities available to the public, whichever is greater	
Service stations	1 per 200 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Shopping Centers		Six (6) parking spaces for each 1,000 square feet of gross floor space in the center, plus one (1) space per business, provided collectively.
Skating rink, roller or ice	1 per 200 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Small engine repair, except automotive	1 per 200 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Social services, not elsewhere classified	1 per 200 sq. ft. gross floor area	1 per 300 sq. ft. gross floor area
Swimming pool, private	1 per 200 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Telecommunication facility unattended	1 per 1,000 sq. ft. gross floor area	1 per 1,500 sq. ft. gross floor area
Tire dealers and service		1 per 500 sq. ft. gross floor area
Towing services, automobile and truck	1 per 400 sq. ft. gross floor area	1 per 600 sq. ft. gross floor area and 1 per 2,000 sq. ft. gross floor area of display area
Used merchandise stores, except automotive goods	1 per 225 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area

Nonresidential	***Maximum***	***Minimum***
Utility stations and plants outside public rights-of-way	1 per 1,000 sq. ft. gross floor area	1 per 1,500 sq. ft. gross floor area or 1 per 1.5 employees
Veterinary services with kennels	1 per 170 sq. ft. gross floor area	1 per 250 sq. ft. gross floor area
Warehousing general		1 per 1,000 sq. ft. gross floor area
Welding, repair	1 per 250 sq. ft. gross floor area	1 per 400 sq. ft. gross floor area
Wholesale trade, durable goods		1 per 1,000 sq. ft. gross floor area
Wholesale trade, nondurable goods, except liquefied bilk storage		1 per 1,000 sq. ft. gross floor area
Wholesale trade, nondurable goods		1 per 1,000 sq. ft. gross floor area

10.1.11. **Design Standards for Off- Street Loading Space**.

The off-street loading space required by this Article shall be provided for standing, loading, and unloading operations either inside or outside a building, on the same lot with the use served, and shall conform to the following standards:

(a) For uses containing a gross floor area of less than 20,000 square feet, each off-street loading space shall have minimum dimensions of fifteen (15) feet in width and thirty (30) feet in length.

(b) For uses containing a gross floor area of 20,000 square feet or more, each off-street loading space shall be fifteen (15) feet in width and forty-five (45) feet in length as a minimum.

(c) All off-street loading spaces shall have a minimum vertical clearance of fifteen (15) feet.

(d) Access aisles or apron spaces shall be of sufficient width to allow for proper backing and/or turning movements.

(e) Required off-street loading areas including drives and access aisles shall be paved with an all-weather hard surface material.

(f) Loading spaces and access ways shall be located in such a way that no truck or service vehicle using such areas shall block or interfere with the free, normal movement of other vehicles on a service drive or on any off-street parking area, public street, aisle or pedestrian way used for general circulation. In addition, the off-street loading facilities shall be designed and constructed so that all maneuvering of vehicles for loading and unloading purposes shall take place entirely within the property lines of the premises.

(g) Loading area edges shall be protected by suitable curbing to prevent encroachment on a public right-of-way or on adjacent property, and to protect the public right-of-way and adjoining properties from the damaging effects of surface drainage from off-street loading areas.

(h) Any lighting of loading areas shall be shielded so as to cast no light upon adjacent properties and streets.

(i) Any off-street loading areas and access ways adjacent, along the side or rear property lines, to property used or zoned for residential purposes, shall be provided with screening meeting the standards described in ***Part 3: Screening and Buffering***.

10.1.12. **Minimum Off- Street Loading Requirements.**

Off-street loading shall be provided and maintained as specified in the following:

(a) Uses which normally handle large quantities of goods, including but not limited to industrial plants, wholesale establishments, storage warehouses, freight terminals, hospitals and retail sales establishments shall provide off-street loading facilities in the following amounts:

Table 10-3
Off-Street Loading

Gross Floor Area (Square Feet)	Minimum Number of Spaces Required
5,000—20,000	1
20,001—50,000	2
50,001—80,000	3
80,001—125,000	4
125,001—170,000	5
170,001—215,000	6
215,001—260,000	7
For each additional 45,000	1 — Additional

(b) Uses which do not handle large quantities of goods, including but not limited to office buildings, restaurants, funeral homes, hotels, motels, apartment buildings, and places of public assembly, shall provide off-street loading facilities in the following amounts:

Figure 10-4
Off-Street Loading

Gross Floor Area (Square Feet)	Minimum Number of Spaces Required
5,000—80,000	1
80,001—200,000	2
200,001—320,000	3
320,001—500,000	4
For each additional 180,000	1- Additional

(Ord. 7/7/2003, Section 11.4)

10.2. RESERVED.

PART II. SIGNS.

10.3. PURPOSE OF SIGN REGULATIONS.

It is the purpose of this section to permit signs of a commercial, industrial, and residential nature and to regulate the size and placement of signs, which are visible from any public way. These regulations shall apply to all districts. No exterior sign may be erected, painted, repainted, posted, placed, replaced or hung in any district, except in compliance with these regulations. These regulations are intended to establish standards which recognize the rights of all citizens to protection under the First Amendment to the US Constitution while also supporting public safety and the natural attractiveness of the area.

10.4. GENERAL SIGN REGULATIONS.

10.4.1. **Permit Required.**

With the exception of those signs specifically authorized in ***Section 10.5***. below, no sign may be erected without a permit from the Zoning Officer.

10.4.2. **Permit Application.**

Application for permits shall be submitted on forms obtainable at the Office of the Zoning Officer. Each application shall be accompanied by plan, which shall:

(a) Indicate the proposed site by identifying the property by ownership, location and use;

(b) Show the location of the sign on the lot in relation to property lines and building, zoning district boundaries, right-of-way lines, and existing signs; and

(c) Show size, character, complete structural specifications and methods of anchoring and support.

If conditions warrant, the Zoning Officer may require such additional information as will enable him to determine if such sign is to be erected in conformance with this Ordinance.

10.4.3. **Structural Requirements**.

Structural Requirements for signs shall be those requirements found in the North Carolina State Building Code.

10.4.4. **Sign Area Computation**.

Sign area shall be computed by the smallest square, triangle, rectangle, circle or combination thereof which will encompass the entire sign, including lattice work, wall work, frame or supports incidental to its decoration. In computing the area, only one (1) side of a double face sign structure shall be considered.

10.4.5. **Fees***.*

(a) No permit shall be issued until the exact dimensions and area of the sign have been filed with the Zoning Officer and the fees posted in the Planning office are paid accordingly.

(b) Exempt from this fee requirement shall be those signs specified in ***Section 10.5.*** below.

10.4.6. **Maintenance***.*

All signs, together with all their supports and braces, shall be kept in a state of good repair and in a neat and clean condition. No sign shall be continued which becomes, in the opinion of the Zoning Officer, structurally unsafe and endangers the safety of the public or property. The Zoning Officer may order the removal of any sign that is not maintained in accordance with the provisions of this section. Such removal shall be at the expense of the owner or lessee and shall occur within ten days after written notification thereof by the Zoning Officer. If such order is not complied with in thirty (30) days, the Zoning Officer shall remove such at the expense of the owner or lessee thereof.

10.4.7. **Location Restrictions**.

(a) No sign shall be permitted on any public right-to-way except as specifically authorized herein.

(b) No sign shall be attached to or painted on any telephone pole, telegraph pole, power pole, or other man-made object not intended to support a sign, nor on any tree, rock or other natural object except as specifically authorized herein.

(c) Sign shall not obstruct any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress for any building, structure, or lot.

10.4.8. **Setback and Height Requirements.**

(a) Except as otherwise provided herein, signs are required to observe the same yard setback and height regulations as the principal structures or buildings.

(b) If the lot on which a ground sign is to be located is zoned other than residential, but is immediately adjacent to a lot zoned for residential use, then a distance of at least fifty (50) feet shall intervene between the closest part of such sign and the adjacent lot line of the property in the residential district. Provided further, that all out-door advertising signs shall conform to ***Section 10.5.***

10.4.9. **Non-Conforming Signs.**

No non-conforming sign erected before the adoption of this Ordinance shall be moved or replaced, without complying with the provisions of this Ordinance. All signs existing on the effective date of this article which do not conform to the requirements set forth herein shall be removed or brought into compliance within thirty-six months (36) from the effective date of this Ordinance. However, an existing non-conforming business or industry shall, after the three-year period, be allowed one sign not exceeding 12 square feet on a side or a total of twenty square feet, which sign shall be affixed to the building and have only non-flashing illumination.

(Ord. 7/7/2003, Section 12.1)

10.5. SIGNS NOT REQUIRING A PERMIT FROM THE ZONING OFFICER

The signs listed below shall not require a permit from the Zoning Officer. However, all signs using electrical wiring and connection shall have an electrical permit.

10.5.1. **Directional/Informational Signs**. Directional and information signs, erected and maintained by public agencies and governmental bodies.

10.5.2. **Public/Quasi-Public Name Signs**. Quasi-public signs, not to exceed four (4) square feet in area. Such signs shall only be used for the purpose of stating or calling attention to:

(a) The name of location of the county, hospital, community center, public or private school, church, synagogue, or other place of worship;

(b) The name of a place of meeting or an official or civil body such as the Chamber of Commerce, service club, or fraternal organization.

(c) An event of public interest such as public hearing, rezoning, announcement, general election, church or public meeting; local or county fair; and other similar community activities and campaigns;

(d) Soil conservation, 4-H and similar projects; and zoning and subdivision jurisdiction boundaries.

10.5.3. **Professional and Home Occupations Signs:**

(a) One sign per lot not to exceed two (2) square feet attached to the principal structure.

(b) One sign per lot not to exceed two (2) square feet located at least ten (10) feet from the street line and side property lines. Where side yards are required, no such sign shall be permitted in the required side yards.

(c) No such signs shall be illuminated in the residential district.

10.5.4. **Temporary Subdivision Sign**. Subdivision development signs, not over sixty-four (64) square feet in area which direct attention to the opening of a new subdivision may be erected on the site of such new subdivision. Only indirect illumination with white light will be permitted, such sign shall be removed when seventy-five (75) percent of the Subdivision is sold.

10.5.5. **Bulletin Board**.

One bulletin board for each school or other public building and for each church, synagogue or place of worship, provided that it be located on the same premises and shall not exceed fifty (50) square feet, such bulletin board may be free standing or attached. In residential districts, illumination of bulletin boards shall be white, non-flashing lights.

10.5.6. **Temporary Signs**.

(a) Real Estate Signs: One (1) temporary real estate sign not exceeding four (4) square feet in area may be placed on a property that is for sale, lease, rent, or barter; however, when the property on which said sign is placed fronts on more than one (1) street, one (1) sign shall be allowed on each street frontage. *Such signs shall not be illuminated.*

1. A real estate or construction sign must be removed within 7 days of the end of the completion of construction, sale, or lease of land.

(b) Yard Sale Signs: A temporary yard sale sign shall be posted for no longer than 3 days per sale.

(c) Political/Election Signs: These signs shall not be erected earlier than the established filing date for an election and must be removed within 30 days after the election.

1. In accordance with NCGS § 136-32, signs must be placed in accordance with the following:

    a. No sign shall be permitted in the right-of-way of a fully controlled access highway.
    b. No sign shall be closer than three feet from the edge of the pavement of the road.
    c. No sign shall obscure motorist visibility at an intersection.
    d. No sign shall be higher than 42 inches above the edge of the pavement of the road.
    e. No sign shall be larger than 864 square inches.
    f. No sign shall obscure or replace another sign.

(d) Temporary religious, philosophical, educational, real estate, yard sale, and construction signs shall comply with the following standards:

1. Be located outside the street right-of-way, or at least 6 feet from the back of curb or edge of pavement where no curb exists;
2. Not be placed in public street medians or traffic islands;

3. Not interfere with or obstruct pedestrian or vehicular traffic, or obstruct safe sight distances at intersections;
4. Not be placed on private land without the consent of the landowner or occupant.

(e) Other Temporary Advertising Signs: Temporary advertising signs shall be permitted providing that such signs shall not exceed six (6) square feet in area in residential districts and shall be spaced no closer than 100 feet apart.

(f) Temporary Construction Sign. One (1) temporary construction sign may be erected on the site during the period of construction or reconstruction to announce the name of the owner and/or developer, the name of the structure and its use or occupants to be, contractor, subcontractor, architect, and engineer; however, when the property on which said sign is placed fronts on more than one (1) street, one (1) sign shall be allowed on each street frontage. Such signs shall be removed when the building has been approved for occupancy by the Zoning Officer. Maximum size of construction signs in the residential zone shall be twenty-four (24) square feet; in all other zones, seventy-two (72) square feet.

10.5.7. **Setback Requirements for Signs Not Requiring a Building Permit.**

Signs which do not require a permit from the Zoning Officer shall be set back at least ten (10) feet any public right-of-way line or property line and shall be setback at least twenty-five (25) feet from any road intersection. No illumination is permitted.

10.6. PERMANENT SIGNS FOR SUBDIVISIONS

10.6.1. **Districts Where Allowed**: RA district as a Use with Conditions.

10.6.2. One permanent subdivision sign per major entrance is permitted. Exception: if a subdivision name sign is incorporated into gateposts, brick walls, or similar structures making the entrance, the name may appear on both sides of the entrance as a substitute for other subdivision identification signs.

10.6.3. Total area per entrance is sixty-four (64) square feet.

10.6.4. Signs shall be placed on private property no closer than ten (10) feet to any property line.

10.6.5. Illumination is restricted to white indirect lighting.

10.6.6. Content of sign is limited to the name of the subdivision.

10.7. BUSINESS AND INDUSTRIAL SIGNS

10.7.1. **Districts Where Allowed:** Commercial and Industrial Districts.

10.7.2. Business and industrial signs shall be permitted on the premises in districts in which the principal use is permitted subject to the following limitations:

(a) They shall not project more than 1 foot from any building wall or canopy.

(b) If suspended from a canopy, the sign must be at least eight (8) feet above the sidewalk level.

(c) Non-illuminated signs shall have a total surface area in square feet per establishment no greater than two (2) times the street frontage of the lot, in feet, but in no case shall the total for all signs be greater than 100 square feet.

(d) Illuminated signs shall have a total sign surface area in square feet per establishment, no greater than two (2) times the street frontage of the lot, in feet, but in no case shall the total for signs be greater than 50 square feet. Display lighting shall be shielded so as to prevent a direct view of the light source form a residence in a residential district. No intermittent lighting effect may be utilized.

(e) Freestanding signs shall be located not less than 12 feet from the street lot line or behind the setback line, whichever is greater. No freestanding sign shall be located in a required side yard or within 10 feet of the side property line.

(f) One freestanding shopping center identification sign is permitted per shopping center. The maximum area per sign is 200 square feet for centers having up to 15 businesses and 300 square feet for centers having more than 15 businesses.

(g) One manufactured home park sign is permitted per major entrance to a manufactured home park. Area of each sign shall not be more than one-half square foot per manufactured home space, but not to exceed fifty (50) square feet. Setback shall be at least 10 feet from the front property line; illumination is restricted to indirect white lighting.

(h)

10.8. OUTDOOR ADVERTISING SIGNS (OFF-PREMISES BILLBOARDS)

10.8.1. **Districts Where Allowed:** RA district as a Use with Conditions.

10.8.2. **Defined**: *Outdoor Advertising, Off-Premises.* The use of land consisting of a sign erected and maintained for the purpose of (i) displaying, advertising, identifying, or directing attention to business products, operations, or services sold or offered at a site other than the site where the sign is erected or (ii) promoting an attraction, activity, idea, opinion, or other noncommercial messaging that is unrelated to the site where the sign is erected. A sign meeting this definition is commonly known as a billboard, where space is commonly made available or rented to advertisers to display their messages to the traveling public. For the purposes of this section, the term "off-premises outdoor advertising" includes off-premises outdoor advertising visible from the main-traveled way of any road.

Statutory Reference *- N.C.G.S. Chapter 160D-912(a)*

10.8.3. **General Requirements.**

(a) No outdoor advertising sign may exceed 600 square feet in area and fifty (50) feet in height.

(b) Attached signs, side by side signs and two sign structures facing in the same direction shall be prohibited.

(c) Rooftop billboard signs are prohibited.

(d) No part of any outdoor advertising sign shall be located within 800 feet of another outdoor advertising sign.

(e) The backs of all outdoor advertising sign shall be painted in a neutral color to blend with the surrounding area and to prevent the reflection of car lights and sunlight.

(f) No part of any outdoor advertising sign shall be located within 300 feet of any residential structure.

(g) No sign shall be affixed to trees without the written permission of the property owner.

(h) Allowed along designated state routes (highways) only.

(i) An NCDOT Outdoor Advertising Permit shall be required.

Statutory Reference *- N.C.G.S. Chapter 160D-912(b)*

10.8.4. **Nonconforming Off-Premises Advertising Signs**.

(a) Removal of **Nonconforming Off-Premises Outdoor Advertising Signs**. Scotland County may require the removal of an off-premises outdoor advertising sign that is nonconforming under a local ordinance and may regulate the use of off-premises outdoor advertising within its planning and development regulation jurisdiction in accordance with the applicable provisions of this Ordinance and subject to G.S. 136-131.1 and 136-131.2.

Statutory Reference *- N.C.G.S. Chapter 160D-912(b)*

(b) **Written Notice of Intent Required**. Scotland County shall give written notice of its intent to require removal of off-premises outdoor advertising by sending a letter by certified mail to the last known address of the owner of the outdoor advertising and the owner of the property on which the outdoor advertising is located.

Statutory Reference *- N.C.G.S. Chapter 160D-912(c)*

(c) The County may not enact or amend an ordinance of general applicability to require the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign without the payment of monetary compensation to the owners of the off-premises outdoor advertising, except as provided below. The payment of monetary compensation is not required if:

(1) The County and the owner of the nonconforming off-premises outdoor advertising enter into a relocation agreement pursuant to subsection (f) of this section.
(2) The County and the owner of the nonconforming off-premises outdoor advertising enter into an agreement pursuant to **subsection (k)** of this section.
(3) The off-premises outdoor advertising is determined to be a public nuisance or detrimental to the health or safety of the populace.
(4) The removal is required for opening, widening, extending or improving streets or sidewalks, or for establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311, and the local government allows the off-premises outdoor advertising to be relocated to a comparable location.
(5) The off-premises outdoor advertising is subject to removal pursuant to statutes, ordinances, or regulations generally applicable to the demolition or removal of damaged structures. This subsection shall be construed subject to and without any reduction in the rights afforded owners of outdoor advertising signs along interstate and federal aid primary highways in this State as provided in Article 13, Chapter 136.

Statutory Reference *- N.C.G.S. Chapter 160D-912(d)*

(d) Monetary compensation is the fair market value of the off-premises outdoor advertising in place immediately prior to its removal and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal. Monetary compensation shall be determined based on:

(1) The factors listed in G.S. 105-317.1(a); and

(2) The listed property tax value of the property and any documents regarding value submitted to the taxing authority.

Statutory Reference *- N.C.G.S. Chapter 160D-912(e)*

(e) If the parties are unable to reach an agreement under **subsection (e)** above of this section on monetary compensation to be paid by Scotland County to the owner of the nonconforming off-premises outdoor advertising sign for its removal, and Scotland County elects to proceed with the removal of the sign, Scotland County may bring an action in superior court for a determination of the monetary compensation to be paid. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) above of this section. Upon payment of monetary compensation for the sign, Scotland County shall own the sign.

Statutory Reference *- N.C.G.S. Chapter 160D-912(f)*

(f) In lieu of paying monetary compensation, Scotland County may enter into an agreement with the owner of a nonconforming off-premises outdoor advertising sign to relocate and reconstruct the sign. The agreement shall include the following:

(1) Provision for relocation of the sign to a site reasonably comparable to or better than the existing location. In determining whether a location is comparable or better, the following factors shall be taken into consideration:

a. The size and format of the sign.

b. The characteristics of the proposed relocation site, including visibility, traffic count, area demographics, zoning, and any uncompensated differential in the sign owner's cost to lease the replacement site.

c. The timing of the relocation.

(2) Provision for payment by Scotland County of the reasonable costs of relocating and reconstructing the sign including:

a. The actual cost of removing the sign.

b. The actual cost of any necessary repairs to the real property for damages caused in the removal of the sign.

c. The actual cost of installing the sign at the new location.

d. An amount of money equivalent to the income received from the lease of the sign for a period of up to 30 days if income is lost during the relocation of the sign.

Statutory Reference *- N.C.G.S. Chapter 160D-912(g)*

(g) For the purposes of relocating and reconstructing a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section, Scotland County consistent with the welfare and safety of the community as a whole, may adopt a resolution or adopt or modify its ordinances to provide for the issuance of a permit or other approval, including conditions as appropriate, or to provide for dimensional, spacing, setback, or use variances as it deems appropriate.

Statutory Reference *- N.C.G.S. Chapter 160D-912(h)*

(h) If the County has offered to enter into an agreement to relocate a nonconforming off-premises outdoor advertising sign pursuant to subsection (g) of this section, and within 120 days after the initial notice by Scotland County the parties have not been able to agree that the site or sites offered by Scotland County for relocation of the sign are reasonably comparable to or better than the existing site, the parties shall enter into binding arbitration to resolve their disagreements. Unless a different method of arbitration is agreed upon by the parties, the arbitration shall be conducted by a panel of three arbitrators. Each party shall select one arbitrator and the two arbitrators chosen by the parties shall select the third member of the panel. The American Arbitration Association rules shall apply to the arbitration unless the parties agree otherwise.

Statutory Reference *- N.C.G.S. Chapter 160D-912(i)*

(i) If the arbitration results in a determination that the site or sites offered by Scotland County for relocation of the nonconforming sign are not comparable to or better than

the existing site, and Scotland County elects to proceed with the removal of the sign, the parties shall determine the monetary compensation under subsection (e) of this section to be paid to the owner of the sign. If the parties are unable to reach an agreement regarding monetary compensation within 30 days of the receipt of the arbitrators' determination, and Scotland County elects to proceed with the removal of the sign, then Scotland County may bring an action in superior court for a determination of the monetary compensation to be paid by Scotland County to the owner for the removal of the sign. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the sign, Scotland County shall own the sign.

***Statutory Reference** - N.C.G.S. Chapter 160D-912(j)*

(j) Notwithstanding the provisions of this section, Scotland County and an off-premises outdoor advertising sign owner may enter into a voluntary agreement allowing for the removal of the sign after a set period of time in lieu of monetary compensation. Scotland County may adopt an ordinance or resolution providing for a relocation, reconstruction, or removal agreement.

***Statutory Reference** - N.C.G.S. Chapter 160D-912(k)*

(k) Scotland County has up to three years from the effective date of an ordinance enacted under this section to pay monetary compensation to the owner of the off-premises outdoor advertising provided the affected property remains in place until the compensation is paid.

***Statutory Reference** - N.C.G.S. Chapter 160D-912(l)*

(l) This section does not apply to any ordinance in effect on July 1, 2004. Scotland County may amend an ordinance in effect on July 1, 2004 to extend application of the ordinance to off-premises outdoor advertising located in territory acquired by annexation or located in the extraterritorial jurisdiction of the County. Scotland County may repeal or amend an ordinance in effect on July 1, 2004 so long as the amendment to the existing ordinance does not reduce the period of amortization in effect on the effective date of this section.

***Statutory Reference** - N.C.G.S. Chapter 160D-912(m)*

(m) The provisions of this section shall not be used to interpret, construe, alter or otherwise modify the exercise of the power of eminent domain by an entity pursuant to Chapter 40A or Chapter 136 of the General Statutes.

***Statutory Reference** - N.C.G.S. Chapter 160D-912(n)*

(n) Nothing in this section shall limit Scotland County authority to use amortization as a means of phasing out nonconforming uses other than off-premises outdoor advertising.

***Statutory Reference** - N.C.G.S. Chapter 160D-912(o)*

10.9. SIGNS ON COUNTY PROPERTY

10.9.1. *Posting of Signs Required.* The county manager is hereby ordered to post appropriate signage on each park, building or portion of a building now or hereafter owned, leased as lessee, operated, occupied, managed or controlled by the county, as well as the appurtenant premises to such buildings, indicating that concealed handguns are prohibited therein.

10.9.2. *Location of Signs*. Said signs shall be visibly posted on the exterior of each entrance by which the general public can access the building, appurtenant premise, or park. The county manager shall exercise discretion in determining the necessity and appropriate location for other signs posted on the interior of the building, appurtenant premise, or park.

10.10. RESERVED

PART III. LANDSCAPING, BUFFERING AND SCREENING

10.11. PURPOSE OF BUFFERING AND SCREENING.

The purpose of this Article is to establish minimum landscaping and screening requirements that provide (i) a visual buffer between parking and loading areas and public streets, (ii) a visual buffer between parking and loading areas and adjoining residential land uses, (iii) screening of solid waste collection dumpsters, and (iv) screening between certain incompatible land uses.

10.12. PARKING AND LOADING AREA LANDSCAPING

10.12.1. **Street Side Buffer Yard Requirements**. ***(See Figure 10-1)***

(a) All parking lots containing ten or more parking spaces shall include a minimum 10-foot perpetually maintained natural or planted buffer yard to screen the parking lot from all adjoining public street rights-of-way (where such parking lot is not screened visually by an intervening building).

(b) The required streetside buffer yard shall contain at least one canopy tree for each sixty linear feet of street frontage and each tree shall be a minimum of 8 feet in height and shall have a minimum caliper of 2 inches (measured six inches above grade) at the time of planting. Each tree shall be a species which can be expected to attain a minimum height of 40 feet and have a crown width of 30 feet or greater at maturity. No tree shall be planted within 20 feet of the edge of a driveway at its intersection with the street right-of-way.

(c) The required buffer yard shall also contain evergreen shrubs, planted four feet on center, which are of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting.

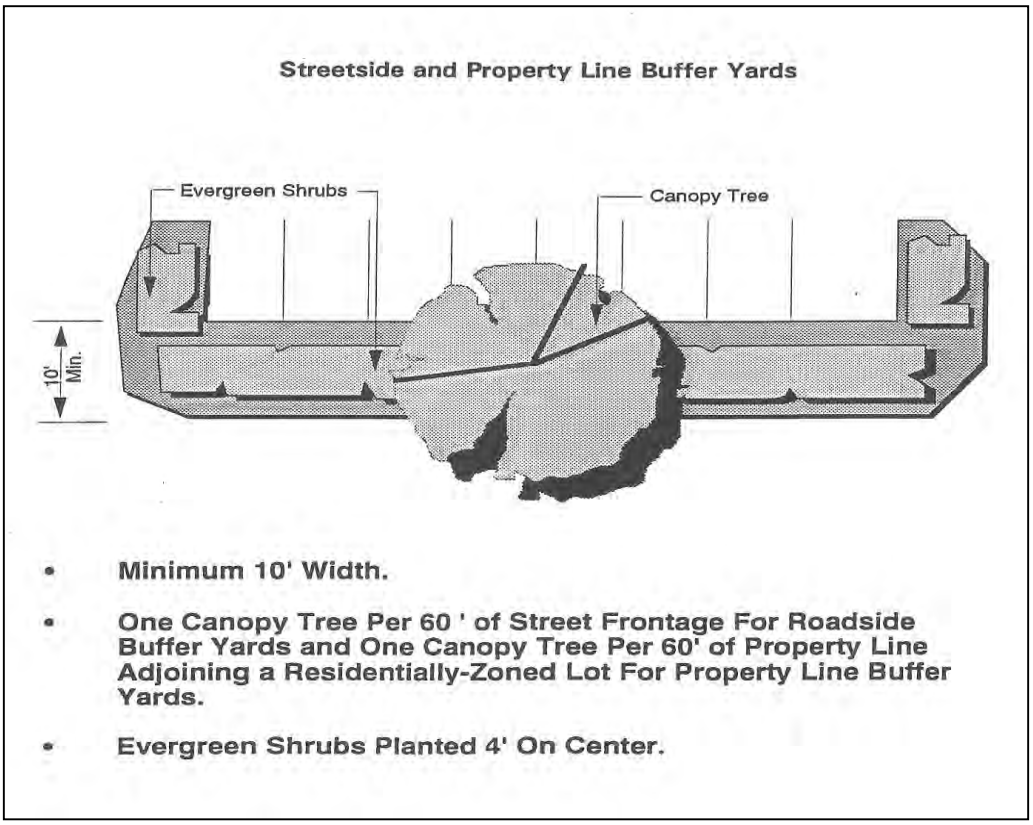
(d) All portions of the streetside buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of 3 inches.

10.12.2. **Property Line Buffer Yard Requirements.** ***(See Figure 10-1)***

(a) Any parking lot and loading area (i) which contains ten or more parking spaces, (ii) which is located on a commercially-, industrially-, institutionally-used lot, and (iii) which abuts a residentially zoned lot shall include a minimum 10-foot perpetually maintained natural or planted buffer yard along all adjoining property lines that do not coincide with street rights-of-way.

(b) The required property line buffer yard shall comply with the planting standards set out in **Section 10.12.2(a).** above for streetside buffer yards except that there shall be one canopy tree for each 60 LF of property line adjoining a residentially zoned lot rather than for each 60 LF of street frontage.

Figure 10-1
Planting Requirements for Buffer Yards



10.13. SCREENING OF DUMPSTERS

10.13.1. Solid waste collection dumpsters which are (i) located on sites used for multi-family residential, townhouse, condominium, commercial, institutional, or industrial purposes and (ii) abutting a residence, residentially zoned lot, or street right-of-way shall be screened from the view of adjoining residences, residentially zoned lots, or street rights-of-way. Such screening may consist of natural vegetation, fences, walls, or berms and shall be installed, located, or constructed so as to create an effective screen.

10.14. SCREENING OF ADJOINING INCOMPATIBLE LAND USES

10.14.1. **Multi-family Residential Uses.** ***(see Figure 10-2)***

Whenever four or more multi-family residential, townhouse, or condominium dwelling units are proposed to be located directly abutting property which is used for single-family residential purposes or which is zoned for single-family residential use, the multi-family, townhouse, or condominium use shall provide screening in accordance with the following standards:

(a) A minimum 15-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a single-family used or zoned lot.

(b) The buffer yard shall contain 2 canopy trees and 3 understory tress per 100 linear feet of buffer yard. Canopy trees shall be a minimum of 8 feet in height and 2 inches in caliper (measured 6 inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper (measured 6 inches above grade) when planted.

(c) The buffer yard shall also contain 17 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting.

(d) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of 3 inches.

10.14.2. **Industrial and Commercial Uses.** ***(see Figure 10-2)***

Whenever an industrial or commercial (business) use is proposed to be located so that the principal building, accessory building(s), outdoor use areas, or parking and loading areas are within 100 feet of a lot which is used for residential purposes or which is zoned for residential use, the industrial or commercial use shall provide screening in accordance with the following standards:

(a) A minimum 25-foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a residentially used or zoned lot.

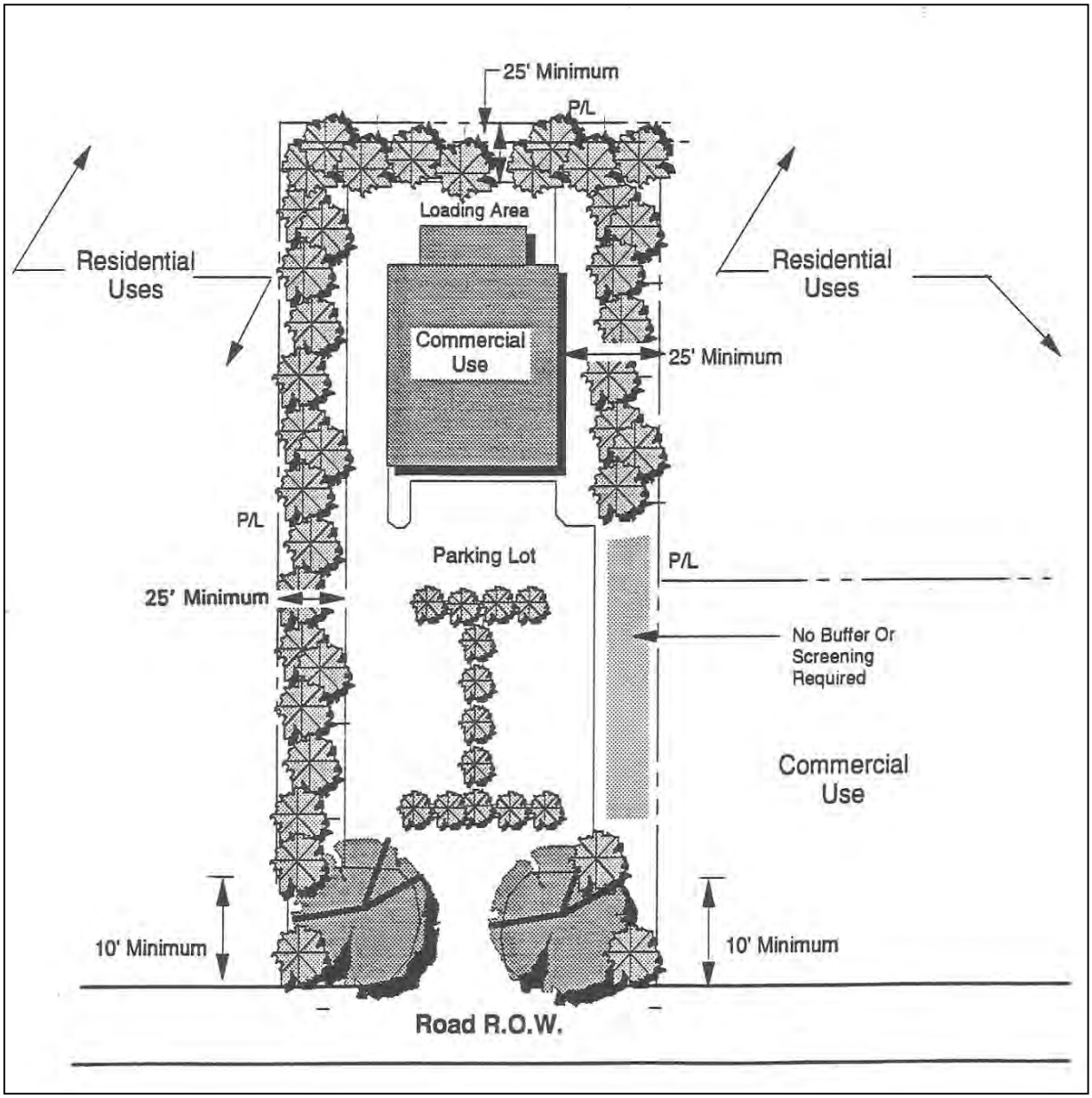
(b) The buffer yard shall contain 3 canopy trees and 5 understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of 8 feet in height and 2 inches in caliper (measured 6 inches above grade) when planted. When mature, a canopy tree should be at least 40 feet high and have a crown width of 30 feet or greater. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper (measured 6 inches above grade) when planted.

(c) The buffer yard shall also contain 25 shrubs per 100 linear feet of buffer yard. All shrubs shall be of a species which can be expected to reach a minimum height of 36 inches and a minimum spread of 30 inches within 3 years of planting.

(d) All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, groundcover, or natural mulch of a minimum depth of 3 inches.

(f)

Figure 10-2
Example of the Application of Buffers and Screens



10.15. FENCES, WALLS AND SCREENS

10.15.1. A fence, wall, or screen for the purposes of privacy and/or security may be located in any required yard provided:

(a) The activities of the principal use may not extend into a front yard that is screened by a solid fence, wall, or shrubbery screen (e.g., a restaurant shall not enclose the front yard

with a solid fence for the purpose of providing customers a lounge, a bar or an eating area).

(b) No open wire fence of a type that could inflict injury from casual contact (such as barbed wire fence) is permitted below a height of six (6) feet in any district. Other types of open wire fencing (such as hurricane and chain link fencing) may be erected in any yard.

(c) The height of a fence, wall, or screen shall be measured from the average undisturbed grade of the adjacent property.

(d) Within residential zoning districts, the following fence, wall, and screen height limits shall apply:

(1) Within front yards, the height for fences, walls, or screens shall be limited to four (4) feet except that the board of adjustment shall hear and decide requests for variances to allow height up to six (6) feet within front yards adjacent to thoroughfares. The variance request application shall include information on the factors set forth below, other requirements of this section and chapter, and any other information pertinent to granting the variance.

(i) The fence, wall or screen shall be set back a minimum of one-half (½) the distance of the required front yard setback for the district or fifteen (15) feet, whichever is greater;

(ii) At least fifty (50) percent of the area of the fence, wall, or screen above four (4) feet shall be open along the entire length such that clear vision is possible from one side to the other; and

(iii) Additional conditions may be specified to maintain safe access, ingress, and egress to and from the subject and surrounding properties.

2) Within any side or rear yard, the maximum height for any fence shall be eight (8) feet.

3) Fence height limits shall not apply to electric/gas substations, water/sewer treatment plants or facilities, municipal water storage facilities, waste treatment facilities, or government facilities.

4) Fence height limits shall not apply to chain link fences surrounding tennis courts or ball field backstops. Fences for private tennis courts shall be within the required setbacks for accessory uses in that zoning district.

5) In all zoning districts, chain link, woven wire, and electric and barbed wire fences shall be prohibited in front yards, except on bona fide farms, electric and gas substations, and government facilities. Fences and walls of exposed concrete block, tires, junk or other discarded materials shall be prohibited.

6) A fence, wall, or screen shall not impede access by emergency services to the subject and surrounding properties.

7) A fence, wall, or screen shall be installed with the finished side facing adjoining properties and rights-of-way.

8) A fence, wall, or screen shall be maintained in a sturdy upright position free from any broken or missing parts, slats or boards. Finishes shall be maintained in good condition.

10.16. LINE OF SIGHT

10.16.1. In order to maintain an acceptable and safe line of sight for motor vehicle drivers, no parking spaces, fences, walls, posts, lights, shrubs, trees or other type of obstructions not specifically exempted shall be permitted in the space between thirty (30) inches and above ground level and ten (10) feet above ground level within a triangular sight distance.

10.16.2. The required triangular sight distance for any street intersections with thoroughfares shall be provided in compliance with the *American Association of State Highway and Transportation Officials* sight distance standards for roadway of similar classifications, intersections signalization/signage, and rated speeds.

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10.17. ALTERNATIVE SCREENING METHODS

10.17.1. When screening is required by this Article or by other provisions of this Ordinance and the site design, topography, unique relationships to other properties, lot configuration, spatial separation, natural vegetation, or other special considerations exist relative to the proposed development, the applicant may submit a specific plan for screening to the Zoning Administrator. This plan must demonstrate how the purposes and standards of this Ordinance will be met by measures other than those listed in **Sections 10.12 through 10.16.** If approved by the Zoning Administrator, the alternative screening plan may be utilized to meet the requirements of this Ordinance.

10.17.2. A combination of natural vegetation, fences, walls and berms may be utilized to achieve the screening requirements of **Sections 10.12 through 10.16**. provided that the following standards are met:

(a) Walls (a minimum of 5 feet in height and constructed of masonry, stone or pressure treated lumber) or an opaque fence (a minimum of 5 feet in height) may be used to reduce the widths of the buffer yards by 10 feet.

(b) Understory trees may be substituted for canopy trees if, in the opinion of the Zoning Inspector upon conferring with the electrical utility provider, a conflict exists with overhead utility lines.

(c) Wall planters shall be constructed of masonry, stone or pressure treated lumber and shall have a minimum height of 30 inches. The minimum height of shrubs in wall planters shall be 6 inches. The effective planting area of the wall planter shall be 4 feet in width (7 feet if the wall planter contains trees).

(d) Any berm utilized for screening purposes shall have a minimum height of 3 feet, a minimum crown width of 3 feet, and a side slope no greater than 3:1.

10.18. USE OF EXISTING SCREENING

When a lot is to be developed so that screening is required and that lot abuts an existing hedge, fence or other screening material on the adjoining lot, then that existing screen may be used to satisfy the requirements of this Ordinance. The existing screen must meet the minimum standards for screening established by this Ordinance and it must be protected from damage by pedestrians or motor vehicles. However, the burden to provide the necessary screening remains with the use to be screened and is a continuing obligation that runs with the land so long as the original use continues in operation. Consequently, should the screening on the adjoining lot be removed, the use required to be screened shall, at that time, provide screening in accordance with the requirements of this Ordinance.

10.19. GUARANTEE IN LIEU OF IMMEDIATE INSTALLATION

It is recognized that land development occurs continuously and that vegetation used in landscaping or screening should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this Ordinance and reduce the potential expense of replacing landscaping or screening materials which were installed in an untimely or improper fashion, the developer may provide an adequately secured performance bond or other security to ensure that all of the requirements of this Article will be fulfilled.

10.20 – 10.29 RESERVED

PART IV. OUTDOOR LIGHTING

10.31. PURPOSE.

Sufficient outdoor lighting at night increases safety, enhances the County's night time character, and helps provide security. New lighting technologies have produced lights that are extremely powerful, and these types of lights may be improperly installed so that they create problems of excessive glare, light trespass, and higher energy use. Appropriately regulated, and properly installed, outdoor lighting will contribute to the safety and welfare of the residents of the County.

10.32. DEFINITIONS.

As found in Article 2 of this Ordinance, the following definitions are used in this section:

Direct Light: Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Fixture: The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Flood or Spot Light: Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Fully-Shielded Lights: outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

Glare: Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Grandfathered luminaires: Luminaires not conforming to this code that were in place at the time this code was voted into effect. When an ordinance "grandfathers" a luminaire, it means that such already-existing outdoor lighting does not need to be changed unless a specified period is specified for adherence to the code.

Height of Luminaire: The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

Indirect Light: Direct light that has been reflected or has scattered off of other surfaces.

Lamp: The component of a luminaire that produces the actual light.

Light Trespass: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen: A unit of luminous flux. One foot-candle is one lumen per square foot. For the purposes of this Ordinance, the lumen-output values shall be the INITIAL lumen output ratings of a lamp.

Luminaire: This is a complete lighting system, and includes a lamp or lamps and a fixture.

Outdoor Lighting: The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Temporary Outdoor Lighting: The specific illumination of an outside area of object by any man-made device located outdoors that produces light by any means for a period of less than 7 days, with at least 180 days passing before being used again.

10.33. OUTDOOR ADVERTISING SIGNS

10.33.1. **Top Mounted Fixtures Required**. Lighting fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure. All such fixtures shall comply with the shielding requirements of **Section 10.32.1.** Bottom-mounted outdoor advertising-sign lighting shall not be used.

10.32.2. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding. Dark backgrounds with light lettering or symbols are preferred, to minimize detrimental effects. Unless conforming to the above dark background preference, total lamp wattage per property shall be less than 41 watts.

10.32.3. **Prohibitions**. Electrical illumination of outdoor advertising off-site signs between the hours of 11:00 p.m. and sunrise is prohibited.

10.34. RECREATIONAL FACILITIES.

10.34.1. Any light source permitted by this Ordinance may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:

(a) All fixtures used for event lighting shall be fully shielded or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare.

(b) All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 11:00 p.m. except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.

10.35. – 10.40. RESERVED.

ARTICLE 11 – DEVELOPMENT REGULATIONS FOR SPECIFIC USES

Table of Contents

11.1. Purpose 3
11.2. Application Required 3
11.3. Site Plan Required For Uses With Conditions 3
11.4. Requirements for All Uses Within the R-A, R-1, R-2, C-1, HC and OS Districts 4
11.5. Accessory Uses and Structures 4
11.6. Adult Business and Entertainment Establishments (including bookstores) 6
11.7. Ambulance Services (public and private) 7
11.8. Animal Kennels, Outdoor; Boarding and Grooming Facilities; Vet Clinics 7
11.9. Animal Shelters 7
11.10. Arenas, Assembly, and Exhibition Halls 8
11.11. Athletic Fields, Recreational Buildings and Playgrounds 8
11.12. Auction Houses, No Livestock 9
11.13. Aircraft or Missile Manufacturing 9
11.14. Alcohol or Alcoholic Beverage Manufacturing; Brewery; Distillery 9
11.15. Automobile Service Station – Including Storage of Junk Vehicles 10
11.16. Automobile and Other Junk, Wrecking, and Salvage Yards 10
11.17. Camp Grounds, Public and Private, Including Recreational Vehicle Parks and Travel Trailer Parks 11
11.18. Carbon or Battery Manufacturing 14
11.19. Ceramic Tile and Glass Manufacturing 15
11.20. Commercial or Industrial Incinerators 15
11.21. Concrete and asphalt plants 15
11.22. Cemeteries – Independent and Family Cemeteries; Religious Institutions with Cemetery 16
11.23. Club (Civic), Lodge, Community Centers, Meeting and Assembly Halls, Public or Private 17
11.24. Cluster Housing Development 18
11.25. Day Care Center, Adult (More than eight persons) 22
11.26. Day Care Center – Child (More than Eight Children) 22
11.27. Day Care Home – Child (Two to Eight Children);Family Child Care Home 23
11.28. Day Care Home – Adult (Seven or more beds) 24
11.29. Dwelling, Accessory Residential 25
11.30. Dwelling, Mixed Use 26
11.31. Dwelling, Multi-Family 26
11.32. Family Care Home a.k.a. Group Home (no more than six residents) 28
11.33. Farmer's Market/Open Air Market 29
11.34. Fire and Rescue Station 30
11.35. Firing Range 30

11.36. Flea Markets – Permanent Location 34
11.37. Fertilizer Manufacturing 35
11.38. Food Processing with Slaughterhouses 35
11.39. Foundries 36
11.40. Fuels, Bulk Storage 37
11.41. Fuel Oil Sales (Retail) 37
11.42. Funeral Home, No Crematorium 38
11.43. Funeral Home with Crematorium 38
11.44. Go-Cart and Motor-Cross Raceway/Track 39
11.45. Golf Course, Par 3 39
11.46. Golf Course, Public or Private (excluding miniature golf) 40
11.47. Hazardous and Toxic Chemicals Processing, and Disposal 40
11.48. Home Occupations 41
11.49. Hazardous Chemical Storage 42
11.50. Heliport or Helipad 42
11.51. Ice Vending Machine, Unmanned, Stand Alone 43
11.52. Industrial Supplies and Equipment Sales 43
11.53. Ink Manufacturing 44
11.54. Junkyards/Salvage Yards/Automobile Graveyards 44
11.55. Landfill, Demolition 44
11.56. Landfills, Sanitary 45
11.57. Manufactured Home as a Temporary Use 46
11.58. Manufactured Home Storage and Repair Yard 47
11.59. Manufacturing and Industrial Uses Not Listed and Approved by the Planning Board 47
11.60. Mini-Warehouse Storage Facility 48
11.61. Mining, Quarrying, Sand Pits, and Mineral Extraction 48
11.62. Nursing Homes, Rest Homes and Convalescent Homes 50
11.63. Outdoor Sales and Display Areas (Accessory Uses) 51
11.64. Outdoor Storage (accessory Uses) 52
11.65. Private Utilities, Equipment, Lines, Substations, and Storage Yards 52
11.66. Public Utilities, Equipment, Lines and Substations 53
11.67. Radio and Television Studios, Including Towers 53
11.68. Recreation, Outdoor 54
11.69. Satellite Dish Antenna 54
11.70. Shopping Centers 54
11.71. Solid Waste Convenience and Recycling Sites 55
11.72. Temporary Sawmill 55
11.73. Temporary Structures and Uses 56
11.74. Combat Training Facilities 67
11.75. Transportation and Freight Terminals/Truck Stop 68
11.76. Urgent Care Facilities/ Medical Care Clinics/ Hospitals – Public and Private 69
11.77. Vehicle Towing Services 69
11.78. Pharmaceutical Manufacturing 69
11.79. Rubber Manufacturing, Natural or Synthetic 70
11.80. Any Use Not Otherwise Prohibited by Law or by This Ordinance 70

11.1. PURPOSE.

This Article contains supplemental development regulations for those uses and structures that are accessory to primary uses, permitted under prescribed conditions, or permitted by special use permit, as indicated in individual zoning districts.

11.2. APPLICATION REQUIRED

No use permitted under prescribed conditions shall be established or occupied without first obtaining a zoning permit from the County Zoning Administrator and a certificate of occupancy from the County Building Inspections Office. All uses permitted under prescribed conditions must also conform with all other applicable ordinance provisions before a certificate of occupancy is issued.

(Ord. 7/7/2003, Section 15.2)

11.3. SITE PLAN REQUIRED FOR USES WITH CONDITIONS

11.3.1. A site plan must always be submitted with the application showing at least the following drawn to an engineering scale:

(a) The shape and dimensions of the lot on which the proposed building(s) is to be erected;
(b) The location of said lot with respect to adjacent rights-of-way;
(c) The shape, dimensions, and location of all buildings, existing and proposed, and required setbacks;
(d) The nature of the proposed use of the building or land, including the extent and location of the use;
(e) The location and dimensions of off-street parking and loading space and means of ingress and egress;
(f) The square feet and percentage of lot as built upon area if the lot is located in a Watershed;
(g) The location and type of all required buffers;
(h) Required Driveway Permits from the Department of Transportation;
(i) A Sedimentation and Erosion Control Plan (if applicable) as submitted to the Land Quality Section, Department of Environment and Natural Resources; and,
(j) Any other information, which the Planning Staff may deem necessary for consideration in enforcing all provisions of this Ordinance.

11.3.2. The site plan shall indicate the location and dimensions of outdoor activity areas including outdoor storage, location and type of outdoor lighting, and areas of environmental concern such as flood plains, surface water, and drainage ways. Prior to approval of the site plan, the Zoning Officer may consult with other qualified personnel for assistance to determine if the application meets the requirements of this Ordinance. Individual applications may require more information, as given in this Section or elsewhere in this Ordinance. In addition, the Zoning Officer may require other information, as he/she

deems necessary in order to determine if the proposal meets all requirements and will not endanger persons or property.

(Ord. 7/7/2003, Section 15.1.1)

11.4. REQUIREMENTS FOR ALL USES WITHIN THE R-A, R-1, R-2, C-1, HC AND OS DISTRICTS

11.4.1. *Screening and Buffering.* If the applicant chooses to locate any structure allowed as a use with prescribed conditions within 30' to 100' of the adjacent property line of an existing residential occupied property, he/she must provide screening and buffering in accordance with **Article 10, Part III.**

11.4.3. *Lighting*. Lighting must be directed away from adjacent property and roadways. Lighting shall be directed onto the applicant's site only. **See Article 10, Part IV.**

11.4.4. *Outdoor Storage.* Outdoor storage must meet the requirements of **Section 11.61** of this Article.

11.4.5. *Access*. Adequate space must be provided on the site that allows vehicles to exit onto the street without backing into the road, highway, or street.

11.4.6. *Hours of Operation*. Hours of operation are limited to 7:00 am - 10:00 pm with the exception of any use that may require overnight stay, such as a bed and breakfast or campground, unless otherwise specified.

11.4.7. *Commercial Building Code*. If applicant desires to construct a business on his/her property or convert part of their dwelling to a business, the commercial building code for rehabilitation will apply.

11.4.8. *Home Occupations.* Home occupations may not occupy more than 25% of the home and shall not change the character of the dwelling or its surroundings.

11.4.9. *Parking and Loading*. See **Article 10, Part I.**

11.4.10. *Signage*. See **Article 10, Part II.**

11.5. ACCESSORY USES AND STRUCTURES

11.5.1. **Where:** All Districts as a Use with Conditions

11.5.2. **Definition: Accessory Use, Accessory Structure.** A use or structure customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure. Some examples of accessory structures and uses include but are not limited to free standing carports, detached garages, storage

buildings and detached mother-in-law suites or granny pods. Manufactured homes, tractor-trailers or containers are not considered accessory uses or structures. Accessory structures with any side dimension greater than 12 feet require a Building Permit from the Scotland County Building Inspections Department and must meet the technical provisions of the current North Carolina Residential Code.

11.5.3. Accessory buildings shall not be used for commercial purposes unless properly permitted.

11.5.4. **Location:**

(a) In all residential zoning districts, accessory structures and uses may be placed in back of or on the side of the principal structure on the lot but must meet the setback requirements for the zoning district.

(b) No accessory structure or building except utility substations shall be erected in any easement.

(c) On any lot in residential zoning districts, all accessory structures and uses shall be at least five (5) feet from any other building on the same lot, and at least twelve (12) feet from any buildings used for human habitation on adjoining lots. No accessory structure or use except utility substations shall be erected in any easement.

11.5.5. **Setbacks**: All parts of the building, including the footings and posts that support a shed style roof, shall comply with the side and rear line setback requirements of the district in which the accessory building is to be located. In the case of a corner lot, where the rear or side line abuts another streets or alleyway, the street-side setback must be equal to or greater than the front yard minimum setback for the district.

11.5.6. **Height Restrictions:** The height of all accessory structures and buildings shall conform to the height limitations of the zoning district in which it is located.

11.5.7. **Lot Coverage:** Accessory structures to a residential use shall not have a ground floor area which exceeds 50 percent of the ground floor area of the principal building.

11.5.8. **Expansion of Non-Conforming Use Not Permitted***:* If a property is nonconforming under the zoning ordinance, then the addition of an accessory use or structure must not violate and restriction concerning the expansion or change involving the nonconforming features of the site.

11.5.9. **Limitation on Number of Accessory Buildings***:* In all residential zones there shall be no more than two (2) detached accessory structures per lot. The architectural design of the building shall be similar to that of the principal dwelling. No accessory building that involves or requires any construction features which are commercial or industrial in nature or character shall be permitted.

11.6. ADULT BUSINESS AND ENTERTAINMENT ESTABLISHMENTS (INCLUDING BOOKSTORES)

11.6.1. **Where:** HC District - Special Use Permit Required

11.6.2. **Defined**: As included in ***Section 2.6*** of this Ordinance, an Adult Establishment/Sexually-Oriented Business means any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in G.S. 14-202.10. This includes, but it not limited to, adult bookstores, adult motion picture theaters, adult mini motion picture theaters, adult live entertainments, or massage businesses. This provision shall not pertain to massage therapists who are licensed or registered medical professionals or other persons certified by a state or nationally recognized organization; nor shall this apply to any private or public fitness center or nonprofit community recreational fitness and service organization, either of which provides massage therapy as a service incidental to the operation of a fitness center.

Statutory Reference – NCGS 160D-902.

11.6.3. **Requirements/Conditions**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.6.4. **Additional Requirements/Conditions:**

(a) Use Separation:

(i) No adult bookstore, adult theater or adult massage parlor shall be located within 1,000 feet of any other adult bookstore, adult theater, or adult massage parlor. Measurements shall be taken in a straight line from the exterior walls of the building(s) containing such regulated use and the adjacent building uses.

(ii) No establishment shall be located within 1,000 feet of any residential use or any church, school, or other such facility. Measurements shall be taken in a straight line from the exterior walls of the building(s) containing such regulated use and the adjacent building uses.

(iii) No sexually oriented business may remain open at any time between the hours of eleven o'clock (11:00) P.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays, or during the period from eleven o'clock (11:00) P.M. Saturday until eight o'clock (8:00) A.M. Monday.

(b) **Screening and Buffering:** See Article 10, Part III.

(c) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 18)

11.7. AMBULANCE SERVICES (PUBLIC AND PRIVATE)

11.7.1. **Where**: C-1 and HC as a Use with Conditions; Permitted by Right in I-1 and I-2 Districts.

11.7.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.8. ANIMAL KENNELS, OUTDOOR; BOARDING AND GROOMING FACILITIES; VET CLINICS

11.8.1. **Where:** RA District as a Use with Conditions; Permitted by right in HC, I-1 and I-2.

11.8.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located

11.8.3. **Additional Conditions:**

(a) Minimum setback from any street right-of-way to buildings or other such structures associated with the operation, including outdoor pens and runs, but not including accessory storage buildings shall be the same as the setbacks for the principal structures within said district.

(b) No buildings or other such structures associated with the operation, including outdoor pens and runs, but not including accessory storage buildings shall be located less than fifty (50) feet from any property used or zoned for residential purposes.

(c) Minimum setback from any other property line shall be the same as the setbacks for the principal structures within said district.

(d) **Noise**: Noise must be mitigated so as not to create a public nuisance for adjoining properties and must comply with all local noise regulations. This excludes typical noise from exercise or training while outdoors during the daytime during hours of operation.

(e) **Exterior Enclosures**: Exterior enclosures and runs must provide protection against weather extremes. Floors of runs must be made of impervious material to permit proper cleaning and disinfecting. All exterior enclosures must be surrounded by an eight (8) foot high solid continuous wall and door(s).

(f) **Sanitation**: All animal quarters and runs are to be kept in a clean, dry, and sanitary condition.

11.9. ANIMAL SHELTERS

11.9.1. **Where Permitted:** C-1 and HC District as a Use with Conditions.

11.9.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.9.3. **Additional Conditions:**

(a) Minimum setback from any street right-of-way to buildings or other such structures associated with the operation, including outdoor pens and runs, but not including accessory storage buildings shall be the same as the setbacks for the principal structures within said district.

(b) No buildings or other such structures associated with the operation, including outdoor pens and runs, but not including accessory storage buildings shall be located less than fifty (50) feet from any property used or zoned for residential purposes.

(c) Minimum setback from any other property line shall be the same as the setbacks for the principal structures within said district.

(d) **Noise**: Noise must be mitigated so as not to create a public nuisance for adjoining properties and must comply with all local noise regulations. This excludes typical noise from exercise or training while outdoors during the daytime during hours of operation.

(e) **Exterior Enclosures**: Exterior enclosures and runs must provide protection against weather extremes. Floors of runs must be made of impervious material to permit proper cleaning and disinfecting. All exterior enclosures must be surrounded by an eight (8) foot high solid continuous wall and door(s).

(f) **Sanitation**: All animal quarters and runs are to be kept in a clean, dry, and sanitary condition.

11.10. ARENAS, ASSEMBLY, AND EXHIBITION HALLS

11.10.1. **Where Permitted:** C-1 and HC Districts as a Use with Conditions.

11.10.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located

11.10.3. **Additional Conditions:**

(a) **Street Access:** The lot shall have direct access to an arterial or collector street. Vehicles may not exit the site by backing into the road, highway, or street.

(b) **Buffering**: A buffer shall be installed along the property line adjacent to residentially zoned or used property as required in **Article 10, Part III.**

11.11. ATHLETIC FIELDS, RECREATIONAL BUILDINGS AND PLAYGROUNDS

11.11.1. **Where Permitted:** R-A, R-1, R-2 Permitted by Right; I-1, I-2 and OS Districts as a Use with Conditions.

11.11.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.11.3. **Additional Conditions:**

(a) **Access:** All athletic fields shall have vehicular access to a collector or higher capacity street. Vehicles may not exit the site by backing into the road, highway, or street.

(b) **Buffering**: A buffer shall be installed along the property line adjacent to residentially zoned or used property as required in **Article 10, Part III.**

(c) **Lighting**: Lighting of fields shall be positioned as to limit impact on neighboring residential properties.

(d) **Hours of Operation**: Hours of operation are limited to 7:00 am - 10:00 pm with the exception of any use that may require overnight stay, such as a bed and breakfast or campground.

11.12. AUCTION HOUSES, NO LIVESTOCK

11.12.1. **Where Permitted:** R-A and HC as a Use with Conditions; Permitted by Right in I-1.

11.12.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.13. AIRCRAFT OR MISSILE MANUFACTURING

11.13.1. **Where Permitted:** I-2 District – Special Use Permit Required.

11.13.2. **Requirements**: Shall meet the requirement of ***Section 11.4 or 11.5*** as applicable to the district in which the use is located.

11.13.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 30.3)

11.14. ALCOHOL OR ALCOHOLIC BEVERAGE MANUFACTURING; BREWERY; DISTILLERY

11.14.1. **Where Permitted:** I-1 and I-2 District – Special Use Permit Required.

11.14.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.14.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 30.3)

11.15. AUTOMOBILE SERVICE STATION – INCLUDING STORAGE OF JUNK VEHICLES

11.15.1. **Where Permitted:** HC, I-1 and I-2 Districts – Special Use Permit Required

11.15.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.15.3. **Additional Requirements/Conditions:**

(1) **Dimensional Requirements**.

i. Minimum setback from any street right-of-way to any outdoor storage area shall be at least one hundred (100) feet.

ii. Minimum setback from any other property line shall be at least fifty (50) feet.

iii. ~~No~~ All junk, salvage, or wrecking yard shall be located ~~less than~~ at least five hundred (500) feet from any property used or zoned for residential purposes.

(2) Screening and Buffering. Open storage of wrecked vehicles is not permitted. See **Article 10, Part III.**

(3) **Gates**. Any gates allowing for access must meet the same height requirement and must be kept closed and locked after dark and at any time when not open for business.

11.15.4. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.16. AUTOMOBILE AND OTHER JUNK, WRECKING, AND SALVAGE YARDS

11.16.1. **Where Permitted:** HC, I-1 and I-2 Districts - Special Use Permit Required

11.16.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.16.3. **Additional Requirements/Conditions:**

a. **Dimensional Requirements**.

i. Minimum setback from any street right-of-way to any outdoor storage area shall be at least one hundred (100) feet.

ii. Minimum setback from any other property line shall be at least fifty (50) feet.

iii. All junk, salvage, or wrecking yard shall be located at least five hundred (500) feet from any property used or zoned for residential purposes.

b. **Screening and Buffering**. Open storage of wrecked vehicles is not permitted See **Article 10, Part III.**

c. **Gates**. Any gates allowing for access must meet the same height requirement and must be kept closed and locked after dark and at any time when not open for business.

11.16.4. **Special Use Permit Required:** The uses listed above shall be subject to special use permit

procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use

11.17. CAMP GROUNDS, PUBLIC AND PRIVATE, INCLUDING RECREATIONAL VEHICLE PARKS AND TRAVEL TRAILER PARKS

11.17.1. **Where Permitted:** R-A and HC - Special Use Permit Required

11.17.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.17.3. **Additional Requirements**:

(a) **Dimensional Requirements**:

(i) In areas with developed campsites, separate sanitary facilities for both sexes (including showers) shall be available within four hundred (400) feet of each campsite and drinking water shall be available within one hundred (100) feet of each campsite.

(ii) In primitive camping areas, drinking water and sanitary facilities shall be available within twelve hundred (1200) feet.

(iii) In areas with developed campsites, each campsite shall have a minimum of parking for two (2) vehicles.

(b) **Service Building Required**. Pursuant to the N.C. State Building Code, each campground shall have at least one (1) service building to provide necessary sanitation and laundry tray. This structure may also contain a retail sales counter and/or coin-operated machine for the campground residents use, provided there is no exterior advertising. Vending machines also may be permitted in a sheltered area. All service buildings shall be provided and maintained in a clean and sanitary condition and kept in good repair at all times. They shall be safely and adequately lighted. Facilities shall be ADA accessible and conveniently located. All buildings and structures shall be constructed in accordance with the N.C. State Building Code, and all applicable requirements of the County Code.

(c) **Limit on Recreational Vehicles per Campsite Space.** No more than one (1) recreational vehicle may be parked on any one (1) space. Recreational vehicles shall not be permitted on parcels, lots, or other areas not approved through these regulations.

(d) **Refuse Collection.** The campground owner/operator is responsible for providing a central location for refuse collection and shall adequately screen and buffer such location from campground residents and campsites. Storage, collection and disposal of refuse shall be managed as not to create health hazards, rodent harborage, insect-

breeding areas, accident, fire hazards, or air pollution. The location of on-site refuse facilities and collection schedule shall be approved by the Scotland County Public Works Department prior to zoning approval.

(e) **Access to Wastewater and Drinking Water for All Campsites.** Each campground shall have reasonable access to a source of potable water and adequate wastewater disposal approved by the applicable health authority and building codes.

(f) **No Permanent Camping.** No permanent camping shall be permitted. It is not intended that any structure, mobile or permanent, be used as a permanent residence except for the owner or operator.

(g) **Lighting**. Adequate lighting shall be provided for all common areas, including interior lighting in any building open at night. All sanitary facilities and dumping areas, water faucets, parking areas (other than at each campsite), recreation areas, and other service buildings and general use sites shall be lit at night, either with a light mounted on the building or as a pole light. In developed camping areas, lights will be installed along walkways to water and sanitary facilities and at roadway or driveway intersections. All outdoor lighting shall have a total cutoff at ninety (90) degrees.

(h) **Fire Pits.** Each campsite space may provide a fire pit or ring if burning is permitted within campground. No trash burning is allowed other than in fire pit or ring and no burning other than paper and wood is allowed. Fires shall be extinguished before leaving or retiring.

(i) **Picnic Tables.** Permanently affixed picnic tables may be provided at campsites spaces.

(j) **Public Street Access.** No campsite space within a campground resort shall directly access a road from the exterior [of] the campground. Access to all structures within the campground shall be made using internal streets. All campground entrances/driveways shall be approved by the North Carolina Department of Transportation as required by NC state law.

(k) **Street Maintenance.** Maintenance of all internal streets and drainage facilities shall be the responsibility of the owner of the campground if not approved by NCDOT. Streets shall be maintained in a manner to be free from pot holes, breaks in the pavement, rough surfaces, ponding of water and associated problems which would impede or cause hazards to motor vehicles. Speed reduction bumps on paved internal streets are permissible, but they shall be painted and appropriate signs indicating the bump shall be placed along the street. These requirements are subject to inspection anytime by the County.

(l) **Camp Stores:** In areas with developed campsites, a camp store may be provided, for the use of campground users only, which may sell camping supplies, e.g. food, ice, personal supplies, etc.

(m) **Signs**.

(i) Signs may be placed within campground for purposes of public direction and safety.

(ii) One freestanding sign for the purposed of advertising the campground shall be constructed at the entrance(s) of the campground and shall comply with the sign regulations contained in Article 10, Part II.

(iii) There shall be a maximum of three off-premise signs which must comply with the regulations contained in Article 10, Part II.

(n) **Flood Plains.** Campgrounds proposed to be developed in whole or in part in flood plains shall demonstrate compliance with the Flood Damage Prevention Regulations contained in the County Code.

(o) **Emergency Evacuation.** The application for a special use permit shall contain an emergency evacuation plan which is adequate to protect the safety of those utilizing the campground.

(p) **Animals**. Animals traveling with campers shall be kept on a leash or tethered within their campsite at all times.

11.17.4. **Additional Site Plan Requirements:**

(a) Topography of the site, at contour interval no greater than five (5) feet.

(b) Natural features such as streams, lakes or ponds, rocky outcrops, wooded areas, marshes, meadow land, or any other site in interest.

(c) Historic sites and cemeteries.

(d) Location and approximate size of all buildings and structures within 500 feet.

(e) Proposed layout of the campground, both primitive and developed camping areas, including individual sites, cabins, recreation areas, drinking water outlets, sanitary disposal facilities, comfort stations and other service buildings.

11.17.5**. Additional Operational Requirements:**

(a) **Responsible Party.** The person to whom a permit for a campground is issued shall be the party responsible to comply with the conditions of the operating permit and shall operate the resort campground in compliance with this section and shall provide adequate supervision to maintain the campground, its facilities and equipment in good repair and in a clean and sanitary condition. Failure to comply with this section may result in revocation of the zoning permit by the Zoning Officer.

(b) **Manager on Duty**. In developed camping areas, an attendant will be on the site twenty-four (24) hours a day while the campground is open for business.

(c) A public phone in working order shall be available.

(d) A fire extinguisher shall be available at each service building and at the office.

(e) Individual campsites and general use areas shall be kept clean and free from garbage, refuse, litter, and other conditions, which can lead to the transmission of disease, breeding of rodents and insects, and which may present a fire hazard or contribute to the spread of fire.

(f) All sanitary, laundry, and drinking water facilities shall be maintained in a clean, sanitary condition and kept in good repair at all times.

(g) A camp store may be permitted, but no alcoholic beverages may be sold on the site.

(h) **Registration Records**. Every campground owner or operator shall maintain an accurate register containing a record of all occupants in the campground. The register shall be available for inspection at all times by authorized county representatives. The register shall contain the following information:

(i) Name and permanent address of the occupants of each space.

(ii) Campsite space number and/or appropriate quarter within a shelter.

(iii) Date when occupancy within the campground begins and date when occupancy within the campground ceases.

(iv) Upon request, park records shall be made available to the County.

(v) **Time of Stay Each Year.** No recreational vehicle or park tenant shall stay a length of time which exceeds 60 days of the time during which the resort campground is approved to operate.

(i) **Inspections**.

(1) Any representative acting in official capacity on behalf of the County of Scotland as determined by County, is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Article. It shall be the duty of the owners of campgrounds to give the County free access to such premises for inspections.

(2) The person to whom an operating permit for a campground is issued shall operate the campground in compliance with this Ordinance and shall provide adequate supervision to maintain the campground, its facilities and equipment in good repair and in a clean and sanitary condition.

(3) The campground owner shall notify campground visitors of all applicable provisions of this Article and inform them of their responsibilities under this Article.

(j) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.18. CARBON OR BATTERY MANUFACTURING

11.18.1. **Where Permitted:** I-2 - Special Use Permit Required

11.18.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which

the use is located.

11.18.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 30.3)

11.19. CERAMIC TILE AND GLASS MANUFACTURING

11.19.1. **Where Permitted:** I-2 - Special Use Permit Required

11.19.2 **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.19.3 **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 30.3)

11.20. COMMERCIAL OR INDUSTRIAL INCINERATORS

11.20.1**. Where Permitted:** I-2 - Special Use Permit Required

11.20.2. **Requirements**: Shall meet the requirement of ***Section 11.4 or 11.5*** as applicable to the district in which the use is located.

11.20.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 30.3)

11.21. CONCRETE AND ASPHALT PLANTS

11.21.1. **Where Permitted:** I-2 - Special Use Permit Required

11.21.2. **Requirements**: Shall meet the requirement of ***Section 11.4 or 11.5*** as applicable to the district in which the use is located.

11.21.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary

to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 30.3)

11.22. CEMETERIES – INDEPENDENT AND FAMILY CEMETERIES; RELIGIOUS INSTITUTIONS WITH CEMETERY

11.22.1**. Where Permitted:** R-A, R-1 and R-2 - Special Use Permit Required

11.22.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.22.3. **Additional Requirements**:

(a) **North Carolina Cemetery Act:** All cemeteries shall meet the requirements set forth by the North Carolina Cemetery Act, and if applicable, shall obtain a license from the North Carolina Cemetery Commission.

(b) **Minimum Lot Size:** A minimum of three (3) contiguous acres shall be required to establish a cemetery, columbarium or mausoleum not located on the same tract of land as a church. A minimum of one acre shall be required for free-standing cemeteries.

(c) **Setbacks**: The minimum setback for structures, graves and burial plots from any exterior property line shall to 100 feet.

(d) **Cemeteries as an Accessory Use to a Church.** Cemeteries, including a columbarium, located on the same property as a church shall be subject to the following criteria:

i. The cemetery shall not encroach on any yard setbacks.

ii. The requirements of accessory uses shall apply.

(e) **Initial Citing or Expansion Request:** The following conditions shall apply:

1. Whenever it is proposed to establish a cemetery or to extend the boundaries of an existing cemetery, the party that is proposing shall make written application to the Scotland County Planning Board for a Special Use Permit, the requirements for which are outlined in **Article 6**.

2. All "Plots" are to be setback a minimum of twenty (20) feet from the property line of the cemetery; and the new cemetery property lines are to be a minimum of twenty (20) feet from the original property line.

3. A twenty (20') foot easement ingress, egress, and regress granted to person(s) shall be reasonable and limited to the purposes of visiting graves, maintaining the gravesite or cemetery, or conducting genealogy research. The right of ingress and egress shall not be constructed to provide a right to operate motor vehicles on the property for accessing a cemetery or gravesite unless there is a road or adequate right-of-way that permits access by motor vehicle and the owner has given written permission to use the road or right-of way of necessity.

4. The Cemetery is to be continuously maintained by the church organization, corporation or non-profit corporation.
5. A sign not to exceed 32 square feet (4'x8'), identifying the Cemetery is to be erected at the entrance of the Cemetery a minimum of seventy (70') feet from the center of a state-maintained highway.
6. A Plat Map & Deed must be recorded before the Special Use Permit can be recorded.
7. Only one (1) person may be in a burial space except for a parent and infant or two (2) infants buried at the same time.
8. All plots/graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.

11.22.4. **Family Cemeteries.**

(a) R-A District only as a Special Use

i. Must be surveyed and recorded with Mapping and Register of Deeds.

ii. The Cemetery is to be continuously maintained by the heirs of the family and everyone buried there is to be an heir.

iii. Must be named.

iv. Must have a minimum 10 ft. ingress and egress.

v. Must not exceed 100 ft. × 200 ft. area.

vi. Gravesites must be at least 100 feet from any water supply.

vii. Cemetery boundaries must be at least 100 feet from existing dwelling.

viii. A fence is to be erected around the perimeter of the cemetery or once established (body placed).

ix. All markers or memorials must be of durable compositions. Markers may not be homemade.

x. Only one (1) person may be in a burial space.

xi. Back-yard burials are not permitted; and it shall be unlawful to bury a dead body outside of a registered cemetery in the County of Scotland.

11.23. CLUB (CIVIC), LODGE, COMMUNITY CENTERS, MEETING AND ASSEMBLY HALLS, PUBLIC OR PRIVATE

11.23.1. **Where Permitted:** R-1 and R-2 as a Use with Conditions; permitted as Use by Right in C-1, HC, I-1 and I-2 Districts.

11.23.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which

the use is located.

11.23.3. **Additional Conditions**:

(a) **Access to Streets:** Clubs shall have direct access to a collector or higher capacity street.

(b) **Screening and Buffering:** All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Article 10, Part III.

(c) **Pools:** Private non-profit clubs having only one operating swimming pool with bathhouse facilities and open only during the swimming season are exempt from the minimum lot area requirements if all activities and facilities (other than parking) are located no closer than fifty (50) feet to any property line. There shall be provided in any swimming pool water area at a depth of five (5) feet or less in the ratio of 7.2 square feet per member (or family). Water areas not deeper than five (5) feet shall not be included as a part of the minimum pool area to satisfy this requirement. Adjacent to swimming pools there shall be provided paved patio area(s) in the ratio of two (2) square feet of paving for each square foot of water area that is five (5) feet or less in depth.

(d) **Setbacks:** No improvements, structures, sidewalks or play areas or equipment shall be closer than fifty (50) feet to any adjoining property lines. Parking areas may be permitted within twenty (20) feet of an adjoining property line if the abovementioned twenty (20) foot strip is used for plantings designed to grow at least six (6) feet high.

11.24. CLUSTER HOUSING DEVELOPMENT

11.24.1. **Where Permitted:** R-A, R-1 and R-2 - Special Use Permit Required

11.24.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.24.3. **Additional Conditions**:

(a) ***Purpose***. The purpose of cluster development regulations is to provide an optional land development procedure which results in the preservation of open space; protection of streams, floodplain areas and significant existing tree cover; promotion of more efficient subdivision street and infrastructure networks; and encouragement of a variety of styles or types of residences. Cluster development should provide a total living environment for residential purposes that is in compliance with the Comprehensive Plan and other applicable local, state or federal laws or regulations.

(b) ***Permitted Uses.*** Residential cluster developments may have as permissible uses single-family detached dwelling units, duplexes, residential townhouse dwelling units, and residential condominium dwelling units or any combination thereof so long as the permitted density is not exceeded.

(c) ***General requirements.***

i. Cluster developments shall be developed on tracts of five acres or more.

ii. Public sanitary sewer and water connections shall be required for every lot or dwelling unit in a cluster development, except in the R-A district, where the Scotland County Health Department may approve a shared private sanitary sewer and water system.

iii. A master plan shall be required to be submitted if the cluster development is to be the initial phase of a larger project. Final plat approval procedures according to the requirements of the Subdivision Ordinance shall apply to all cluster developments.

iv. Each individual cluster development lot shall have public or private street access according to the criteria listed in applicable sections of the Subdivision Ordinance.

v. A homeowner's association shall be established to own and maintain all property or facilities held in common private ownership. Documents regarding the homeowner's association shall be submitted to the County for approval with the final plat and shall be duly recorded with the final plat in the Scotland County Register of Deeds Office by the applicant.

vi. Design of cluster developments will be reviewed by the Planning Board based upon accepted general design principles, and appropriate requirements of the ordinance. Where possible, appropriate information on floor plans, building areas, building elevations (materials colors) and landscape provisions should be furnished along with all required information with the SUP application. Restrictive covenants may be submitted to address the above related matters with the SUP application.

(d) ***Dimensional standards.***

i. The maximum permissible density shall be limited to a maximum of six dwellings per acre. Land not required for residential lots and associated development shall be maintained as undisturbed permanent open space.

ii. Cluster developments containing single-family development may use the minimum dimensional standards shown in the table below.

Table 11-1

Single-Family Cluster Developments

Cluster Development	**R-A**	**R-1**	**R-2**
Lot Dimensions:			
Lot area , minimum	12,000 sq. ft.	6,000 sq. ft.	5,000 sq. ft.
Lot width, minimum	70 ft.	50 ft.	50 ft.
Minimum Yards:			
Front yard	35 ft.	20 ft.	20 ft.
Rear yard	25 ft.	20 ft.	15 ft.*

Side yard	10 ft.	10 ft.	7.5 ft.
Corner street side yard	20 ft.	15 ft.	15 ft.
Maximum Height	35 ft.	35 ft.	35 ft.

** The rear setback for lots that abut open space may be reduced to ten feet as long as the overall width still meets or exceeds the otherwise required setback width.*

iii. No garage door shall be located closer than the lesser of the minimum setback or 20 feet back from the right-of-way line, or rear edge of the adjacent sidewalk, whichever is greater, in order to ensure that vehicles parked on the driveway do not hinder pedestrian access.

(e) ***Open space standards.*** Open space in cluster development shall be no less than 25 percent of the gross area of the cluster development tract. All open space provided in a cluster development shall meet the following criteria in addition to the requirements of zoning and subdivision ordinances:

i. Open space shall about 40 percent of the lots within the subdivision and shall be well distributed throughout the development so as to achieve the requirement herein.

ii. All open space areas shall be at least 20 feet in width, except the open space that is provided around the perimeter of a cluster development. Such open space areas shall be undisturbed.

iii. All open space shall be linked, either directly or across street rights-of-way.

(f) ***Parking standards*.** Each dwelling unit in a cluster development shall have two off-street parking space. In addition, there shall be one space for every two dwelling units set aside in an auxiliary off-street parking area in a cluster development.

(g) ***Homeowner's Association.***

i. Homeowner's association declaration and by-law documents shall be submitted to the County for acceptance.

ii. Such homeowner's association documents shall have adequate provisions to insure proper maintenance of all privately-owned areas such as, but not limited to, open space, recreational facilities and areas, parking lot areas and private drives.

iii. Applicants are encouraged to submit homeowner's association documents which contain provisions addressing exterior appearance and maintenance standards according to a set of architectural design criteria.

(h) ***Interior roads.***

i. Determination of whether interior roads shall be constructed as public streets or private drives or a combination of public streets and private drives shall be based upon recommendations from the Planning Department. Consideration shall be given to the any adopted transportation plan, existing

and proposed neighborhood streets and circulation needs, to the relationship of the site to adjoining lands, the size and shape of the tract to be developed, to the number of ultimate dwelling units to be constructed on the tract and on adjoining lands and to anticipated traffic volumes.

ii. The determination of whether interior roads shall be public or private will consider only the minimum needs of the public for the public streets and will recognize the privacy, security and safety advantages of private drives. All public streets shall have curb and gutter according to Town standards. Private drives are interior circulation roads designed and constructed to carry vehicular traffic from a public street within or adjoining the site to terminal parking areas and service areas, or back to said public street.

iii. The design and arrangement of private streets shall be subject to review and approval by the Planning Board.

(1) When there is a distance of 150 feet or more between an existing public street and points of refuse collection, a private drive shall be required.

(2) All portions of such private drives shall not be more than 1,000 feet from their point of public access.

(3) When the development is required to have a private drive, the private drive shall be paved to a minimum width of at least 27 feet, measured from edge of pavement. Concrete curb and gutter sections may be required, if determined necessary by the Planning Board.

(4) A base course shall be applied to the entire required paved width of private drives and parking lots and shall consist of at least eight inches of compacted crushed stone.

(5) A surface course shall be applied to the entire required paved width of private drives and parking lots and shall consist of at least two inches of 1-2 asphalt paved surface.

(6) Cul-de-sac or dead-end streets shall be provided with a vehicular turning circle at least 80 feet in diameter, measured on the center line of the street or other acceptable design criteria for dead-end streets.

(7) A permanent street address approved by the Planning Department shall be assigned to the private drives.

(i) ***Maintenance Required.*** Homeowner's association documents shall include adequate provisions to ensure proper maintenance by the homeowner's association of private drives, units, their structural components and exteriors, yard spaces and other commonly owned property and shall be recorded with the final plat.

(j) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.25. DAY CARE CENTER, ADULT (MORE THAN EIGHT PERSONS)

11.25.1. **Where Permitted:** R-A, R-1 and HC as a Use with Conditions.

11.25.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.25.3. **Additional Conditions**:

(a) **State Requirements:** The construction and operation of such facilities shall comply with the provisions of the General Statutes of the State of North Carolina and any other applicable federal, state, and local laws, including, but not limited to, any licensing requirement.

(b) **Signs**: In any residential district and in the HD and HD-MU districts, all signs shall be non-illuminated and shall not exceed four (4) square feet in area.

(c) **Minimum Lot Size:** The minimum lot size shall be three thousand (3,000) square feet.

(d) **Fencing**: The entire play area at a adult day care center or home shall be enclosed by a fence having a minimum height of at least four (4) feet and constructed in such a manner that maximum safety to the adults is ensured.

(e) **Minimum Space Per Participant**: Adult day care centers shall have forty (40) square feet of indoor space for each participant in the portion of the building used for adult day care, excluding hallways, offices, and restrooms.

(f) **Proximity to Other Care Centers:** In any residential district, whether contiguous or not, adult day care centers shall not be located closer than a one-half-mile radius from any existing permitted adult day care center in a residential district.

11.26. DAY CARE CENTER – CHILD (MORE THAN EIGHT CHILDREN)

11.26.1. **Where Permitted:** R-A, R-1 and HC as a Use with Conditions.

11.26.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.26.3. **Additional Conditions**:

(a) **State Requirements:** The construction and operation of such facilities shall comply with the provisions of the General Statutes of the State of North Carolina and any other applicable federal, state, and local laws, including, but not limited to, any licensing requirement.

(b) **Outdoor Play Area:**

(i)**Centers with 6-29 Children:** Child day care centers licensed for six (6) to twenty-nine (29) children, inclusive, shall have seventy-five (75) square feet per child of outdoor play area for the total number of children for which the center is licensed. In addition, the total number of children on the playground shall not exceed the number the space will accommodate at seventy-five (75) square feet per child.

(ii) **Centers with 30 or More Children:** Child day care centers licensed for thirty (30) or more children shall have seventy-five (75) square feet per child of outdoor play area for at least one-half (½) of the total number for which the center is licensed, provided that the minimum amount of space on the outdoor play area must be enough to accommodate at least thirty (30) children. In addition, the total number of children on the playground shall not exceed the number the space will accommodate at seventy-five (75) square feet per child.

(iii) Outdoor play space may not include driveways, parking areas, or land otherwise unsuitable for children's play space.

(iv) Outdoor play space may not be in the established front yard.

(v) Outdoor play area shall provide an area that is shaded by a building, awnings, trees, or other methods.

(vi) The outdoor area shall be designed so that staff are able to see and easily supervise the entire area.

(c) **Street Access:** Centers on a site greater than 3 acres shall have access to a collector or thoroughfare street.

(d) **Hours**: The Special Use Permit shall establish the hours of operation.

(e) **Parking for Employees:** Parking for employees must be off-street and the minimum number of paved off-street parking spaces shall be two spaces plus one for each employee.

(f) **Off-Street Loading and Unloading:** In addition to the off-street parking area, there shall be sufficient paved driveway to accommodate at least two autos at one time for the purpose of loading and unloading passengers.

(g) **Signs**: In any residential district and in the HD and HD-MU districts, all signs shall be non-illuminated and shall not exceed four (4) square feet in area.

(h) **Minimum Lot Size:** The minimum lot size shall be three thousand (3,000) square feet.

(i) **Fencing**: The entire play area at a adult day care center or home shall be enclosed by a fence having a minimum height of at least four (4) feet and constructed in such a manner that maximum safety to the adults is ensured.

(j) **Minimum Space Per Participant**: Adult day care centers shall have forty (40) square feet of indoor space for each participant in the portion of the building used for adult day care, excluding hallways, offices, and restrooms.

(k) **Proximity to Other Care Centers:** In any residential district, whether contiguous or not, adult day care centers shall not be located closer than a one-half-mile radius from any existing permitted adult day care center in a residential district.

11.27. DAY CARE HOME – CHILD (TWO TO EIGHT CHILDREN);FAMILY CHILD CARE HOME

11.27.1. **Where Permitted:** R-A as a Use with Conditions.

11.27.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.27.3. **Additional Conditions**:

(a) **State Requirements**: A Family Child Care Home (FCCH) is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care. A family child care home must be licensed by the Division of Child Development and Early Education (DCDEE). Of those eight children, no more than five children may be of pre-school age. Pre-school age children are children who have not yet reached an age to attend school (i.e. kindergarten). Child Day Care Homes providing service to three or less children or providing care less than four hours per day and who are otherwise not subject to the regulation of the North Carolina Department of Health and Human Services Division of Child Development or other licensing agencies, are still subject to the regulations contained herein.

(b) **Residency Requirement:** The primary care provider must reside in the Child Day Care Home. No additional employees are permitted in the operation of the Child Day Care Home with the exception of a substitute who provides care during planned absences of the primary caregiver, as allowed by the North Carolina Department of Health and Human Services Division of Child Development.

(c) **Fencing**: All rear yards for a Child Day Care Home shall be fenced or walled. The minimum height for such walls or fences shall be four feet.

(d) **Restrictions on Use of Yard Area:** All equipment pertaining to the operation of a Child Day Care Home, to include toys, shall be stored in the rear yard. Front yards shall not be used as playground areas.

(e) **Building and Fire Inspections Required:** A building inspection and a fire safety inspection shall be completed for all Child Day Care Homes prior to zoning approval by the County.

(f) **Hours**: Hours of operation for a Child Day Care Homes shall be permitted from 6:00 a.m. until 8:00 p.m.

(g) **Proximity to Similar Facilities:** A Child Day Care Home, required to be licensed by the State of North Carolina, may not be located within one-half mile radius of an existing Child Day Care Home.

11.28. DAY CARE HOME – ADULT (SEVEN OR MORE BEDS)

11.28.1. **Where Permitted:** R-A as a Use with Conditions.

11.28.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.28.3. **Additional Conditions**:

(a) **Licensing**: An adult care home shall be licensed by the Division of Health Service Regulation of the NC Department of Health and Human Services.

(b) **Definition:** "Adult Care Home" is an assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to people with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. Adult care homes and family care homes are subject to licensure by the Division of Health Service Regulation.

(c) **Adult Care Home Structural Requirements.** In addition to applicable building code requirements, adult care homes must meet requirements of the adult care home licensure rules which address arrangement and size of rooms, lighting, water and air temperature, entrances and exits, and service and fire safety equipment. Annual sanitation and fire and building safety inspection reports by the appropriate authorities are required. Fire safety requirements address fire extinguisher specifications, smoke and heat detectors, fire alarm system, meeting fire safety requirements of city ordinance or county building inspectors, written fire and disaster plans, and fire rehearsals (at least four a year on each shift).

(d) **Residency Requirement:** The primary care provider must reside in the Adult Day Care Home. No additional employees are permitted in the operation of the Adult Day Care Home with the exception of a substitute who provides care during planned absences of the primary caregiver.

(e) **Fencing**: All rear yards for an Adult Day Care Home shall be fenced or walled. The minimum height for such walls or fences shall be four feet.

(f) **Restrictions on Use of Yard Area:** All equipment pertaining to the operation of an Adult Day Care Home, to include toys, shall be stored in the rear yard. Front yards shall not be used as playground areas.

(g) **Building and Fire Inspections Required:** A building inspection and a fire safety inspection shall be completed for all Adult Day Care Homes prior to zoning approval by the County.

(h) **Hours**: Hours of operation for an Adult Day Care Homes shall be permitted from 6:00 a.m. until 8:00 p.m.

(i) **Proximity to Similar Facilities:** An Adult Day Care Home, required to be licensed by the State of North Carolina, may not be located within one-half mile radius of an existing Adult Day Care Home.

*See **Family Care Home** when caring for two – six resident persons.*

11.29. DWELLING, ACCESSORY RESIDENTIAL

11.29.1. **Where Permitted**: R-1 and R-2 Districts - Special Use Permit Required

11.29.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.29.3. **Additional Requirements**:

(a) These facilities are considered accessory uses and must also follow the provisions of ***Section 11.5***.

(b) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 25.3 and 26.3)

11.30. DWELLING, MIXED USE

11.30.1**. Where Permitted**: R-A, R-2, C-1 and HC as a Permitted Use with Conditions.

11.30.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.30.3. **Additional Requirements:**

(a) The dwelling unit and the commercial use shall occupy the same principal structure.

(b) Lot and yard requirements (setbacks, etc.) for this use shall be the same as those for the nonresidential use.

(c) Nonresidential uses shall be limited to those allowed in the zoning district in which the structure is located.

(d) In the C-1 and HC districts, the structure must contain a commercial use for a dwelling to also be located in the structure

11.31. DWELLING, MULTI-FAMILY

11.31.1**. Where Permitted**: R-2 District - Special Use Permit Required

11.31.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.31.3. **Number of Individual Family Units**: "Multifamily dwellings" means three or more family units.

11.31.3. **Additional Requirements:**

(a) Side and rear yard minimum setbacks shall be increased to one and a half (1.5) times the minimum for the applicable zoning district.

(b) One or more parking lots shall be constructed to accommodate all required parking. Individual parking spaces shall not have direct access to the street. Automobile parking space and drives shall not be located closer than twenty (20) feet to the front or twenty (20) feet to the rear of

any dwelling or ten (10) feet to any side.

(c) Any playground equipment must be located in the rear yard at least twenty (20) feet from any property line.

(d) The following space requirements between building walls having window or door opening shall be maintained within a multi-family housing development.

i. A building wall having both window and door openings shall not be located any closer than 50 feet to another building.

ii. A building wall having only window or door openings shall not be located any closer than 25 feet to another building.

iii. Any group of buildings forming a courtyard shall have at least 25 percent of the perimeter of such courtyard open and for access by emergency vehicles.

(e) **Units and Minimum Buildable Area:** Multifamily dwellings such as apartments, condominiums, and townhouses shall be constructed on a lot area of at least two acres.

(f) **Minimum Dwelling Size:** Multifamily units shall be no less than 1,250 square feet in livable space.

(g) **Fire Protection:** Every multifamily development shall be equipped at all times with fire extinguishing equipment in good condition, of such size, type, and number and so located as to meet all regulations of the Town Fire Inspector.

(h) **Review by Fire Inspector.** Building plans for all building areas intended for public use shall be reviewed and approved by the Fire Inspector and the applicant shall submit documentation of site approval to the Zoning Officer prior to commencing the operation.

(i) **Emergency Access Telephone:** For the purpose of safety and meeting emergencies, one (1) telephone for each 25, or fraction thereof, dwellings shall continuously be provided to the entire occupancy of the development at convenient locations.

(j) **Animal and Pets:** No owner or persons in charge of any dog, cat, or other pet animal shall permit it to run at large or to commit any nuisance within the limits of the development and its surrounding area.

(k) **Streets:** All dwelling units shall have shared rights of access along private streets and/or along private drives at least twenty-four feet in width leading to a publicly maintained street. Maintenance of all private streets and private drives shall be a mandatory responsibility, running with the land, exercised by a single entity which shall be composed of one landowner, an Owners' Association, or all owners acting collectively pursuant to a binding agreement.

(l) **Signs:** Entrance and other signs within the multifamily development shall be in compliance with **Article 10, Part II – Signs**.

(m) **Landscaping, Buffering and Screening:** Shall be in compliance with **Article 10, Part III – *Landscaping, Buffering and Screening***.

(n) **Lighting Requirements:** All streets and parking areas within the development shall be adequately illuminated from sunset to sunrise. All lighting shall be in compliance with the requirements of **Article 10, Part IV– *Outdoor Lighting***.

(o) **Utility Requirements:**

i. Water Supply: Connection to a public water supply is required.

ii. Sewage Disposal: Connection to a public wastewater system is required.

iii. Solid Waste Disposal and Sanitation Requirements. Individual garbage cans that adhere to Town specifications shall be provided for each manufactured home.

(p) **Management**: In each multifamily development, a manager/operator shall be designated and shall be in charge at all time to keep the development, its facilities and equipment in a clean, orderly, safe, and sanitary condition. The manager/operator is to be registered with the Zoning Officer.

(q) **Plans and Declarations: Multifamily developments shall be subject to Major Site Plan as outlined in Article 16.** Together with the application for zoning permit there shall be submitted a tentative, over-all development plan which shall show:

i. A tabulation of the total number of acres in the proposed project and the percentage thereof designated for each of the proposed dwelling types, off-street parking, streets, parks, schools, and other reservations;
ii. A tabulation of over-all density per gross acre;
iii. Preliminary plans and elevations of the several dwelling types.

(r) **Condominiums**: Plans and declarations for condominium developments shall comply with the requirements of the North Carolina Condominium Act (NCGS Chapter 47C).

(s) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.32. FAMILY CARE HOME A.K.A. GROUP HOME (NO MORE THAN SIX RESIDENTS)

11.32.1. **Where Permitted:** R-A, R-1 and R-2 as a Permitted Use with Conditions.

11.32.2**. Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.33.3**. Additional Conditions**:

(a) **Defined**:

i. *Family Care Home*. A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for

not more than six resident persons with disabilities. ***(NCGS 160D-907)***

ii. *Person with disabilities.* 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 G.S. 122C-3(11)b. ***(NCGS 160D-907)***

(b) A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts. ***(NCGS 160D-907)***

Statutory Reference – NCGS 160D-907(b).

(c) **Separation of Uses:** No group care facility may be located closer to another such facility than one-half (½) mile measured by a straight line, and not street distances, in order to prevent the creation of a de facto social service district and to avoid affecting the surround neighborhood. "Affecting" means the point at which the number of group care facilities or residents therein might become so large that it may alter the character of a neighborhood. This subsection is also intended to protect existing group care facilities from the possibility that an over-concentration of such facilities might inadvertently create an institutional setting and hinder or negate the purposes of such facilities.

Statutory Reference – NCGS 160D-907(c).

(d) **Charges and Assessments:** A family care home shall be deemed a residential use of property for the purposes of determining charges or assessments imposed by the County for water, sewer, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and improvements.

Statutory Reference – NCGS 160D-907(d).

11.33. FARMER'S MARKET/OPEN AIR MARKET

11.33.1. **Where Permitted:** C-1, HC, I-1 and I-2 Districts as a Use with Conditions.

11.33.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.33.3. **Additional Requirements:**

(a) *Certain Sales Prohibited*. There shall be no sales of fuel and related products, tobacco products, alcoholic beverages, vehicles or related products. Food franchises are prohibited.

(b) *Parking*: Open air market uses shall be required to have off-street parking with adequate ingress and egress with an area for turn-around. A minimum of one parking space per 200 square feet of selling and display area shall be provided, with a minimum of two (2) spaces provided. For the purpose of calculating the required number of parking spaces, production facilities, garden plots, planting beds and outdoor storage area opened to the public are excluded. Overflow parking shall, at a minimum, be grass covered.

(c) *Area Size:* The minimum gross land area shall be 40,000 square feet.

(d) *Setbacks*: All display areas shall be at least forty (40) feet from any street or road right-of-way.

(e) *Display Area:* The amount of gross land area utilized for display area shall not exceed forty percent of the gross land area.

(f) *Code Requirement:* Any building, plumbing, electrical, or mechanical installation shall conform with all state and local codes.

(g) *Signs*: Seasonal signs are allowed, but cannot be placed anywhere it would create a traffic hazard. All other County signage regulations may apply. No rotating or flashing lights on advertising signage shall be permitted.

(h) *Lighting*: No outdoor lighting shall produce glare beyond the boundary of the property.

(i) *Water Service:* Potable water is required on-site.

(j) Items for sale shall be removed from the site or placed in a secured building at the end of each business day.

(k) *Public Restrooms:* Adequate restroom facilities shall be provided. These facilities shall be located a minimum of 50 feet from the street right-of-way and shall meet the side and rear setbacks for the district in which the outdoor market is located.

(Ord. 7/7/2003, Section 13)

11.34. FIRE AND RESCUE STATION

11.34.1. **Where**: R-A as a Use with Condition; Permitted as Use by Right in I-1 and I-2 Districts.

11.34.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.35. FIRING RANGE

11.35.1. **Where**: I-1 and I-2 Districts - Special Use Permit Required

11.35.2. **Purpose:** This section is intended to regulate the establishment and operation of shooting range facilities. Such recreational and training complexes, due to their potential noise impacts and safety concerns, merit careful review to minimize adverse effects on adjoining properties. This article does not otherwise apply to the general discharge of firearms including target practice on privately-owned property, or events such as turkey shoots, or the use of bows and arrows in accordance with all other applicable laws or regulations. Further, the regulations of this article

have been made with reasonable consideration among other things, as to the character of the county and its areas and their peculiar suitability for these businesses and recreational facilities.

11.35.3. **Intent:** It is the intent of this article to accomplish the following:

(a) *Permitting, registration and compliance*. New shooting range facilities shall only be established and operated in accordance with a valid permit issued by the county. In addition, existing ranges shall be registered and shall comply with the provisions of this article within one year.

(b) *Shot containment.* Each shooting range facility shall be designed to contain the bullets, shot or arrows on the range facility within the safety fan zone.

(c) *Noise mitigation.* Each shooting range facility shall be designed to minimize offsite noise impacts generated by the activities conducted on the range facility.

11.35.4. **Authority and jurisdiction:** The provisions of this article are adopted by the County board of commissioners under authority granted by the general assembly of the state, in G.S. 153A-121 (*Delegation of Police Power)* and further, G.S. 153A-129 (*Firearms).* From and after the effective date hereof, this article shall apply to every building, lot, tract or parcel of land which is currently being used by a private or public shooting range and which may be used in the future for a private or public shooting range, within the County's planning jurisdiction.

11.35.5. **Interpretations of terms and definitions:** For the purpose of this article, the following definitions shall apply:

(a) Words used in the present tense include the future tense.

(b) Words used in the singular number include the plural and words used in the plural number include the singular.

(c) The word "firearm" is defined to describe any gun from which a bullet is propelled by means of hot gases generated by burning powder (smokeless or black powder).

(d) The word "person" includes an owner, firm, joint venture, association, organization, partnership, corporation, trust and company, as well as an individual.

(e) The word "owner" when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant by entirety of the whole or part of such building or land.

(f) The word "lot" includes the words "plot" or "parcel."

(g) The word "building" includes the word "structure."

(h) The word "shall" is always mandatory and not merely directory.

(i) The words "located," "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be located, used or occupied."

(j) The word "dwelling" shall mean a structure or portion thereof which is used exclusively for human habitation.

(k) The word "shooting range" shall mean a facility designed for the purpose of providing a place on which to discharge firearms. Noncommercial firearms training ranges and complexes operated by and for municipal, county and state law enforcement officers are exempt from this definition. Nonprofit or charitable organizations engaging in fundraising activities by use of a shotgun using number four-shot through number nine-shot for a period not to exceed six consecutive weeks are exempt from this definition. A shotfall zone consisting of 900 feet of unencumbered space shall be required.

11.35.6. **Development requirements:**

(a) *Compliance.* All new shooting facilities shall be designed, constructed and operated in strict compliance with National Rifle Association (herein referred to as the N.R.A.) standards, specifically "The Range Manual, A Guide to Planning and Construction," Section 1: Chapters 1 through 7, Section 2: Chapters 1 through 18, Section 3: Chapters 1 through 12; and Section 4. In addition, construction standards shall comply with all appurtenant North Carolina Building and Fire Codes.

(b) *Setbacks.* All outdoor shooting stations on a range facility shall be located a minimum of 150 feet from any property line.

(c) *Warning signs.* Warning signs meeting N.R.A. guidelines for shooting ranges shall be posted at 100-foot intervals along the entire perimeter of the shooting range facility.

(d) *Distance from residentially zoned property.* All outdoor shooting range stations shall be located at least 500 feet from any residentially zoned property, excluding those dwellings occupied by the range owner and staff of the range. A shooting range lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a residence within 500 feet of the shooting station.

(e) *Buffering.*

(f) *Access*. Any gates allowing for access must meet the same height requirement and must be kept closed and locked after dark and at any time when not open for business

11.35.7**. Operational requirements:**

(a) *Hours of operation.* Outdoor shooting ranges shall be allowed to operate between 8 a.m. and sunset, except that the hours may be extended after sunset for purposes of subdued lighting certification of law enforcement officers, or may be extended for other purposes by notification to the county sheriff's department. On Sundays, outdoor shooting shall not commence before 11:30 a.m. and all outdoor shooting activity shall cease at 6:00 p.m., or at sunset, whichever occurs first.

(b) *Liability insurance.* The permittee shall be required to carry a minimum of $500,000.00 of liability insurance. Such insurance shall name the county as an additional insured party and shall save and hold the county, its elected and appointed officials and employees acting within the scope of their duties harmless from and against all claims, demands and causes of action of any kind or character, including the cost of defense thereof, arising in favor of a person or group's members

or employees or third parties on account of any property damage arising out of use of the range, or in any way arising out of the acts or omissions of the permittee, his/her group, club or its agents or representatives. The county shall be notified of any policy changes or lapses in coverage.

11.35.8. **Procedure for securing approval for new ranges.**

(a) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(a) *Permit application.* An application for a permit to establish and operate a shooting range facility shall be submitted by the legal property owner(s) or owner's agent to the county planning department. Such permit shall be secured prior to issuance of any other building or improvement permit by the county.

(b) *Fees.* The application shall be accompanied by an application fee of $100.00.

(c) *Required information.* The applicant shall provide sufficient information as required by these provisions in order to properly evaluate the permit application. In addition, copies of any written agreements from adjoining property owners and a letter from the insurance company to provide liability insurance shall accompany the permit application.

(d) *Site plan.* A site plan prepared by a professional engineer and/or a registered land surveyor for the entire range facility which shows the following applicable information drawn to an appropriate scale, shall accompany the permit application:

(1) Property lines for any parcel upon which the range facility is to be located, north arrow, plan scale, date and ownership information for the site;

(2) Complete layout of each range, including shooting stations or firing lines, target areas, shotfall zones or safety fans, backstops, berms and baffles, when necessary;

(3) Projected noise contours;

(4) Existing and proposed structures; occupied dwellings within 500 feet; roads, streets or other access areas; buffer areas; and parking areas for the range facility; and

(5) Any other appropriate information related to the specific type of range(s) being proposed.

(6) *Action.* Within 30 working days or at the next regular meeting, whichever is sooner, the planning board shall consider the application for permit and shall take one of the following actions:

i. Reject the application as incomplete; or

ii. Approve the issuance of the permit; or

iii. Deny the permit request.

iv. In any case, the written findings to support the action taken shall be provided to the applicant.

(e) *Permit display.* Permits shall be kept and displayed in a readily visible location on the shooting range facility and at all times be available for public inspection.

(f) *Permit transferability.* A permit issued pursuant to this article may not be transferred to another operator without the written approval and consent of the county planning department.

(g) *Changes* or *expansions.* If any shooting range facility is intended to be substantially changed or expanded to include types of ranges, operations or activities not covered by an approved permit or otherwise cause nonconformance with this article, a new permit for the entire facility shall be secured in accordance with all of the provisions of this article.

11.35.9. **Compliance of existing ranges:**

(1) *Abandonment and discontinuance*. When an existing shooting range is discontinued without the intent to reinstate the range use, the property owner shall notify the county of such intent by providing written notice to the planning department.

11.36. FLEA MARKETS – PERMANENT LOCATION

11.36.1. **Where Permitted:** HC District - Special Use Permit Required

11.36.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.36.3. **Additional Requirements:**

(a) **Size**: Flea markets shall not exceed one acre in size.

(b) **Days and Hours of Operation**: Days and hours of operation shall be established by the special use permit.

(c) **Food Sales**: The sale of food for consumption on or off the premises will require approval by the Department of Health.

(d) **Fencing for Permanent Locations:** Permanent outdoor flea markets are required to install and maintain fencing or landscaping along three (3) sides of the open market. A landscape plan describing both fencing and landscaping must be reviewed and approved by the Zoning Officer.

(e) **Buffering**: Screening and buffering of a permanent site when adjacent to residential properties may be required as part of the Special Use Permit.

(f) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of

or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.37. FERTILIZER MANUFACTURING

11.37.1. **Where**: I-2 District - Special Use Permit Required

11.37.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.37.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.37.4. **Other Requirements:** In accordance with **NCGS § 153A-128**, the county may regulate the storage, use or conveyance of any explosive, corrosive, inflammable, or radioactive substance.

(a) **Use Separation:** All storage tanks and loading facilities shall be located at least 200 feet from any property line.

(b) **Security Fencing:** Security fencing, a minimum 6 feet in height, shall be provided around all outside storage areas.

(c) **Location:** Principal access must be from a state highway or higher capacity street.

(d) **Fire Code:** The use must meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NFPA 30" of the National Fire Protection Association.

11.38. FOOD PROCESSING WITH SLAUGHTERHOUSES

11.38.1. **Where**: I-2 District - Special Use Permit Required

11.38.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.38.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.38.4**. Other Requirements:**

(a) Slaughter of animals shall take place inside a closed building in a confined area to prevent the transmission of sound associated with the slaughter to the outside.

(b) Off street parking sufficient to handle all customers, employees, trucks or transport vehicles shall be provided. Parking for all traffic utilizing the business shall be provided for on-site and off public roads, and other easements.

(c) The applicant shall provide a traffic impact analysis.

(d) The main entrance to the facility must be located on a state highway or state road. Access shall not be permitted through a residential area.

(e) The site must be served by an approved Public Sewer or On-Site Sewage Treatment System. Disposal of waste shall be in accordance with all applicable laws and regulations. This is meant to include, but is not limited to, all sewage, processed and unprocessed animal parts, manure, entrails, blood, hides and bones.

(f) The facility must have all necessary federal, state and county licenses and approvals, and comply with all state and federal health and safety regulations.

(g) The maximum area (indoor, outdoor or combination thereof) for the keeping or slaughtering of animals shall not exceed sixty percent (60%) of the individual lot or parcel site.

(h) Exterior storage areas, including animal storage areas, and vehicle and trailer storage, shall be fenced and screened from adjacent property and public rights of way. Fencing shall be sufficient to provide adequate screening and contain animals securely on the owner's property at all times.

(i) Animals shall be enclosed in gated enclosures with a minimum height of six (6) feet.

(j) Live animals may be held on the site for no more than twenty-four (24) hours.

(k) Waste slaughter byproducts shall be disposed of in accordance with all applicable federal, state, and local regulations. At a minimum, waste shall be disposed of within forty-eight (48) hours of being produced. Waste shall be stored in airtight containers and shall be confined in fully enclosed structures. Manure from holding areas shall be removed from the site daily or stored in a manner to control odor.

(l) All loading and unloading areas shall be screened from view from adjacent properties and public streets.

(Ord. 7/7/2003, Section 30.3)

11.39. FOUNDRIES

11.39.1. **Where**: I-2 District - Special Use Permit Required

11.39.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.39.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary

to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 30.3)

11.40. FUELS, BULK STORAGE

11.40.1. **Where Permitted:** I-2 District - Special Use Permit Required

11.40.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.40.3. **Additional Requirements:**

(e) **Use Separation:** All storage tanks and loading facilities shall be located at least 200 feet from any property line.

(f) **Security Fencing:** Security fencing, a minimum 6 feet in height, shall be provided around all outside storage areas.

(g) **Location:** Principal access must be from a collector or higher capacity street.

(h) **Fire Code:** The use must meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NFPA 30" of the National Fire Protection Association.

(i) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.41. FUEL OIL SALES (RETAIL)

11.41.1. **Where Permitted:** HC, I-1 and I-2 Districts as a Use with Conditions.

11.41.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.41.3. **Additional Requirements:**

(a) **Location:** Principal access must be from a collector or higher capacity street.

(b) **Fire Code:** The use must meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NFPA 30" of the National Fire Protection Association.

11.42. FUNERAL HOME, NO CREMATORIUM

11.42.1. **Where Permitted:** R-A, C-1, HC as a Use with Conditions.

11.42.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.42.3. **Additional Requirements**: Crematory or crematorium are subject to the following requirements:

(a) *License*: Any funeral home shall have and maintain a licensed manager on staff, keep in force and effect all other licenses required and provide proof of continued re-licensing.

11.43. FUNERAL HOME WITH CREMATORIUM

11.43.1. Where Permitted: R-A, C-1, HC, I-1 and I-2 Districts - Special Use Permit Required

11.43.2. **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.43.3. **Additional Requirements**: Crematory or crematorium are subject to the following requirements:

(b) *Use*: No crematory shall be established except as an accessory use or structure to a North Carolina licensed funeral home in the R-A, C-1, and HC Districts.

(c) *License*: Any funeral home operating a crematory shall have and maintain a licensed crematory manager on staff, keep in force and effect all other licenses required under the North Carolina Crematory Act, and provide proof of continued re-licensing.

(d) *Air Quality:* Prior to issuance of a zoning permit, the applicant shall provide a certification from the North Carolina Division of Air Quality that the applicant complies with all air quality regulations or that the Division of Air Quality does not require permit.

(e) *Building*: The maximum footprint of the crematory shall not exceed four hundred (400) square feet. The exterior/veneer must be of similar material and design as the principle structure.

(f) *Size*: Crematory operations shall not contain more than one (1) cremation chamber.

(g) *Location*: No crematory shall be established on a funeral home lot within two hundred (200) feet of any existing residential dwelling on adjacent parcels or within 150 feet of any property line.

(h) *Other*: A crematory must comply with and be maintained in compliance with all applicable public health and environmental laws and rules and meet all of the standards established by the North Carolina Crematory Act, as amended or superseded, and any additional rules and regulations issued by the North Carolina State Board of Funeral Services.

11.44. GO-CART AND MOTOR-CROSS RACEWAY/TRACK

11.44.1. **Where Permitted:** HC District - Special Use Permit Required

11.44.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.44.3. **Additional Requirements:**

(a) **Use Separation and Setbacks:**

(1) The "track" or any structure must be a minimum of 1,000 feet from any residential structure on surrounding properties. An owner occupied residence on the property of the track is allowed.

(2) All buildings, including accessory garages or storage buildings, shall be set back a minimum of 100 feet from all property lines and street rights-of-way.

(b) **Gates:** Any gates allowing for access must meet the same height requirement and must be kept closed and locked after dark and at any time when not open for business.

(c) **Noise:** The facility shall be sited and operated so as to not produce noise or sound which would adversely impact adjoining and surrounding properties.

(d) **Dust:** All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjoining properties.

(e) **Fencing:** Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of the raceway.

(f) **Hours of Operation:** No such facility that adjoins residentially used or zoned property shall conduct business between the hours of 11 p.m. and 8 a.m.

11.44.4. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.45. GOLF COURSE, PAR 3

11.45.1. **Where Permitted:** R-A and R-1 Districts as a Use with Conditions.

11.45.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.45.3. **Additional Requirements:**

(a) **Buffer**: A 50-foot wide planted buffer shall be observed around the perimeter of the property and shall not be included in the required dimensional area required for the use.

(b) **Minimum Area:** The minimum lot depth from the tees to the end of the driving area shall be 1,000 feet or the end shall be controlled with netting and/or berms to prevent golf balls from leaving the property.

(c) **Security Fencing:** Fencing, netting, trees, berms, or other control measures shall be provided around the perimeter of the driving area so as to prevent golf balls from leaving the driving area.

(d) **Dimensions**: The depth of a range along a driving axis shall be not less than 350 yards measured from the locations of the tees, and the breadth not less than 200 yards at a distance of 350 yards from the tee.

(e) **Hours of Operation:** Service to customers shall be halted at dusk. Lighting of the driving and practice range is not permitted.

(f) **Noise**: The amount of noise generated shall not disrupt the activities of the adjacent land uses.

11.46. GOLF COURSE, PUBLIC OR PRIVATE (EXCLUDING MINIATURE GOLF)

11.46.1. **Where Permitted:** R-A and R-1 Districts as a Use with Conditions.

11.46.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.46.3. **Additional Requirements:**

(1) **Use Separation:** A fifty-foot minimum distance shall be provided between the clubhouse or other principal building(s) and any adjacent residentially-zoned property.

(2) **Parking Area:** All parking and loading areas shall be graded and drained so as to dispose of all surface water.

11.47. HAZARDOUS AND TOXIC CHEMICALS PROCESSING, AND DISPOSAL

11.47.1. **Where Permitted:** I-2 District - Special Use Permit Required

11.47.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.47.3. **Defined**: Materials which are highly flammable, or which may react to cause fires or explosions, or which by their presence create or augment a fire or explosion hazard, or which because of their toxicity, flammability, or liability to explosion render firefighting abnormally dangerous or difficult; also to materials and formulations which are chemically unstable and which may spontaneously form explosive compounds, or undergo spontaneous or exothermic reactions of explosive violence or with sufficient evolution of heat to be a fire hazard. Hazardous chemicals shall include such materials as corrosive liquids, flammable solids, highly toxic materials, oxidizing

materials, poisonous gases, radioactive materials, and unstable chemicals, as defined in Section 20.2 of the *American Insurance Association Fire Prevention Code*.

11.47.4. **Additional Requirements**:

(a) Facility must comply with all federal, state and local requirements.

(b) **Fire Inspection Required:** Where such materials are stored, an inspection by the Fire Chief of the County is required prior to installation and at regular intervals thereafter as required by the NC Fire Code.

(c) **Safety and Evacuation Plan Required.** Such plan shall be required to be on file with the Fire Chief.

11.47.5. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 30.3)

11.48. HOME OCCUPATIONS

11.48.1. **Where Permitted:** R-A, R-1, R-2 and C-1 as a Use with Conditions.

11.48.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.48.3. **Defined**: Any profession or occupation carried on entirely within a dwelling providing that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, that no more than 25 percent of the total floor area of the dwelling is used for such purposes, and that there is no outside or window display. No mechanical equipment shall be installed or used other than is normally used for domestic or home occupation purposes.

11.48.4. **Additional Conditions:**

(a) That such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes;

(b) That no more than twenty-five percent (25%) of the total floor area of the dwelling is used for such purposes;

(c) That there is no outside or window display;

(d) That no mechanical or electrical equipment is installed or used other than is normally used for domestic, professional, or hobby purposes, or for infrequent consultation or emergency treatment; and,

(e) That not more than one person not a resident of the dwelling is employed in connection with the home occupation.

(f) **Outside Storage:** No outside storage or display of items associated with the home occupation is permitted.

(Ord. 7/7/2003, Section 24.2, Section 25.3, Section 26.3)

11.49. HAZARDOUS CHEMICAL STORAGE

11.49.1. **Where Permitted:** I-2 District - Special Use Permit Required

11.49.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.49.3. **Defined**: Materials which are highly flammable, or which may react to cause fires or explosions, or which by their presence create or augment a fire or explosion hazard, or which because of their toxicity, flammability, or liability to explosion render firefighting abnormally dangerous or difficult; also to materials and formulations which are chemically unstable and which may spontaneously form explosive compounds, or undergo spontaneous or exothermic reactions of explosive violence or with sufficient evolution of heat to be a fire hazard. Hazardous chemicals shall include such materials as corrosive liquids, flammable solids, highly toxic materials, oxidizing materials, poisonous gases, radioactive materials, and unstable chemicals, as defined in Section 20.2 of the *American Insurance Association Fire Prevention Code*.

11.49.4. **Additional Requirements**:

(a) **Fire Inspection Required:** Where such materials are stored, an inspection by the Fire Chief of the County of Scotland is required prior to installation and at regular intervals thereafter as required by the NC Fire Code.

(b) **Safety and Evacuation Plan Required.** Such plan shall be required to be on file with the Fire Chief.

(c) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.50. HELIPORT OR HELIPAD

11.50.1. **Where Permitted:** R-A, I-1 and I-2 Districts - Special Use Permit Required

11.50.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.50.3. **Additional Requirements:**

(a) Heliports and helipads have unique land use impacts and must be consistent with public interest and safety. Such facilities must meet applicable safety standards of the

Federal Aviation Administration, state safety standards, and fire suppression and safety standards of the fire marshal.

(b) Heliport and helipad use permits shall not be assignable or transferable and shall terminate automatically upon any usage in conflict with those permitted.

(c) Helicopter landing areas shall be at least 200 feet from all property lines adjacent to residential and agricultural zoning districts and at least 50 feet from property lines in all other zoning districts.

(d) Air ambulances shall comply only with a 50-foot setback from all property lines.

(e) All take-off, landing, and parking areas for heliports must be surfaced with a dust proof material.

(f) The planning officer may require an acoustical report and a noise mitigation plan be approved and implemented prior to the issuance of any permit for a heliport or helipad.

11.50.4. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.51. ICE VENDING MACHINE, UNMANNED, STAND ALONE

11.51.1. **Where Permitted:** C-1 and HC District as a Use with Conditions.

11.51.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.51.3. **Additional Conditions**:

(a) **Signage:** Signage shall be limited to no more than ten percent of the building facade up to eight square feet and limited to two signs.

(b) **Paved Access Required:** Machines will have paved access.

11.52. INDUSTRIAL SUPPLIES AND EQUIPMENT SALES

11.52.1. **Where Permitted:** I-1 District as a Use with Conditions.

11.52.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.53. INK MANUFACTURING

11.53.1. **Where Permitted:** I-2 District - Special Use Permit Required

11.53.2 **Requirements**: Shall meet the requirement of ***Section 11.4*** as applicable to the district in which the use is located.

11.53.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 30.3)

11.54. JUNKYARDS/SALVAGE YARDS/AUTOMOBILE GRAVEYARDS

11.54.1. **Where**: I-1 and I-2 Districts - Special Use Permit Required

11.54.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.54.3. **Junkyard Control Act**: Junkyards along interstate and primary highways shall meet the requirements of NCGS Chapter 136, Article 12, Junkyard Control Act.

11.54.4. **Additional Requirements.**

(a) **Screening**: Automobile graveyards, salvage yards, and similar types of used material industries must be conducted within a structure or on a lot enclosed by a solid fence at least six (6) feet in height, provided that the County Board finds that such yard will not have injurious effect on the public interest or welfare. The finished side of the fence shall face the property line.

(b) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.55. LANDFILL, DEMOLITION

11.55.1. **Where**: R-A, I-1 and I-2 Districts - Special Use Permit Required

11.55.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.55.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.55.4. **Additional Regulations:**

(a) **Distance Requirements:**

(i) The landfill or any structure must be a minimum of 1,000 feet from any residential structure on surrounding properties. An owner occupied residence on the property of the track is allowed.

(ii) All buildings, including accessory garages or storage buildings, shall be set back a minimum of 100 feet from all property lines and street rights-of-way.

(b) **Gates**: Any gates allowing for access must meet the same height requirement and must be kept closed and locked after dark and at any time when not open for business.

11.56. LANDFILLS, SANITARY

11.56.1. **Where**: R-A, I-1 and I-2 Districts - Special Use Permit Required

11.56.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.56.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.56.4. **Additional Regulations:**

(a) **Distance Requirements:**

(i) The landfill or any structure must be a minimum of 1,000 feet from any residential structure on surrounding properties. An owner occupied residence on the property of the track is allowed.

(ii) All buildings, including accessory garages or storage buildings, shall be set back a minimum of 100 feet from all property lines and street rights-of-way.

(b) **Screening/Fencing/Gates:**

(i) Screening is required which completely screens from view the stored items. Such screening shall be a durable wall or fence at least six (6) feet high in addition to a minimum fifteen (15) foot wide vegetated strip around the entire perimeter of any outdoor storage area. This vegetated strip shall consist of a

naturally wooded area or planted with a mixture of evergreen and deciduous trees and shrubs to simulate a naturally wooded area within three (3) years.

(ii) Any gates allowing for access must meet the same height requirement and must be kept closed and locked after dark and at any time when not open for business.

11.57. MANUFACTURED HOME AS A TEMPORARY USE

11.57.1. **Where Permitted:** R-A, R-1, R-2, C-1, HC, I-1 and I-2 as a Use with Conditions.

11.57.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.57.3. **Additional Conditions:**

(a) Manufactured homes may be used for temporary purposes and uses for a period of twelve months. These include:

(1) Temporary Emergency, Construction, and Repair Residence;

(2) Real Estate Sales Office and Model Sales Home;

(3) Temporary Emergency, Construction, and Repair Residence; or

(4) Temporary Farmworker Housing.

(b) Temporary Use Permits may be issued in such cases for twelve (12) months, but may be renewed for successive twelve (12) month periods for so long as the hardship exists. Application for renewal of a Temporary Use Permit shall be made thirty (30) days prior to the expiration date of said permit. All applications shall be made to the Zoning Official and shall be reviewed by the Scotland County Board of Zoning Adjustment to determine relative need. All such mobile homes must have access to water and sewer systems approved by the Scotland County Health Department and said mobile homes must be maintained in such a way as not to create nuisance conditions.

(c) In any zoning district not more than one (I) manufactured home may be permitted on a property on a temporary basis provided that the primary purpose is to house an individual or individuals to provide security for surrounding properties. Temporary use permits may be issued in such cases for twelve (12) months, but may be renewed for successive twelve month periods for as long as the need can be justified. Application for renewal or a temporary use permit shall be made to the zoning official to determine relative need. All such manufactured homes must have access to water and sewer systems approved by the Scotland County Health Department and said manufactured homes must be maintained in such way as not to create nuisance conditions.

(Ord. 7/7/2003, Section 14)

11.58. MANUFACTURED HOME STORAGE AND REPAIR YARD

11.58.1. **Where Permitted:** R-A, HC. I-1 and I-2 Districts - Special Use Permit Required

11.58.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.58.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.58.4. **Additional Conditions:**

(a) *Location*.

(i) Minimum setback from any street right-of-way to any outdoor storage area shall be at least one hundred (100) feet.

(ii) Minimum setback from any other property line shall be at least fifty (50) feet.

(iii) No Manufactured Home Storage and or repair yard shall be located less than five hundred

(iv) No Manufactured Home Storage and or repair yard shall be located less than five hundred (500) feet from any property used or zoned for residential purposes.

(b) *Screening/Fencing/Gates:*

(i) Screening is required which completely screens from view the stored items. Such screening shall be a durable wall or fence at least six (6) feet high in addition to a minimum fifteen (15) foot wide vegetated strip around the entire perimeter of any outdoor storage area. This vegetated strip shall consist of a naturally wooded area or planted with a mixture of evergreen and deciduous trees and shrubs to simulate a naturally wooded area within three (3) years.

(ii**)** Any gates allowing for access must meet the same height requirement and must be kept closed and locked after dark and at any time when not open for business.

11.59. MANUFACTURING AND INDUSTRIAL USES NOT LISTED AND APPROVED BY THE PLANNING BOARD

11.59.1. **Where Permitted:** I-1 and I-2 Districts - Special Use Permit Required

11.59.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4 or 11.5*** as applicable to the district in which the use is located.

11.59.3. **Additional Requirements:**

(a) Any unlisted use should be treated the same as the most nearly similar use. In making this evaluation, the County shall consider the following factors: type of use, density and intensity of adjacent development, environmental effects, and the anticipated amount traffic, noise, light, vibration, odor, and other impacts on neighbors and the community.

11.60. MINI-WAREHOUSE STORAGE FACILITY

11.60.1. **Where Permitted:** RA as a Use with Conditions.

11.60.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.60.3. **Additional Conditions:**

(a) Storage buildings in the Mini-Warehouse/Storage Facility may not cover more than 50% of the lot.

(b) Maximum height of units is twenty (20) feet.

11.61. MINING, QUARRYING, SAND PITS, AND MINERAL EXTRACTION

11.61.1. **Where Permitted:** I-2 District - Special Use Permit Required

11.61.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.61.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.61.4. **Additional Conditions:**

(1) Additional Site Plan Requirements:

(i) The names and addresses of property owner(s) or developer(s) and the designer or Registered Surveyor or Professional Engineer, if the plans are drawn other than by the property owner, operator or developer.

(ii) Date, scale and approximate North arrow.

(iii) Boundaries of the tract, parcel, plot or lot shown with bearing and distances.

(iv) Boundaries of the area requesting to be permitted, if different from iii. above.

(v) Buffers, ingress and egress, surrounding land usage and any other specific

information pertinent to the parcel, plot or lot.

(vi) A vicinity map showing the location of the parcel, plot or lot.

(vii) The names for each adjoining property owner, shown on the parcel, plot or lot they own.

(viii) Land contours with vertical intervals of not less than ten (10) feet. U.S.G.S. 7.5 Minute Topographical Quadrangle Maps are acceptable.

(ix) When an expansion is being requested, the size and location of any existing area that is being operated as a mine or mining operation.

(x) A letter or other certification of approval must be submitted from the North Carolina Department of Transportation, as to the safety and design of the access or entrance on to a State maintained street or road from the mine.

(xi) In place of ix above, the applicant may submit a completed application as required by the State of North Carolina for a Mining Permit.

(2) *Access*: Access to a mine or mining operation must be from a road or street that is a State maintained road or a private road with a right-of-way width of not less than thirty (30) feet and a cleared or drivable area of not less than twenty (20) feet. Any ingress or egress that does not abut one of the above roads, entrance etc. must also have a right-of-way width of not less than thirty (30) feet and a cleared and drivable area that is adequately maintained at all times for vehicular travel and that is at least twenty (20) feet in width.

(3) *Screening and Buffering*: An area of land, which shall not be less than fifty (50) feet in width (unless a lesser width is approved by the Planning Board) shall be provided along all boundaries of the affected land. This buffer area must be left at all times in a natural vegetative state or planted with trees, shrubs or plants that create a visual screen. Trees and plants must be native to the area and trees shall not be less than six (6) feet in height within six (6) years. If an earthen berm or berms are to be used within the buffer for visual screening they shall be planted with vegetation and shall not be less than six (6) feet in height at the crown and with slopes sufficient to minimize erosion.

(4) Use Separation:

(i) The edges of any pit where a mining operation is taking place and any equipment used in the processing of rock and gravel, any asphalt plant, or other industrial uses operated in conjunction with the mine or quarry shall be located at least 300 feet from any property line.

EXCEPT: *(Amendment 9/6/2022)*

(a) When the mining is solely limited to excavating and removing sand and/or gravel for off-site use, and there is no processing on-site, the edges of the mining pit from a property line shall be a minimum of 50 feet

or the edge of the mining pit shall be no closer than is allowed by the width of any required buffer, whichever distance is greater; and

(b) Given the close proximity of the edge of the mining pit as part of the use described in Subsection (a), no explosive or incendiary devices or materials shall be employed or used on the site.

(ii) Where the mining operation is bounded by a railroad right-of-way currently being used for rail service to the mining operation, no setback shall be required between the railroad right-of-way and such operation.

(5) *Hours of Operation:* All operations involving blasting discernible beyond the external property line on a quarry shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m.

(6) *Mining Permit:* A valid state-issued mining permit must be obtained.

(7) Additional Considerations:

(i) In the case of denial because all the requirements of this section were not met, the Application may be resubmitted when all requirements have been met, with no additional fee required, provided the plan is resubmitted within one hundred eighty (180) days of the notice of rejection or denial.

(ii) Following approval by the County Planning Board, the Zoning Officer is authorized to issue a Special Use Permit. No site disturbing activities are allowed until a Mining Permit has been issued by the State of North Carolina.

(iii) If the proper permit has not been or is not obtained from all appropriate Departments of the State of North Carolina and/or compliance with all terms of approval by the County Planning Board have not been completed within one year (365 days) from the date of approval of the application by the County Planning Board, the approval of the application and Special Use Permit shall be null and void and a new application must be submitted.

11.62. NURSING HOMES, REST HOMES AND CONVALESCENT HOMES

11.62.1. **Where**: R-A, C-1 and HC as a Use with Conditions.

11.62.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.62.3. **Additional Requirements:**

(a) Side and rear yard minimum setbacks shall be increased to one and a half (1.5) times the minimum for the applicable zoning district.

(b) One or more parking lots shall be constructed to accommodate all required parking. Individual parking spaces shall not have direct access to the street. Automobile parking space and drives shall not be located closer than twenty (20) feet to the front or twenty

(20) feet to the rear of any dwelling or ten (10) feet to any side.

(c) Any playground equipment must be located in the rear yard at least twenty (20) feet from any property line.

(d) The following space requirements between building walls having window or door opening shall be maintained within a multi-family housing development.

(i) A building wall having both window and door openings shall not be located any closer than 50 feet to another building.

(ii) A building wall having only window or door openings shall not be located any closer than 25 feet to another building.

(iii) Any group of buildings forming a courtyard shall have at least 25 percent of the perimeter of such courtyard open and for access by emergency vehicles.

(e) Evidence of effort to secure a valid license from the Nursing Home Licensure and Certification Section of the NC Department of Health and Human Services shall be submitted with the application.

11.63. OUTDOOR SALES AND DISPLAY AREAS (ACCESSORY USES)

11.63.1. **Where Permitted:** C-1 and HC as a Use with Conditions; Permitted by Right in I-1 and I-2

11.63.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.63.3. **Additional Requirements:**

(a) *Non-Conforming Uses:* All non-conforming outdoor display existing on the effective date of this Ordinance, which does not conform to the requirements of this article, shall be removed and/or brought into compliance within twelve (12) months from the effective date of this Ordinance.

(b) *Location*:

(i) **Outside Primary Structure**: Outside sales must be clearly secondary to the primary use of the associated permanent structure and shall generally be located to the side or rear of the principal structure. Display of merchandise for sale outdoors in the front yard shall not exceed a maximum of 12 feet from the front face of the building.

(ii) **Displays on public sidewalks:** Merchandise for sale may be placed on the public sidewalk in front of the shop where the building is directly adjacent to the sidewalk provided that adequate pedestrian clearance on the sidewalk is maintained (minimum of 5 feet). Such sales may also be subject to other County ordinances.

(c) *Restaurants with Outside Seating/Sales:* Restaurants having outdoor seating (including, but not limited to, seating for dining or listening to live or recorded

acoustic or amplified entertainment outside of the building) shall comply with the following standards:

(i) The outdoor seating area shall be located no closer than 100 feet from any residential zoning district

(ii) The outdoor portions of the restaurant shall not operate after 11:00 p.m.

(iii) The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

11.64. OUTDOOR STORAGE (ACCESSORY USES)

11.64.1. **Where Permitted:** R-A, R-1, R-2, C-1, and HC Districts as a Use with Conditions.

11.64.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.64.3. **Additional Requirements:**

(a) *Buffer*: In the interest of safety to children and adjacent property owners, any approved outdoor storage shall maintain a buffer that conceals the storage from public view. The buffer shall be compact evergreen hedge or other type of evergreen foliage screening which shall reach the height of at least eight (8) feet within three years, or shall be a combined fence and shrubbery screen. The buffer shall be maintained at a minimum of eight (8) feet in height and at least fifteen (15) feet in width thereafter. Earth-berms, other topographical features and existing wooded areas may be accepted in lieu of the above requirements, if they conceal the use from public view. Fences shall be at least 6', but no greater than 12', must be opaque, and made of materials that are normally accepted in the fencing industry.

(b) *Non-Conforming Uses:* All non-conforming outdoor storage existing on the effective date of this Ordinance, which does not conform to the requirements of this article, shall be removed and/or brought into compliance within twelve (12) months from the effective date of this Ordinance.

11.65. PRIVATE UTILITIES, EQUIPMENT, LINES, SUBSTATIONS, AND STORAGE YARDS

11.65.1. **Where Permitted:** Use with Conditions in R-A, R-1, R-2, and OS Districts; Use by Right in C-1, HC, I-1 and I-2 Districts.

11.65.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.65.3. **Additional Requirements for substations**:

(a) *Location*:

(i) No accessory structure or building except utility substations shall be erected in any easements.

(ii) Must be located 500 feet from a legal conforming residential use.

(b) *Noise*. Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(c) *Security Fencing.* Security fencing, a minimum of 6 feet in height, shall be provided around hazardous operations, as determined by Nash County, involved with the use.

(d) *Screening*. Any outdoor storage area shall be screened from an abutting residentially used or zoned lot by a buffer yard which complies with the requirements of Section 11-3.3(B).

(e) *Dust*. All unpaved outdoor use areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

11.66. PUBLIC UTILITIES, EQUIPMENT, LINES AND SUBSTATIONS

11.66.1. **Where Permitted:** Use with Conditions in R-A, R-1, R-2 and OS Districts; Use by Right in C-1, HC, I-1 and I-2 Districts.

11.66.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.66.3. **Additional Requirements for Substations:**

(a) *Location*:

(iii)No accessory structure or building except utility substations shall be erected in any easements.

(iv) Must be located 500 feet from a legal conforming residential use.

(f) *Noise*. Equipment-producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

(g) *Security Fencing.* Security fencing, a minimum of 6 feet in height, shall be provided around hazardous operations, as determined by Nash County, involved with the use.

(h) *Screening*. Any outdoor storage area shall be screened from an abutting residentially used or zoned lot by a buffer yard which complies with the requirements of Section 11-3.3(B).

(i) *Dust*. All unpaved outdoor use areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

(Ord. 7/7/2003, Section 24.3 and Section 25.3)

11.67. RADIO AND TELEVISION STUDIOS, INCLUDING TOWERS

11.67.1. **Where Permitted:** R-A, C-1 HC and I-1 Districts - Special Use Permit Required

11.67.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.67.3. **Additional Requirements:**

(a) *Setback*. Transmission towers shall be setback a minimum distance that equals half the towers height.

(b) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.68. RECREATION, OUTDOOR

11.68.1. **Where Permitted:** Use with Conditions in the R-A, R-1, R-2 and OS Districts.

11.68.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.68.3. **Additional Requirements:**

(a) *Hours of Operation.* Hours of operation are limited to 7:00 am - 10:00 pm with the exception of any use that may require overnight stay, such as a bed and breakfast or campground.

11.69. SATELLITE DISH ANTENNA

11.69.1**. Where Permitted:** R-A, R-1, R-2, C-1, and HC as a Use with Conditions; permitted as a Use by Right in I-1 and I-2 Districts.

11.69.2 **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.69.3 **Additional Requirements:**

(a) **Installation**: All satellite dishes shall be installed in compliance with FCC regulations.

(b) **Size**: Residential satellite dishes shall not exceed 24" in diameter and nonresidential satellite dishes shall not exceed 36" x 22" (oval). 7.9.3. If possible, satellite dishes shall not be located in a front yard and shall be hidden from view of the public right-of-way.

(c) **Location:**

(i) All supporting cables and anchors shall be contained on the property.

(ii) In residential districts, satellite dish antennas shall not be located or placed within any street right-of-way building setback or side building setback.

11.70. SHOPPING CENTERS

11.70.1. **Where Permitted:** C-1, HC and I-1 Districts - Special Use Permit Required
district in which the use is located.

11.70.3. **Additional Requirements:**

(a) Minimum lot area shall be not less than two (2) acres.

(b) The site shall be immediately adjacent to a major or minor thoroughfare.

(c) The total ground area occupied by all buildings shall not exceed forty (40) percent of the gross land area.

(d) All existing trees shall be saved to the maximum extent possible.

11.70.4. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.71. SOLID WASTE CONVENIENCE AND RECYCLING SITES

11.71.1. **Where Permitted:** All Districts as a Use with Conditions.

11.71.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.71.3. **Additional Requirements:**

(i) *Location*: All outdoor storage, collection loading and processing areas must be located a minimum distance of 50 feet from any residentially zoned property.

(ii) *Environmental Hazards*. All establishments shall be located so as not to create environmental hazards (such as oil or gas leaks or spills) that pose a threat to ground or surface water quality, air quality, wildlife and/or humans.

(iii) *Street Access*. Principal access must be from a collector or higher capacity street.

(iv) *Collection Bins.* The collection bin shall be located in or adjacent to an off-street parking area, and shall not occupy more than five percent of the total on-site parking spaces. The mobility of the collection bin shall be retained.

(v) *Appearance*. The bin and adjacent area shall be maintained in good appearance and free from trash.

(vi) *Hazardous and Biodegradable Wastes*. There shall be no collection or storage of hazardous or biodegradable wastes on the site.

11.72. TEMPORARY SAWMILL

11.72.1. **Where**: R-A District - Special Use Permit Required

11.72.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.72.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 24.3(a))

11.73. TEMPORARY STRUCTURES AND USES

11.73.1. **Purpose:** This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses do not negatively affect adjacent land, and provided that such uses or events are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

11.73.2. **Permitted Temporary Uses and Structures:** The following table summarizes the uses and structures that are allowed by the County on a temporary basis. If a use or structure is not listed in the table below then the use or structure is not allowed by this Ordinance.

TABLE 11-2 Temporary Structures and Uses

Temporary Structures	Allowable Time Frame
Expansion or replacement of existing facilities (including temporary offices for construction and/or security personnel)	No more than three (3) years
New real estate sales office/New model sales home	No more than three (3) years
New temporary construction offices and new temporary project office other than a construction office	No more than three (3) years
Temporary Storage Structure – in a portable shipping container (storage unit)	Such structures may be in place for no more than 30 days per calendar year, and no more than three occurrences per parcel, per year
Temporary Emergency, Construction, and Repair Residence	Six (6) months after issuance
New Granny Pod or Temporary Health Care Structures	The structure must be removed within sixty (60) days after care-giving on the site ceases.

Temporary Farm Worker Housing	120 days from issuance of permit.
Garage, Yard, Auction and Estate Sales	Three per parcel per year
Outdoor Seasonal Sales	Such sales are limited to a maximum of 30 days per calendar year and no more than three occurrences per parcel, per year.
Temporary Flea Markets	Two per parcel per year
Special Events – Indoor or Outdoor (such as carnivals, fairs, concerts)	Such events are limited to a maximum of 10 days per calendar year, per parcel.

11.73.3. **Prohibited Temporary Uses:** Without limiting the standards of this Ordinance, the following activities are prohibited in all districts:

(a) **Retail or Display of Goods, Products, or Services in Public Right-of- Way.** Retail sales or display of goods, products, or services within the public right-of-way except as part of an authorized not-for-profit, special, or City-recognized event.

(b) **Retail Sales or Display of Goods From Vehicles.** Except as part of a permitted seasonal sale, retail sales or display of goods, products, or services from a motor vehicle, trailer, or shipping container.

11.73.4. **Temporary Use Permits:** All temporary uses and structures required to obtain a Temporary Use Permit.

11.73.5. **General Standards for Temporary Uses and Structures:** All temporary uses, structures, or special events shall comply with the following general standards, unless otherwise specified in this Ordinance:

(a) Obtain the appropriate permit from the County (if required);

(b) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

(c) Be compatible with the principal uses taking place on the site;

(d) Not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;

(e) Not include permanent alterations to the site;

(f) Meet all the setbacks of the underlying base and overlay zoning districts;

(g) May not block ingress and egress to the site or in any way impede emergency vehicle access.

(h) Comply with the maximum signage size for temporary signs;

(i) Not maintain temporary signs associated with the use or structure after the activity ends;

(j) Not violate the applicable conditions of approval that apply to a site or use on the site;

(k) Not interfere with the normal operations of any permanent use located on the property; and

(l) Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.

11.73.6. **Specific Regulations for Certain Temporary Uses and Structures.**

(a) **Expansion or Replacement of Existing Facilities.**

(i) *Where*: All Districts as a Use with Conditions.

(ii) *Purpose*: Factory-fabricated, transportable buildings that are designed to arrive at the site ready for occupancy (except for minor unpacking and connection to utilities), and designed for relocation to other sites, may be placed on land to serve as the following:

a. Expansion space for existing religious institutions, health care facilities, and government offices, provided plans for the permanent expansion of the existing facilities have been submitted to and been approved by the County.

b. Temporary classroom space to augment an existing public educational facility.

c. Temporary quarters for recreational facilities that are being provided in conjunction with a new residential development, provided the County has approved a Site Plan or Subdivision Plan for the development.

d. Temporary quarters for other nonresidential uses when the permanent building has been destroyed by a fire or other physical catastrophe, provided a Building Permit for the permanent facility is obtained within four months after approval of the temporary quarters. Failure to obtain a Building Permit within the time frame allowed will revoke approval for the temporary quarters.

e. One temporary office per site to include but not be limited to, the following uses: hiring, membership solicitation, multi-family development office/ leasing, and other general office uses. The number of modular buildings housing such uses shall be limited to one, in addition to those already allowed by this section. Such modular buildings shall not be placed on the property prior to the issuance of a Building Permit.

f. A temporary residence used for housing occupants of an on-site existing principal dwelling unit subject to casualty damage.

(iii) *Conditions:* In addition to meeting the General Standards for All Temporary Uses and Structures, all temporary structures approved in accordance with this

section shall meet the following conditions:

a. The structure shall be placed to avoid obstructing emergency access and pedestrian and vehicular circulation; disturbing or damaging required landscaping or buffer areas being retained, including heritage or specimen trees being retained; or impacting future open space or areas to be landscaped.

b. The temporary structure shall be factory-fabricated and transportable.

c. Adequate off-street parking shall be provided for the temporary use.

d. All permits required by applicable building, electrical, plumbing, and mechanical codes shall be obtained prior to installation of the temporary structure.

e. The temporary structure shall be compatible with the existing buildings on the site in terms of exterior color, design, and placement, to the maximum extent practicable.

(iv) Duration:

a. Temporary structures under this subsection may remain on the site for no more than 12 months. This period may be renewed for two 12-month periods, for good cause shown, upon approval of a written request for such extension, submitted to the Zoning Officer, 30 days prior to the expiration of the temporary use permit. Except for temporary classrooms, in no event, shall the extension allow the temporary structure to remain on the site for more than three years. Temporary structures shall be removed within ten days of the issuance of a Certificate of Occupancy for the permanent structure.

b. Temporary classrooms for use as part of an existing public educational facility may be allowed to remain on the site for longer than three years.

(b) **New Real Estate Sales Office and Model Sales Home.**

(i) *Where*: R-A, R-1 and R-2 Districts as a Use with Conditions.

(ii) *General Standards:* One temporary real estate sales office or model sales home may be allowed as incidental to a new residential or nonresidential development, provided that:

a. The use is located on a lot approved by the County as part of a development.

b. Signage complies with the standards.

c. The temporary use is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscaping.

d. The temporary use complies with the minimum yard and setback standards of the zoning district in which it is located.

e. Off-street parking provided for the temporary use complies with the standards.

f. Upon termination of the temporary real estate sales office or model sales home, the structure shall be converted into, or removed and replaced with, a permanent use.

g. In approving or renewing approval of a real estate sales office, the Zoning Officer may impose other conditions as is deemed necessary to avoid adverse impacts that the use as a sales office may have on adjacent properties or the community as a whole.

h. All temporary trailers shall be removed from the site prior to the issuance of the last Certificate of Occupancy for the site.

(iii) Duration:

(i) Temporary real estate sales offices may be approved for a period of up to one year. This period may be renewed for two additional 12-month periods, for good cause shown, upon approval of a written request for such an extension, submitted to the Zoning Officer, 30 days prior to the expiration of the permit. In no event shall the extension allow the temporary structure to remain on the site for more than three years.

(ii) Model sales homes may be approved for a period of up to three years. This period may be renewed for additional six-month periods, for good cause shown, upon approval of a written request for such an extension submitted to the Zoning Officer, 30 days prior to the expiration of the permit. There is no time limit on the use of model sales units for rental housing.

(c) **New Temporary Construction-Related or Project Offices/Activities.**

i. *Where*: All Districts as a Use with Conditions.

ii. *General.* Temporary construction-related activities including construction offices, storage buildings, outdoor storage, and employee parking areas, may occur in all zones subject to the issuance of a Temporary Use Permit.

iii. *Duration.* Temporary Use Permits for construction-related activities may be approved for a period of up to one year. This period may be extended in six-month periods, for good cause shown, upon approval of a written request for such an extension, submitted to the Zoning Officer, 30 days prior to the expiration of the permit. Such extension may include additional or revised conditions. In no event shall the extension allow the temporary use to remain on the site for more than two years. All such uses shall be removed and the site

restored to its previous condition within 30 days after issuance of a final Certificate of Occupancy or Certificate of Completion.

(d) **Temporary Storage in a Portable Shipping Container.**

Except for containers actively being used for construction purposes associated with a building permit, temporary storage in a portable shipping container shall be permitted subject to the following:

i. *Where*: All Districts as a Use with Conditions.

ii. Size: Storage containers may not exceed 160 square feet in size or be taller than eight feet.

iii. Location: Containers shall be located within a driveway, parking, or loading area. In cases where the driveway, parking, or loading area extends behind the front or corner side façade of a building, the container shall be placed behind the front or corner side façade. In cases where improved driveways, parking, or loading areas are not present, containers shall be located so as to minimize their visibility from streets or adjacent residential areas.

iv. Duration: Containers shall not be located on an individual parcel or site for more than 30 consecutive days per site per occurrence. This time period may be extended for a maximum period of 30 days by the Zoning Officer for good cause shown. Storage containers may be placed on a residential site a maximum of two occurrences per year.

(e) **Temporary Emergency, Construction, and Repair Residence.**

i. *Where Permitted*: All Districts as a Use with Conditions.

ii. *Dimensional Requirements*: A Temporary Emergency, Construction/Repair Residence shall comply with the dimensional requirements for an accessory structure.

iii. *Duration:* A permit for Temporary Emergency, Construction/Repair Residence to be occupied pending the construction, repair, or renovation of a permanent single-family dwelling on a site or a non-residential/commercial development shall expire within 6 months after the date of the issuance, except that the Zoning Officer may renew such permit if itis determined that:

(i) substantial construction, repair work, renovation or restoration work has been done; and

(ii) such renewal is reasonably necessary to complete the necessary work to make such residence habitable.

iv. A Class A manufactured home may be used as a temporary residence.

(f) **Granny Pods/Temporary Health Care Structures**.

i. *Where*: R-A, R-1 and R-2 Districts as a Use with Conditions.

ii. *Purpose*: Granny pods, also called temporary health care structures, are permitted under the authority of NC General Statutes Section 160A-383.5. Granny pods shall be permitted as an accessory use subject to the following standards:

(i) Structures must be transportable residential units assembled off-site and built to the standards of the State Building Code. It must be no more than 300 gross square feet and must not be placed on a permanent foundation.

(ii) The accessory structure must comply with all setbacks and any maximum floor area ratio limits that apply to the primary residential structure. The structure shall be connected to any public water, sewer, and electric utilities serving the property or water and/or sewer systems approved by the County of Scotland or Scotland County, as applicable.

(iii) Only one accessory temporary family care structure is allowed per lot.

(iv) No signage regarding the presence of the structure is allowed.

(v) The structure must be removed within sixty (60) days after care-giving on the site ceases.

(vi) A zoning permit is required to be obtained prior to installation. Evidence of compliance may be required as part of the permitting and annual permit renewal, including an annual renewal of the doctor's certification of impairment. The County may make periodic inspections at times convenient to the caregiver to assure on-going compliance.

(vii) The caregiver must be at least 18 years old and must be a first or second degree relative of the impaired person (a spouse, parent, grandparent, child, grandchild, aunt, uncle, nephew, or niece). A legal guardian of the impaired person also qualifies.

(viii) Granny pods shall only be permitted for single-family residentially used property.

(g) **Temporary Farm Worker Housing**.

i. *Where*: R-A as a Use with Conditions.

ii. *Building Area*: Rooms or compartments for sleeping shall contain not less than 39 square feet of floor space for each person.

iii. *Duration*: 120 from issuance of permit.

iv. *Health and Safety*:

a) Not more than ten (10) people shall be housed in any one room or compartment for sleeping purposes.

b) Separate toilet and shower facilities shall be provided for male and female workers. A minimum of one (1) toilet and one (1) shower shall be provided for each ten (10) workers.

c) A laundry room shall be required with one (1) wash sink of at least ten (10) gallon capacity for each ten (10) workers. Adequate clothes drying lines shall be provided.

d) Dining and food service facilities shall be provided and shall contain at least twelve square feet of floor space per worker and shall be approved by the Scotland County Health Department.

e) All water, sewer, and sanitary facilities shall be approved by the County of Scotland or the Scotland County Health Department, as applicable.

f) All garbage and refuse shall be stored in water-tight and fly-tight receptacles and it shall be the responsibility of the owner of the property to ensure that all garbage and refuse is regularly disposed of in a sanitary manner acceptable to the Scotland County Health Department.

(h) **Garage, Yard, Auction and Estate Sales:**

i. *Where*: All Districts as a Use with Conditions.

ii. *Permit Required*. No person shall conduct any garage, yard, auction or estate sale without first obtaining a Temporary Use permit from the County.

iii. *Signs.* Two (2) off-site directional signs may be permitted for each sale, but only during the hours the sale is actively being conducted. Off-site signs must be removed at the close of the sale activities, or by the end of daylight, whichever first occurs, each day of the sale. No freestanding signs may be placed in the public right-of-way.

iv. *Number limited.* Not more than three such sales per year shall be held at the premises if occupied by the same family or any member of such family. No single sale shall be conducted for longer than two consecutive weekends, or more than seventy-two hours in a single week.

v. *Hours.* Sales may be conducted during daylight hours only.

vi. *Unowned premises.* No sale shall be permitted on premises not owned or controlled by the person holding the sale. Any violation of this requirement shall be referred to the Zoning Officer for investigation of possible violation of the zoning ordinance, and to the tax collector for investigation of possible violation of the business license taxation ordinance.

vii. *Streets and Sidewalks:* No person shall obstruct entirely or in part any sidewalk or street in the County by selling or offering for sale at auction or otherwise any goods, wares or merchandise.

(i) **Outdoor Seasonal Sales.**

i. *Applicability:* Merchants may display and/or sell goods in the County on a temporary basis without establishing a permanent place of business, subject to the standards of this section.

ii. *Where:* C-1 and HC Districts as a Use with Conditions.

iii. *Standards:* A temporary use for the display and/or sale of products shall comply with the following standards:

a) The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability.

b) The display or sale of goods, products, and/or services shall not occur in the public right-of-way or within 200 feet of an existing residential use.

c) The display or sale of products, goods and/or services shall be limited in scope to similar or complementary products, goods, and/or services to those offered by the existing principal use located on the same site. The temporary sale of non-agricultural products, goods, and/or services that differ from the normal range of those offered by an existing principal use shall be prohibited.

d) Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property.

e) Off-street parking shall be adequate to accommodate the proposed sale of products.

f) The temporary display or sale of products shall not cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided.

g) The hours of operation of the temporary sale of products shall be from no earlier than 7:00 a.m. to no later than 8:00 p.m., or the same as the hours of operation of the principal use.

iv. *Duration; Sales per Year:*

a) The temporary sale of non-agricultural products shall be allowed on an individual parcel or site for no more than 30 total days per calendar year.

b) The number of temporary sales of products per site per calendar year shall not exceed three.

(j) **Temporary Flea Markets.**

i. *Where*: R-A, C-1 and HC Districts as a Use with Conditions.

ii. *Permit Required*. No person shall conduct any garage, yard, auction or estate sale without first obtaining a Temporary Use permit from the County.

iii. *Signs.* Two (2) off-site directional signs may be permitted for each sale, but only during the hours the sale is actively being conducted. Off-site signs must be removed at the close of the sale activities, or by the end of daylight, whichever first occurs, each day of the sale. No freestanding signs may be placed in the public right-of-way.

iv. *Number limited.* Not more than two such sales per year – each a maximum of two days in direction - shall be held at the premises if occupied by the same family or any member of such family.

v. *Hours.* Sales may be conducted from 9:00 am until 5:00 pm.

vi. *Unowned premises.* No sale shall be permitted on premises not owned or controlled by the person holding the sale. Any violation of this requirement shall be referred to the Zoning Officer for investigation of possible violation of the zoning ordinance, and to the tax collector for investigation of possible violation of the business license taxation ordinance.

vii. *Streets and Sidewalks:* No person shall obstruct entirely or in part any sidewalk or street in the County by selling or offering for sale at auction or otherwise any goods, wares or merchandise.

(k) **Special Events.**

i. *Applicability.* The procedures and standards outlined in this section shall apply to all special events (including, but not limited to, cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses, and communal camping) held on private property within the County, unless exempted in accordance with Section iv below.

ii. *Where Permitted*: R-A, C-1 and HC Districts as a Use with Conditions.

iii. *Temporary Use Permit Required.* All special events subject to this subsection shall have a Temporary Use Permit for a special event reviewed and approved or approved by the Zoning Officer before conducting the special event.

iv. *Exemptions.* The following events or activities are exempt from the standards and procedures outlined here (i.e., may occur without a Temporary Use Permit for a special event). Such activities may be subject to all other applicable procedures and standards of this Ordinance.

a) *On Grounds of Private Residence.* Special events or activities occurring within, or on the grounds of, a private residence or on the common areas of a single-family attached, two- to four-family, or multi-family residential development.

b) *Event Sponsored by County, County or State.* Any event sponsored in whole or in part by the County, the County, or the State.

c) *Event or Activity at Site Intended for Such Event or Activity.* Any organized activities conducted at sites or facilities typically intended and used for such activities. Examples of such exempt activities include, but are not limited to, sporting events such as golf, soccer, softball, and baseball tournaments conducted on courses or fields intended and used for such activities; fairs and carnivals at fairgrounds; wedding services conducted at reception halls, or similar facilities; funeral services conducted at funeral homes or cemeteries; religious services, wedding services, and funeral services conducted at religious institutions.

v. *Conditions***.** In approving the Temporary Use Permit for the special event, the Zoning Officer is authorized to impose such conditions upon the premises as may be necessary to reduce or minimize any potential adverse impacts upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed special event. The Zoning Officer is authorized, where appropriate, to require:

a) Provision of temporary parking facilities, including vehicular access and egress.

b) Control of nuisance factors, such as but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat.

c) Regulation of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards.

d) Provision of sanitary and medical facilities.

e) Provision of solid waste collection and disposal.

f) Provision of security and safety measures.

g) Use of an alternative location or date for the proposed special event.

h) Modification or elimination of certain proposed activities.

i) Regulation of operating hours and days, including limitation of the duration of the special event to a shorter time period than that requested or specified in this subsection.

j) Submission of a performance guarantee to ensure that any temporary facilities or structures used for such proposed special event will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition.

vi. *Duration*. A Temporary Use Permit for a special event authorized in accordance with this subsection shall be limited to a maximum duration of 10 days per site per calendar year, unless otherwise specifically authorized by the Zoning Officer.

11.74. COMBAT TRAINING FACILITIES

11.74.1 **Where Permitted:** I-2 District - Special Use Permit Required

11.74.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.74.3. **Additional Requirements**:

(a) Definition: A privately or government-owned facility that is designed to train law enforcement; military; federal, State, or local agencies; and private organizations' personnel for the purpose of military or paramilitary activities or exercises. Such facilities may include, but are not limited to, the following: air ranges for air-to-ground helicopter landing zones, drop zones, and electronic combat training; indoor and outdoor live-firing ranges: and ground maneuver ranges to conduct realistic force-on-force and live-fire training. Tactical Training Facilities that conduct training exercises or activities more than 180 days out of a calendar year or use blank ammunition-firearms, grenade simulators and the like more than 60 days out of a calendar year shall be classified as a Combat Training Facility. Military type activities or maneuvers, including but not limited to, maritime training, swamp or guerilla warfare techniques, incendiary-type firings, infiltration course-type training, and any mission

simulation-type training using military weapons with live ammunition such as individual small arms, crew-served weapons or explosive devices, or simulated rocket- propelled grenades are permitted for use only by law enforcement, military, or federal agencygroups, and contractors and agents working for or otherwise on behalf of said groups.

(b) Special Use Permit Required. The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

1. Combat Training Facilities shall be permitted only in accordance with a valid ConditionalUse Permit, and only in the Heavy Industrial (12) zoning district, provided all of the following conditions are met:

ii. The minimum contiguous acreage for this use shall be 40 acres.
iii. No portion of the facility shall be closer than 300 feet to any adjacent owner's property line.
iv. Any existing natural vegetation shall be preserved within a 100-foot buffer around the perimeter of the property.
v. In addition to existing natural vegetated buffer, an additional minimum 100-foot wide, dense evergreen vegetated buffer along the perimeter of the property shall be required so as to provide a reasonable visual screen and protection for surrounding properties from noises generated by the use.
vi. Building and structure heights shall not exceed 50 feet.
vii. Indoor and outdoor firing ranges shall include a bullet-proof backstop, consisting of concrete, steel, earth or any combination, at least 15 feet in height behind all target areas and expanding out to the sides ofeach target by 15 feet.
viii. No firing or explosive training activities shall occur daily between the hours of7:00pm and 7:00am, unless specifically authorized in the Conditional Use Permit with appropriate conditions to mitigate any adverse impacts on nearby property owners. Inno event shall firing or explosive activities occur on New Year's Day, Thanksgiving, or Christmas Day.
ix. The facility and all individuals working with firearms or explosives within the facility shall be certified and permitted by the Bureau of Alcohol, Tobacco and Firearms ("ATF") or other applicable government agency to conduct such operations in compliance with its permits.
x. The facility shall be subject to such other conditions attached to the Conditional Use Permit as may be appropriate and supported by evidence in the record.

(Amendment, 9/8/2020, Section 14A.1)

11.75. TRANSPORTATION AND FREIGHT TERMINALS/TRUCK STOP

11.75.1 **Where Permitted:** I-1 and I-2 Districts - Special Use Permit Required

11.75.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.75.3. **Additional Requirements**:

(2) Special Use Permit Required. The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

11.76. URGENT CARE FACILITIES/ MEDICAL CARE CLINICS/ HOSPITALS – PUBLIC AND PRIVATE

11.73.1. **Where Permitted:** R-2, C-1 and HC as a Use with Conditions; Permitted as Use by Right in I-1 and I-2 Districts.

11.73.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.77. VEHICLE TOWING SERVICES

11.77.1. **Where Permitted:** HC as a Use with Conditions; Permitted by Right in I-1 and I-2 Districts.

11.77.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.77.3. **Vehicle Storage**: No vehicle storage is permitted on site unless the business secures a Special Use Permit as required under Section 11.16.

11.78. PHARMACEUTICAL MANUFACTURING

11.78.1. **Where Permitted:** I-1 and I-2 Districts - Special Use Permit Required

11.78.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4*** as applicable to the district in which the use is located.

11.78.3. **Additional Requirements**:

(3) Special Use Permit Required. The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(4) Compliance with the FDA Current Good Manufacturing Practice (CGMP) regulations

required.

11.79. RUBBER MANUFACTURING, NATURAL OR SYNTHETIC

11.79.1. **Where Permitted:** RA and R Districts as a Use with Conditions.

11.79.2. **Requirements**: Shall at a minimum meet the requirements of ***Section 11.4 or 11.5*** as applicable to the district in which the use is located.

11.79.3. **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in ***Section 6.5.*** This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

(Ord. 7/7/2003, Section 30.3)

11.80. ANY USE NOT OTHERWISE PROHIBITED BY LAW OR BY THIS ORDINANCE

11.80.1. **Where Permitted:** R-A, R-1, R-2, C-1, HC, I-1, I-2 and OS Districts - Special Use Permit Required, See *also Section 11.55 for Manufacturing and Industrial Uses.*

11.80.2. **Requirements**: Shall at a minimum meet the requirements for development as outlined in for the district in which it is located.

11.80.3. **Additional Requirements:**

(a) Any unlisted use should be treated the same as the most nearly similar use. In making this evaluation, the County shall consider the following factors: type of use, density and intensity of adjacent development, environmental effects, and the anticipated amount traffic, noise, light, vibration, odor, and other impacts on neighbors and the community.

(b) **Special Use Permit Required:** The uses listed above shall be subject to special use permit procedures and requirements as set forth in **Section 6.5**. This shall also include those previously licensed and existing when one enumerated use is being applied for in lieu of or supplementary to another enumerated use requiring or for which a special use permit has been previously issued.

ARTICLE 12 – MANUFACTURED HOME PARKS

Table of Contents

12.1. IN GENERAL 1
12.2. MANUFACTURED HOME PARKS – GENERAL REQUIREMENTS 2
12.3. PROCEDURE FOR SECURING APPROVAL OF A MANUFACTURED HOME PARK 4
12.4 INTERIOR STREET SYSTEM 10
12.5 RESPONSIBILITIES AND DUTIES OF PARK OPERATORS; OPERATING STANDARDS 11
12.6 ADMINISTRATION 13
12.7 NONCONFORMING MANUFACTURED HOME PARKS 14
12.8 RIGHT OF APPEAL 15

12.1. IN GENERAL

a) *Purpose*. The purpose of this article is to regulate and guide the establishment of manufactured home parks in order to promote the public health, safety and general welfare of the citizens of the county. This article is designed to accomplish the following specific objectives:

1) To further the orderly layout of manufactured home parks;

2) To secure safety from fire, panic, and other danger;

3) To provide adequate light and air; and

4) To ensure that facilities for transportation, parking, water, sewage, and recreation are provided for manufactured home park residents and visitors.

(Ord. #2, 1/6/1977, Article 1, Section1)

b) *Jurisdiction* These regulations shall govern the establishment of each and every new manufactured home park and the alteration or expansion of existing manufactured home parks lying within the jurisdiction of the county and within the jurisdiction of any municipality where the governing body has agreed to such by resolution.

(Ord. #2, 1/6/1977, Article 1, Section 3)

c) *Authority*. The county hereby exercises its authority to adopt and enforce a manufactured home park ordinance pursuant to the authority granted to the county by NCGS Chapter 160D. This ordinance shall be known as the Manufactured Home Parks Development Ordinance of the County of Scotland, North Carolina, and may be cited or referred to as the Manufactured Home Parks Ordinance.

(Ord. #2, 1/6/1977, Article 1, Section 2)

d) *Definitions*. Refer to **Article 2 – Interpretations and Definitions.**

12.2. MANUFACTURED HOME PARKS – GENERAL REQUIREMENTS

a) *General Requirements*. The following standards shall be considered to be the minimum requirements for all new manufactured home parks and the expansion of existing manufactured home parks.

1) *Open Space.* Every manufactured home park shall be developed so that at least five percent of the total area of the development remains permanently as usable open space. For purposes of this section, usable open space means an area that:

   i. Is not encumbered with any substantial structure;

   ii. Is not devoted to use as a roadway, parking area, or sidewalk;

   iii. Is left in its natural or undisturbed state (as of the date development began), if wooded, ·except for the cutting of trails for walking or jogging, or, if not wooded at the time of development, is landscaped for ballfields, picnic areas, or similar facilities, or is properly vegetated and landscaped with the objective of creating a wooded area or other area that is consistent with the objective set forth in (d.), below;

   iv. Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation.

2) *Minimum Number of Manufactured Home Spaces*: At least 4 spaces.

3) *Sale of Home:* Manufactured homes shall not be sold within a manufactured home park, except that an individual manufactured home owner shall be allowed to sell the manufactured home in which he resides.

4) *Deed Transfer to Lot:* The transfer of a deed to a manufactured home space or spaces either by sale or by any other manner shall be prohibited within a manufactured home park as long as the manufactured home park is in operation.

5) *Prohibited in Floodplain*: No manufactured home parks shall be allowed in a floodplain area.

6) *Additions:* No living compartment or structure other than a "Florida Room", porch, or other prefabricated structure designed for manufactured home use or extension

shall be added to any manufactured home parked within the jurisdiction of this ordinance.

7) *Office*: Within a manufactured home park, one manufactured home may be used as an administrative office and shall be labeled as such.

8) *Site Plan*: Site plans for manufactured home parks shall comply with this Ordinance.

9) *Signs*: A manufactured home park shall have no more than two (2) park identification signs. Only indirect, non-flashing lighting shall be used for illumination.

10) *Buffer:* A manufactured home park shall provide and maintain a 15-foot buffer strip along the park boundary consistent with Section 10.14.1 of this ordinance.

11) *Convenience Establishments:* Convenience establishments of a commercial nature shall be limited to food stores and coin-operated laundromats. These may be permitted in manufactured home parks subject to the following restrictions:

    (i) Such establishments shall be subordinate to the residential use and character of the park.

    (ii) Such establishment shall present no visible evidence of their commercial character from any portion of any residential district outside the park.

    (iii) Such establishment shall be designed to serve the trade and service needs of the park residents only.

12) *Overnight Travel Trailers and Other Recreational Vehicles Prohibited*. Manufactured home spaces shall not be used for accommodation of overnight travel trailers and other recreational vehicles, and facilities such as washrooms and toilets for travel trailers shall not be located within the manufactured home area.

13) *Class C Homes*: Class C Manufactured homes including those constructed prior to June 15, 1976 shall not be permitted in Manufactured Home Parks unless an existing non-conforming use at the time of adoption of this ordinance.

14) *Fire Protection*: Every manufactured home park shall be equipped at all times with fire extinguishing equipment in good condition, of such size, type, and number and so located as to meet all regulations of the Fire Inspector.

15) *Animal and Pets*: No owner or persons in charge of any dog, cat, or other pet animal shall permit it to run at large or to commit any nuisance within the limits of the manufactured home park and its surrounding area.

16) *Parking*: No automobile parking shall be permitted in areas other than specified parking areas at any time.

17) *Solid Waste Disposal.* All applicable solid waste regulations shall apply to manufactured home parks within the jurisdiction of the county except where such regulations are in conflict with the provisions of this article, in which case the more restrictive provisions shall apply.

18) *Water and Wastewater Service.* Potable water and wastewater service shall be provided to every lot within the park, including and common areas and the office unit.

19) *Health regulations.* All applicable health regulations shall apply to manufactured home parks within the jurisdiction of the county except where such regulations are in conflict with the provisions of this article, in which case the more restrictive provisions shall apply.

20) *Skirting*. Each manufactured home shall be properly installed with skirting that is a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;

21) *Numbering and Park Signs.* The park operator shall be required to provide numbers which are minimum of four inches in size and to supervise the placement of these numbers to clearly identify each manufactured home lot from the street. These numbers shall be displayed either on each manufactured home or on a post placed within the lot area.

22) *Interior to Park- Informational Sign*. The park operator shall also be required to provide a park sign which identifies the name of the park and a telephone number at which the park owner may be contacted. These signs must be visible from the road adjacent to the park. The park operator will provide address information to E-911 Addressing Office. All streets will be named and display a street sign visible from entranceways.

(Ord. #2, 1/6/1977, Article IV. Section 1)

12.3. PROCEDURE FOR SECURING APPROVAL OF A MANUFACTURED HOME PARK

a) *Zoning Permit Required*.

No person shall construct or engage in the construction of any manufactured home park or make any addition or alteration to a manufactured home park that either alters the number of lots for manufactured homes within the park or affects the facilities required therein until a zoning permit has been granted for the proposed project/use.

(7/7/2003, Section 5.2.1)

b) *Special Use Permit Required.*

No person shall construct or engage in the construction of any manufactured home park or make any addition or alteration to a manufactured home park that either alters the number of lots for manufactured homes within the park or affects the facilities required therein until a special use permit has been granted for the proposed project/use by the Scotland County Planning Board. The procedures for special use permits are outlined in ***Section 6.5.***

1) In considering the Special Use Permit, the Planning and Zoning Board shall review the following to determine if the proposed park plan is in accordance with the design standards set forth in this Ordinance:

   i. Title information.

   ii. Location map.

iii. Recreation areas.

iv. Street and lot design.

v. Surface water drainage.

vi. Plans of all utilities, including electrical, gas, telephone, water, street lights, and sewage.

vii. Other features of the park.

viii. The Operational Permit requirements.

(Ord. #2, 1/6/1977, Article IV. Section 3)

2) The park plan shall be drawn at a scale no smaller than one-fourth inch equals 50 feet. When the park contains seven or more manufactured homes, the plan must be drawn by a registered engineer or licensed surveyor. All plans shall include the following:

i. The name of the park, the names and addresses of the owner or owners, and the designer or surveyor;

ii. Date, scale and approximate north arrow;

iii. Boundaries of the tract shown with bearing and distances; drawn to scale and the area of the park in square feet or acres;

iv. Site plan showing streets, traffic circulation, walkways, driveways, recreation areas, parking spaces, service buildings, watercourses, easements, manufactured home lots, lot numbers, all structures to be located on the park site and total acreage on the park;

v. Vicinity map showing the location of the park and the surrounding land usage, with a scale of no less than one inch equals 1,000 feet;

vi. Names of adjoining property owners;

vii. The existing and proposed utility system for surface water drainage, streetlights, water supply, and solid waste and sewage disposal facilities;

(1) The storage, collection, and disposal of solid waste in the manufactured home park shall be so conducted as to create no health hazards, rodent harboring, insect breeding areas, accident or fire hazards, or pollution.

(2) All solid waste containing garbage shall be stored in standard fly tight, watertight, rodent-proof containers, with a capacity not less than 32 gallons which shall be located on the manufactured home space. Containers shall be provided in sufficient number and capacity to properly store all solid waste containing garbage. The manufactured home park management may wish to install additional solid waste 15 collection bins and shall be responsible for the proper storage, collection, and disposal of all solid waste.

(3) Stands shall be provided for all containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.

(4) All solid waste containing garbage shall be collected at least once weekly. Where suitable, collection service is not available from municipal or private agencies, the manufactured home park operator shall provide this service. All solid waste containing garbage shall be collected and transported in covered vehicles or covered containers.

(5) Where municipal or private disposal service is not available, the manufactured home park operator shall dispose of the solid waste by transporting to a disposal site approved by the County Engineering Department. A detailed plan for electrical installations prepared to meet the national electrical code and state and local codes or ordinances;

(6) All streets in the manufactured home park shall be adequately illuminated from sunset until sunrise. The minimum size street light shall be a 175-watt mercury vapor (approximately 7,000 lumen class), or its equivalent, spaced at intervals of not more than 300 feet.

(7) All utility lines for local distribution of electric power and telephone service shall be installed underground. Primary electrical, street lighting, and telephone lines should be underground wherever feasible.

(8) In order to control erosion, all disturbed land areas shall be protected by a vegetative ground cover as defined in the State of North Carolina Erosion and Sedimentation Control Regulations. The manufactured home park must be designed and graded in such a manner as to provide for the adequate runoff of stormwater. Storm drains must be provided with sufficient inlets located at points of surface water accumulation to adequately intersect surface flow. All other requirements of the State of North Carolina Soil and Erosion and Sedimentation Control Regulations shall also be applicable. Protected water supply watershed standards may also be applicable.

viii. A detailed drawing to scale of not less than one inch equals ten feet shall be prepared of a typical manufactured home space showing the location of the manufactured home stand, all utilities, the patio, concrete footing, walks

(3) The number of manufactured home spaces shall not exceed 8 spaces per gross acre in the park, and no more than one manufactured home shall be parked in a manufactured home space at one time. Each space shall have an area of not less than 5,000 square feet.

(4) Each manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all comers, or by fences, or by trees or shrubbery planted on lot lines.

(5) Each manufactured home space shall be located on ground not susceptible to flooding and grades so as to prevent any water from ponding or accumulating on the premises.

(6) Each manufactured home shall be located at least 25 feet from any other manufactured home, at least 20 feet from any building within the 13 manufactured home park, at least 20 feet from park boundary line, at least 15 feet from the edge of the right-of-way of any street, 100 feet from any travel trailer space, and 100 feet from the community well. parking spaces, driveways, and all other improvements;

(7) With respect to anchors and tie-downs, each manufactured home space shall comply with standards specified by the State of North Carolina regulations for manufactured homes.

(8) Each manufactured home space shall have two (2) off-street parking spaces. The manufactured home park owner shall provide additional off-street parking for tenants with more than two vehicles, or for guests.

(9) Each manufactured home space may be equipped with a storage building not to exceed 10'x 10' provided all such buildings in the park are located in a uniform manner at rear of the manufactured home space.

(Ord. #2, 1/6/1977, Article IV. Section 3, Section 4, and Section 5)

ix. Certification of approval of water supply system plans by the appropriate state agency or county health department;

x. Certification of approval of sewage collection systems by the appropriate state agency or county health department;

xi. Certification of solid waste storage, collection, and disposal shall be approved by the county solid waste department.

(Ord. #2, 1/6/1977, Article III. Section 2)

3) If the Planning and Zoning Board should disapprove the proposed park plan, the reasons for such action and recommended changes shall be given to the park developer or his agent in writing and the park developer shall have an opportunity to resubmit changed materials for review by the Planning and Zoning Board without additional fee.

4) After the Planning and Zoning Board has approved the proposed park plan, one approved copy shall be sent to the Zoning Official and one approved copy shall be given to the developer or his agent.
5) The Planning and Zoning Board shall require that the street layout of the proposed park plan for streets to be dedicated to the public be approved by the District Office of the North Carolina State Department of Transportation. The owner shall agree to assume full responsibility for adequate maintenance of private drives.

(Ord. #2, 1/6/1977, Article III. Section 3)

c) *Submit to Building Inspections for Review of Proposed Manufactured Home Park Plan and Construction Permit.*

The county building inspector shall review the proposed manufactured home park plan to determine if it is in accordance with the requirements set forth in this article. If the inspections department should disapprove the proposed park plan, the reasons for such action and the recommended changes shall be given to the developer or his agent.

(Ord. #2, 1/6/1977, Article III. Section 3)

d) *Issuance of Operator's License.*

(1) When the developer has completed the construction of the manufactured home park, he shall apply to the Zoning Official for an operating permit. The Zoning Official and a representative of the County Health Department shall make an on-site inspection of the park.

i. If the plan conforms to the park plan approved by the Planning and Zoning Board and other agencies, the Zoning Official shall issue the developer an operating permit.
ii. If the plan does not conform with the approved plan, the Zoning Official shall delay issuance of the operating permit until it comes into conformity.

(Ord. #2, 1/6/1977, Article III. Section 4)

(2) The manufactured home park owner/operator(s) is required to provide adequate supervision to maintain the park in compliance with the requirements of this Ordinance. Further, the manufactured home park owner/operator(s) shall keep all park-owned facilities, improvements, equipment and all common areas in good repair and maintained at all times. The accumulation or storage of materials which would constitute a fire or other safety hazard or would cause insect or rodent breeding and harborage is prohibited.

(3) Owner/Operators of manufactured home parks shall be required to supervise the placement of all manufactured homes on the site/space.

(4) Each manufactured home park owner/operator shall submit to the Scotland County Department of Inspections and Zoning tenancy rules and regulations governing the operation of the manufactured home park.

(Ord. #2, 1/6/1977, Article III. Section 6)

e) Annual Inspection. All manufactured home parks in the county shall be inspected by the county planning department at least once every year in compliance with NCGA 105-316(a)(1). The operator's license of parks with sewerage problems based on current state sanitation regulations may be revoked upon request from the county health department.

(Ord. #2, 1/6/1977, Article III. Section 6) (See also Section 12.5)

f) *Additional Requirements.*

No Manufactured Home Class C shall be placed in a manufactured home park.

g) *Planting Strip.*

(1) The manufactured home park shall have a planting strip not less than ten feet wide adjacent to the park boundary extending along the entire perimeter of the manufactured home park. The planting strip shall not be a portion of any manufactured home space, street or private drive. It shall be planted with evergreen and/or deciduous trees not more than eight feet apart and must be at least four feet in height when planted, and a minimum of eight feet tall at maturity; dead trees must be replaced. It shall be adequately landscaped with grass and shrubbery in such a manner as to be harmonious with the landscaping and/or adjacent properties and in keeping with the general character of the surrounding neighborhood. A privacy fence at least six feet in height may meet the buffering requirements in such instances where landscaping is impracticable or in instances where the planning department determines that a fence would be the most effective buffer.

(2) All required planting strips must be continually maintained by the owner. Failure to maintain any required planting strip may cause the manufactured home park's operator's license to be withheld or revoked.

h) *Nonresidential Uses.*

No part of any park may be used for nonresidential purposes, except uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of this park. This section shall not be construed to prohibit the sale of a manufactured home located on a manufactured home lot and connected to the pertinent facilities.

i) *Parking.*

(1) Each manufactured home park shall provide sufficient parking and maneuvering space so that the parking, loading or maneuvering of a manufactured home incidental to parking shall not necessitate the use of any public street, sidewalk or right-of-way or any private grounds not part of the manufactured home park.

(2) Two off-street parking spaces, each with a minimum length of 20 feet and a minimum width of ten feet shall be provided for each manufactured home lot in the park. The parking spaces shall be constructed with the same material as the interior streets.

j) *Outdoor Lighting.*

Adequate lights shall be provided to illuminate streets, common driveways, walkways and dead-end streets for the safe movement of vehicles and pedestrians at night. Minimum requirements will be based on 0.4 foot candles per light spaced at a minimum of 200 feet between lights and 9,500 lumens at a 25 feet mounting height.

12.4 INTERIOR STREET SYSTEM

a) *Access*.

(1) All manufactured home parks shall be provided with a network of streets, roads or driveways that will allow safe and convenient vehicular access to an improved public street from each manufactured home lot, but no individual manufactured home within a park may have direct-driveway access to an abutting public street.

(2) The intersection of the public street with the entrance way or private access road to the manufactured home park shall be designed to facilitate the free movement of traffic on the public street and to minimize the hazards caused by traffic entering or leaving the park development. All driveways shall be of an improved surface (see section 29-70) and the minimum width of such driveways shall be well marked and lighted in the manufactured home parks. All manufactured home lots must enter and exit the park through the use of the interior road network of the park; no direct access to public roads from a lot shall be allowed.

b) *Street*.

(1) Manufactured home parks with six or less manufactured homes shall maintain all-weather roads year round. All streets or roads in the manufactured home park that contain seven or more manufactured homes will be built and maintained to minimum construction standards as follows:

(a) The minimum right-of-way shall be established at 50 feet.

(b) The unpaved street must be graded to a minimum travel-way width of 20 feet and 32 feet exclusive of side ditches. **Note**: See ***Exhibit 1*** for drawing.

(c) The grade and alignment of the street must be reasonable engineering standards so as to have adequate drainage.

(d) The street must be stabilized with a compact all-weather base of at least four inches of material meeting N.C. D.O.T. specifications:

(i) CABC - Aggregate Base Course, No. 7 Stone

(ii) STBC - Soil Type Base Course

(e) The streets shall be maintained by the developer at all times so as to have a safe travel-way for residents and emergency vehicles.

(f) If the private road will connect to a state road, a permit must be obtained from the N.C.D.O.T.

Exhibit 1

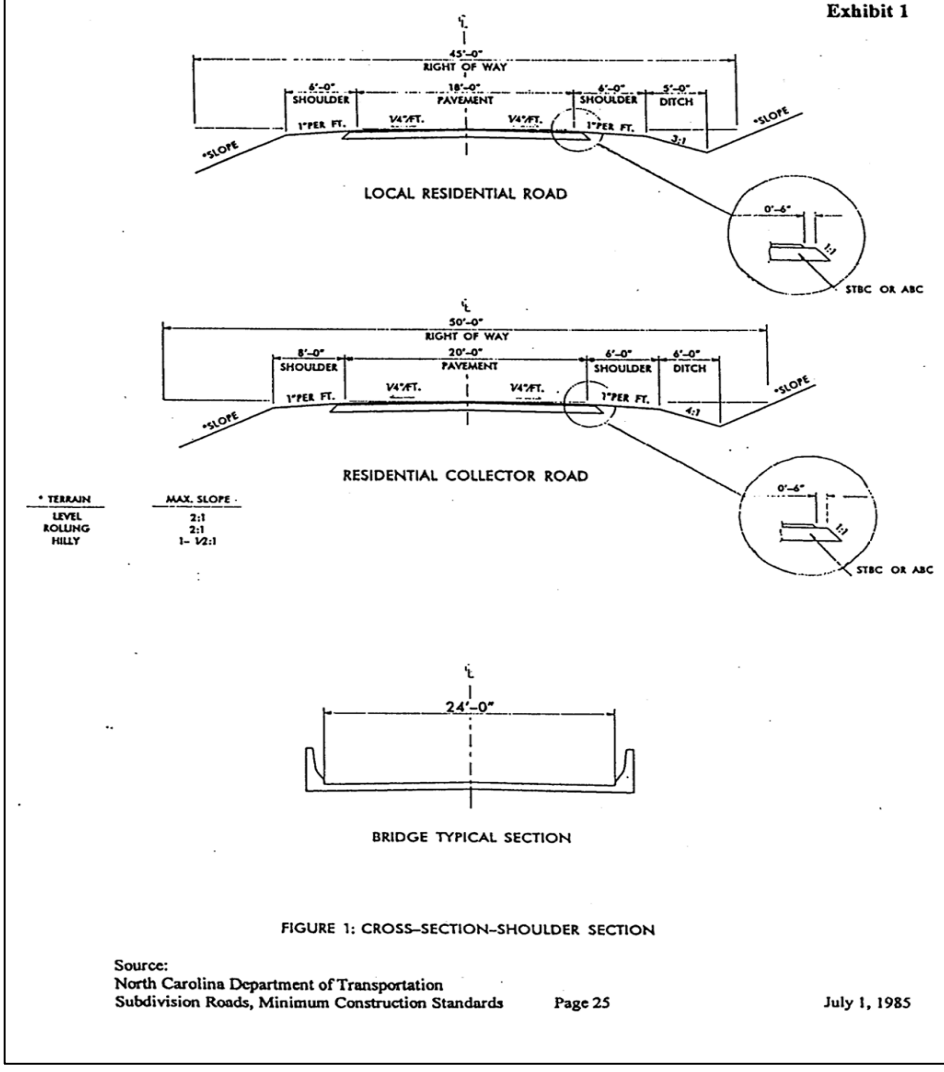


FIGURE 1: CROSS–SECTION–SHOULDER SECTION

Source:
North Carolina Department of Transportation
Subdivision Roads, Minimum Construction Standards Page 25 July 1, 1985

12.5 RESPONSIBILITIES AND DUTIES OF PARK OPERATORS; OPERATING STANDARDS

(a) *Manufactured Home Park Maintenance*

Manufactured home park operators shall be required to provide adequate supervision to maintain the park in compliance with the requirements of this article. The manufactured home park operators shall keep all park-owned facilities, improvements, equipment, and all common areas in good repair and maintained in such a manner as to prevent the accumulation of storage of materials which could constitute a fire hazard or would cause insect or rodent breeding and harborage. Abandoned vehicle storage or the

accumulation of junk is expressly prohibited in existing and/or new manufactured home parks. Either item may be cause to revoke a manufactured home park operator's license.

(b) *Placement and Anchoring.*

Operators shall be required to supervise the placement of all manufactured homes to guarantee that they are properly anchored and attached to utilities. All manufactured homes within a manufactured home park shall be properly anchored or provided with tie downs, in accordance with the state regulations for manufactured homes. Technical assistance will be provided by the county building inspection office. All manufactured homes in manufactured home parks will be set up and anchored according to manufacturer's instructions or state requirements.

(c) *Assist County Tax Administrator.*

Operators shall be required to comply with G.S. 105-316(a)(1) which requires that as of January 1 of each year each operator of a manufactured home park furnish to the county tax supervisor the name of the owner and a description of each manufactured home located in the park.

(d) *Fire prevention and detection*.

In addition to any fire prevention regulations of the county, the following shall apply:

(1) The operator of a manufactured home park is responsible for informing each park resident of the location of the nearest fire alarm box, if any; the location of an accessible telephone and the telephone number to be used to report fires; and procedures to be followed in case of fire.

(2) The park owner shall install a fire extinguisher labeled as suitable for Class A, B, C fires and of a type approved by the fire marshal in each building open to the public and in the park office. The park staff shall be instructed in the proper use of any fire protection equipment available in the park and their specific duties in the event of fire.

(3) The park owner or operator shall maintain the park area free of rubbish, dry brush, leaves, weeds, and any other materials which might communicate fires between manufactured homes and other buildings.

(4) Empty liquefied petroleum gas containers and other objects and materials not approved by the fire marshal shall not be stored under manufactured homes.

(5) The manufactured home owner shall be responsible for payment of any applicable fees if the fire department is called upon.

(d) *Infestation prevention.*

(1) Grounds, buildings, and structures shall be maintained free of insect and rodent infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the county health officer.

(2) Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests.

(3) Storage areas shall be so maintained as to prevent rodent harborage. Lumber, pipes, and other building materials shall be stored at least one foot above the ground.

(4) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire, mesh, or other suitable materials.

(5) The growth of brush, weeds, and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

(e) Inspection.

(1) The Scotland County Health Department, the Inspections Department, and/or the Zoning Official are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this ordinance. It shall be the duty of the owners or occupants of manufactured home parks to give these agencies free access to such premises at reasonable times for the purpose of inspection.

(2) Periodic inspections shall also be made of street surface conditions within the ·park, with special attention given to. streets surfaced with stabilized earth. In the event the park owner fails to maintain earth streets in an appropriate manner, the Inspections Department shall require repaving with hard-surface materials, or pursue other appropriate legal remedies.

(3) The person to whom an operating permit for a manufactured home park is issued shall operate the park in compliance with this ordinance and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

(4) The park owner or operator shall notify park occupants of all applicable provisions of this ordinance and inform them of their duties and responsibilities under this ordinance.

(5) The operator or caretaker shall be answerable, together with the owner, for the violation of any provision of this ordinance.

(Ord. #2, 1/6/1977, Article VI. Section 3)

12.6 ADMINISTRATION

(a) *Enforcement*.

If the county planning department shall find that any of the provisions of this article are being violated, it shall issue a notice of violation to the manufactured home park owner, specifying the nature of the violation and what corrective measures must be taken. The planning department shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or

structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by law to ensure compliance with or to prevent violation of the provisions of this article. The owner shall immediately remedy the violation.

(b) *Fees*.

The county board of commissioners shall set a fee to cover the necessary processing cost of all manufactured home permits and operator's licenses. The set fee shall be posted in the inspections office.

(c) *Penalties*.

Any person failing to take corrective action within 30 days after receiving the written notice of violation from the county planning department or any person operating a manufactured home park without a valid operator's license shall be in violation of this article. Violation of any of the article requirements constitutes grounds for refusing to issue a license, to renew a license, or to revoke an issued license.

12.7 NONCONFORMING MANUFACTURED HOME PARKS

(a) Manufactured home parks existing at the time of adoption of the ordinance that do not meet the minimum standards contained herein shall have 60 days to comply with the following requirements:

(1) Street name signs installed on all streets within the park (see section 29-90);

(2) Install park signs (see section 29-90);

(3) Solid waste disposal plan (see section 29-89);

(4) Register with the county tax office (see section 29-88); and

(5) Obtain an operator's license to operate from the county planning department.

(b) Existing parks shall maintain a valid operator's license and health and safety factors must be brought to the standards described in the regulations. An existing manufactured home park shall have a barrier, divider, or an appropriate fence for a buffer zone when real estate is unavailable.

(c) Operators of all manufactured home parks existing at the time of adoption of the ordinance from which this article is derived shall be required to maintain a valid operator's license.

(1) Failure of a manufactured home park operator to renew the operator's license within 30 days following the expiration of such license shall result in the permanent loss of the existing status.

(2) Once the ordinance from which this article is derived is adopted, park operators will have not more than 60 days after adoption to obtain a valid operator's license. If they fail to do so, the manufactured home park shall lose its classification of existing status.

(3) Any expansion of the manufactured park, either in area or in the number of homes, shall also immediately result in the loss of existing status.

(4) Any manufactured home park which loses its existing status shall be required to meet all the minimum standards contained in this chapter before a new operator's license will be issued. However, existing direct driveways which are at least 100 feet apart shall be excluded from the direct driveway access requirement.

12.8 RIGHT OF APPEAL

If any permit or operator's license is denied or revoked, the applicant may file an appeal with the county manager.

ARTICLE 13 – SOLAR FARMS

Table of Contents

13.1. Purpose 1
13.2. Applicability 1
13.3. Definition 1
13.4. Development Requirements for Solar Farms as a Special Use in the R-A, I-1 and I-2 Districts 1
13.5. Modification to Existing Solar Farms 2
13.6. Aviation Notification 2
13.7. Decommissioning 4

13.1. Purpose

The purpose of this section is to facilitate the construction, installation, and operation of Solar Farms (also known as Solar Energy Systems (SESs)) in Scotland County. The provisions of this section shall not be deemed to nullify any provisions of local, state or federal law.

13.2. Applicability

This Article applies to the construction of any new SES within the jurisdiction of Scotland County.

13.3. Definition

A solar collection system that generates electricity from sunlight to a wholesale electricity market through a regional transmission organization and an inter-connection with the local utility power grid and/or for direct distribution to a number of properties and consumers. Solar shall consist of a minimum of three (3) individual photovoltaic modules (solar panels), which are an assembly of solar cells to generate electricity.

13.4. Development Requirements for Solar Farms as a Special Use in the R-A, I-1 and I-2 Districts

a) Solar farms and their appurtenant components shall conform to the principal building setbacks of the underlying zoning district which they are located.

b) Individual modules/panels shall be a maximum of 25 feet in height as measured from the

grade at the base of the structure to the apex of the structure.

c) A site plan, drawn and stamped by a North Carolina licensed surveyor or engineer, shall be submitted showing the following:

(1) The location and dimensions of all proposed areas for the placement of solar panels, screening/fencing and related improvements;
(2) Any pre-existing structures on the same lot, and principal structures on other properties that would affect the placement of solar panels;
(3) Parking and access areas;
(4) Location of any proposed solar access easements;
(5) Any proposed new structures.

d) Solar farms shall be fully screened from adjoining properties and adjacent roads by an evergreen buffer capable of reaching a height of 10 feet within 3 years of planting.

e) Solar panels shall be mounted onto a pole, rack, or suitable foundation in accordance with manufacturer's specifications, in order to ensure the safe operation and stability of the system.

f) Multiple mounting structures shall be spaced apart at the distance recommended by the manufacturer to ensure safety and maximum efficiency.

g) It is the responsibility of the owner to remove all obsolete or unused systems within 12 months of cessation of operation.

h) The farm and components shall meet all requirements of the North Carolina State Building Code.

i) The solar array shall be fenced in and access controlled. The site must be accessible 24/7 for emergency service.

13.5. MODIFICATION TO EXISTING SOLAR FARMS

Modifications to an existing SES that increases the SES area by more than 5% of the original footprint or changes the solar panel type (e.g., photovoltaic to solar thermal) shall be subjected to this section.

13.6. AVIATION NOTIFICATION

a) A map analysis showing a radius of five (5) nautical miles from the center of the SES with any airport operations within this area highlighted shall be submitted with permit application.

1) For consideration of potential impacts to low altitude military flight paths, notification of

intent to construct the SES shall be sent to the NC Commanders Council at least 45 days prior to permit application submission. Proof of delivery of notification and date of delivery shall

be submitted with permit application. **Mail to: Commanding General MCIEAST; Attn: Mr. Bill Meier (NC Commanders Council) or successor; Marine Corps Installations East G-7 (MCIEAST); PSC Box 20005; Camp Lejeune, NC 28542. Email: Subject: NC Commanders' Council Notification of Solar Development Project in "County or County Name" Address: Meier CIV William A [William.meier@mcw.usmc.mil], Ayers CIV Bryan C [bryan.ayers@usmc.mil].** Notification shall include:

i. Location of SES (i.e., map, coordinates, address, or parcel ID).
ii. Solar technology (i.e., polycrystalline PV, monocrystalline PV, Cadmium Telluride PV, evacuated tube solar thermal, flat plate solar thermal, etc.).
iii. Approximate number of solar modules/panels.
iv. System mounting (i.e., fixed-tilt on flat roof, fixed-tilt ground-mount, 1-axis tracking ground-mount, etc.).
v. The maximum height of the array from the ground or roof surface.
vi. The maximum height of any new utility poles.
vii. Power capacity of the system, in both DC and AC Watts where applicable.
viii. Acreage of array and acreage of total project.
ix. How will the project connect? (i.e., net meter, to existing distribution line, to new distribution line, to transmission line).
x. Will a substation be constructed? If so, provide location and size.
xi. Is the site within five nautical miles of aviation operations? If so, provide the required SGHAT analysis results.

(1) The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the Zoning Administrator, shall be sent to the authority indicated below at least forty-five (45) days prior to permit application submission. Proof of delivery of notification and date of delivery shall be submitted with permit application.

(2) Airport operations at airports in the National Plan of Integrated Airport Systems (NPIAS)2 within 5 nautical miles of the center of SES: provide required information to the Federal Aviation Administration's (FAA) Airport District Office (ADO) with oversight of North Carolina.

(3) Airport operations at airport not in the NPIAS, including military airports, within 5 nautical miles of the center of SES: provide required information to the NC

Commanders Council for military airports and to the management of the airport for non-military airports. Send to: **www.faa.gov/airports/planningcapacity/npias-reports/.** (As of October 2016, this is the Memphis ADO, but this is subject to change)

(4) Any applicable SES design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contacts specified in f(1) and (f)(2) for accurate records of the as-built system.

13.7. DECOMMISSIONING

A Decommissioning Plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with permit application. The Decommissioning Plan shall follow the provision as outlined in North Carolina Session Law 2019-132 and a bond shall be required. The required bond amount is established by the County but in no case shall be less than $10,000 per acre.

ARTICLE 14 – WIRELESS COMMUNICATIONS

Table of Contents

PART I. GENERAL REQUIREMENTS 2

14.1. Purpose and Applicability 2

14.2. Certain Uses Not Covered by This Article 3

14.3. Interpretation and Definition 3

14.4. When Special Use Permit is Required. 8

14.5. Evaluation of Locations for New Wireless Facilities 8

14.6. General Requirements for All Wireless Support Structures 9

14.7. Attached Wireless Support Structures 10

14.8. Collocations and Eligible Facilities Requests of Wireless Support Structures 11

14.9. Collocation of Small Wireless Facilities 12

14.10 – 14.11. Reserved 15

PART II. ADMINISTRATION 16

14.12. Towers Allowed by Administrative Review 16

14.13. Shared Facilities and Colocation Policy 16

14.14. Removal of Abandoned Support Structures 16

14.15. Nonconforming Wireless Communication Facilities 18

14.16. Revocation of Tower and Antenna Use Applications 18

14.17. Annual Review 18

14.18. Fees 19

14.19 – 14.25. Reserved 19

PART I. GENERAL REQUIREMENTS

14.1. PURPOSE AND APPLICABILITY

14.1.1. **Purpose and Compliance with Federal Law**:

(a) The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the County of Scotland and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(b) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), create a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. The following standards shall apply to actions by the County of Scotland, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

Statutory Reference – N.C.G.S. § 160D-930.

14.1.2. **Applicability**: The regulations of this Article shall apply to the development and rehabilitation of wireless communication facilities in the planning jurisdiction of the County of Scotland.

14.1.3. **Local Authority**.

(a) The County of Scotland may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Article. Except as expressly stated, nothing in this Article shall limit the County from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in NCGS 160D-9-30. For purposes of this Article, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities.

Statutory Reference – N.C.G.S. § 160D-932

14.2. CERTAIN USES NOT COVERED BY THIS ARTICLE

14.2.1. Wireless telecommunication towers that are used for emergency communication for county and state personnel shall be exempt from the Scotland County Zoning Ordinance and are not required to obtain a special use zoning permit.

14.3. INTERPRETATION AND DEFINITION

14.3.1. *Conflict with other ordinances.* To the extent these development standards conflict with other ordinances for the county, these development standards shall control.

14.3.2. *Rules for words and phrases.* For the purposes of section, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory; the word "may" is permissive; the word "used" includes "designed" and "intended" or arranged to be used or occupied; and the word "person" includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual.

14.3.3. *Definitions.* For the purpose of this section certain words, phrases and terms used herein shall be interpreted as stated in this subsection. The planning director or designee shall define any word, phrase or term not defined herein. The interpretation shall be based upon its common and ordinary usage in the region.

Abandon. Occurs when an owner of a Support Structure intends to permanently and completely cease all business activity associated therewith.

Antenna. Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Applicable codes. The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Application. A request that is submitted by an applicant for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, county utility pole, or wireless support facility.

Base station. A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

Breakpoint technology. The engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the

failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole.

Building permit. An official administrative authorization issued by the county local government prior to beginning construction consistent with the provisions of G.S. 160D-11-10.

Carrier on Wheels "COW": A portable self-contained Telecommunications Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

County right-of-way. A right-of-way owned, leased, or operated by a county, including any public street or alley that is not a part of the State highway system.

County utility pole. A pole owned by a county in the county right-of-way that provides lighting, traffic control, or a similar function.

Collocation. The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, county utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term 'collocation" does not include the installation of new utility poles, county utility poles, or wireless support structures.

Communications facility. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications service. Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), of wireless services.

Communications service provider. A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

Completed application. An application that contains all information and/or data necessary to enable the board or ordinance administrator to evaluate the merits of the application, and to make an informed decision with respect to the effect and impact of wireless facilities and/or wireless support structures on the county in the context of the permitted land use for the particular location requested.

Eligible facilities request. A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Equipment compound. An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

FAA. The Federal Aviation Administration or its duly designated and authorized successor agency.

FCC. The Federal Communications Commission or its duly designated and authorized successor agency.

Fall zone. The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Free standing wireless support structure. A wireless support structure that is not supported by guy wires and ground anchors or other means of attached or external support.

Guyed wireless support structure. A style of wireless support structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

Land development regulation. Any ordinance enacted pursuant to this Part Chapter.

Major Modifications. Improvements to existing Telecommunications Facilities or Support Structures that result in a Substantial Increase to the Existing Structure. Collocation of new Telecommunications Facilities to an existing Support Structure without Replacement of the structure shall not constitute a Major Modification.

Micro wireless facility. A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Minor Modifications. Improvements to Existing Structures that result in some material change to the Facility or Support Structure but of a level, quality or intensity that is less than a Substantial Increase. Minor Modifications include the Replacement of the structure.

Monopole. A single, freestanding pole-type structure supporting one or more Antenna.

Ordinary Maintenance. Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacounty, aesthetic and structural integrity; for example, the strengthening of a Support Structure's foundation or of the Support Structure itself. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape and color and Accessory Equipment within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Monopole or Tower upon which they are currently located. Ordinary Maintenance does not include Minor and Major Modifications.

Replacement. Constructing a new Support Structure of proportions and of equal height or such other height that would not constitute a Substantial Increase to a pre-existing Support Structure in order to support a Telecommunications Facility or to accommodate Collocation and removing the pre-existing Support Structure.

Search ring. The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

Small wireless facility. –A wireless facility that meets both of the following qualifications:

a. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.
b. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Substantial modification**.** - The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below.

a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Support Structure(s). A structure designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, and other freestanding self-supporting structures.

Telecommunications Facility(les). Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Telecommunication Facility can consist of one or more Antennas and Accessory Equipment or one base station.

Tower. A lattice-type or monopole wireless support structure, guyed or freestanding, that supports one or more Antennas.

Utility pole. A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricounty, lighting, or wireless services.

Water tower. A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

Wireless facility. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
b. Wireline backhaul facilities.
c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or county utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless provider. A wireless infrastructure provider or a wireless services provider.

Wireless services. Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless services provider. A person who provides wireless services.

Wireless support structure. A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a county utility pole is not a wireless support structure.

Specific types of wireless support structures include:

Attached wireless support structure means an antenna or antenna array that is secured to an existing building or structure with any accompanying pole or device which attaches it to the building or structure, together with transmission cables, and an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure. An attached wireless facility is considered to be an accessory use to the existing principal use on a site.

Concealed wireless support structure, sometimes referred to as a concealed or camouflaged facility, means a wireless support structure, ancillary structure, or wireless support structure

equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two types of concealed wireless support structures: 1) attached and 2) freestanding. 1) Examples of concealed attached facility include, but are not limited to, the following: painted antenna and feed lines to match the color of a building or

structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure. 2) Freestanding concealed wireless support structures usually have a secondary, obvious function which may be, but is not limited to, the following: church steeple, windmill, bell tower, clock tower, cupola, light standard, flagpole with or without a flag, or faux tree.

Freestanding wireless support structure means any manned or unmanned location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, feed lines, and equipment cabinets, and may include an antenna support structure. A freestanding wireless support structure includes, but is not limited to, the following: guyed, lattice, or monopole support structures.

Non-concealed wireless support structure means a wireless support structure that is readily identifiable as such and can be either freestanding or attached.

Statutory Reference – N.C.G.S. § 160D-931.

14.4. WHEN SPECIAL USE PERMIT IS REQUIRED.

14.4.1. All applications for the construction or installation of a new wireless support structure or substantial modification of wireless support structures shall be permitted by a Special Use Permit. Applications for attached wireless support structures and collocations and eligible facilities requests shall be issued by the Zoning Administrator. Temporary emergency structures under ***Section 14.10*** shall also be issued by the Zoning Administrator.

14.5. EVALUATION OF LOCATIONS FOR NEW WIRELESS FACILITIES

14.5.1. The County requires applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas (attached wireless support structures, concealed wireless support structures, freestanding wireless support structures, and non-concealed wireless support structures) and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. The County requires information as part of the application necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

Statutory Reference – N.C.G.S. § 160D-933(b)(3) and § 160D-933(f)

14.6. GENERAL REQUIREMENTS FOR ALL WIRELESS SUPPORT STRUCTURES

14.6.1. ***Security of wireless support structures.*** All wireless support structures shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically, as follows:

(a) All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and
(b) Transmitters and telecommunications control points must be installed in a manner to be readily accessible only to persons authorized to operate or service them.

14.6.2. ***Signage***. Wireless support structures shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the facility, an emergency phone number(s), and FCC registration number, if applicable. The sign shall be on the equipment shelter or shed of the applicant and be visible from the access point of the site and must identify the equipment shelter of the applicant. The sign shall not be lighted unless the County shall have allowed such lighting or unless applicable provisions of law require such lighting. No other signage, including advertising, shall be permitted on any wireless support structure, unless required by law.

14.6.3. ***Access***. At a wireless support structure site, an access road, turn around space, and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

14.6.4. ***Setbacks***. All wireless support structures and broadcast facilities shall be set back from abutting property lines and recorded rights-of-way by the following distances: a distance equal to the height of the wireless support structure or broadcast facility tower or structure or use breakpoint technology. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

14.6.5. ***Fencing***. Wireless Communications Facilities with Support Structures shall be enclosed by an opaque fence (excluding slatted chain link) not less than 6 feet in height. Security features may be incorporated into the buffer and landscaping requirements for the site. Nothing herein shall prevent fencing that is necessary to meet requirements of State or Federal agencies.

14.6.6. ***Radio Frequency Emissions/Sound.*** The following radio frequency emissions standards shall apply to all Wireless Communications Facility installations:

i. Radio Frequency Impact. The FTA gives the FCC jurisdiction of the regulation of Radio Frequency (RF) emissions, and Wireless Communications Facilities that do not exceed the FCC standards shall not be conditioned or denied on the basis of RF impact.
ii. FCC Compliance. In order to provide information to its citizens, copies of ongoing FCC information concerning Wireless Communications Facilities and RF emissions standards may be requested from time to time. Applicants for Wireless Communications Facilities shall be required to provide information with the application on the measurement of the effective radiated power of the facility and how this meets the FCC standards.

iii. Sound Prohibited. No unusual sound emissions such as alarms, bells, buzzers or the like are permitted.

14.6.7. ***Structural Integrity*.** Wireless Communications Facilities with Support Structures shall be constructed to the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled "Structural Standards for Steel Antennas Towers and Antenna Support Structures" (or equivalent), as it may be updated and amended. Each Support Structure shall be capable of supporting multiple antenna arrays.

14.6.8. ***Collocation Agreement.*** All applicants for Wireless Communications Facilities are required to submit a statement with the application agreeing to allow and reasonably market collocation opportunities to other Wireless Communications Facility users. The statement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers.

14.6.9. ***Pre-existing wireless communications facility***. Wireless communications facilities which were installed prior to the effective date of the ordinance from which this article is derived shall be considered as nonconforming.

14.6.10. ***Amateur radio exclusion.*** This section shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator.

14.6.11. ***Relationship to other ordinances***. Except for historic districts, this section shall supersede all conflicting requirements of other ordinances regarding the locating and permitting of wireless communication facilities.

14.6.12. ***Airport zoning.*** Any wireless communication facility located or proposed to be located in airport areas governed by the Federal Aviation Administration shall also comply with the provisions of all applicable local, state and federal airport regulations.

14.6.13. ***Building codes.*** Construction of all wireless communication facilities shall comply with the requirements of the state building codes and permitting process in addition to the requirements of this section.

14.7. ATTACHED WIRELESS SUPPORT STRUCTURES

14.7.1. ***Concealed and non-concealed***.

(a) The top of the attached wireless support structure shall not be more than 20 feet above the existing or proposed building or structure.

(b) An attached wireless support structure and its equipment compound shall be subject to the setbacks of the underlying zoning district. When an attached wireless support structure is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.

(c) Feed lines and antennas shall be designed to architecturally match the facade, roof, wall, or structure on which they are affixed so that they blend with the existing structural design, color, and texture.

14.7.2. ***Attached non-concealed wireless support structures***. Shall only be allowed on electrical transmission towers and existing light stanchions subject to approval by the ordinance administrator and utility company.

14.7.3. ***Permit application.*** Applications and site plans for attached wireless support structures shall be submitted to the Zoning Administrator and accompanied by a nonrefundable application fee as established by the county board of commissioners per the fee schedule. The application fee is subject to change by resolution of the county board of commissioners. Attached wireless support structure permits shall be issued by the Zoning Administrator.

14.8. COLLOCATIONS AND ELIGIBLE FACILITIES REQUESTS OF WIRELESS SUPPORT STRUCTURES

14.8.1. A Special Use Permit is not required for a wireless support structure collocation or eligible facilities requests of wireless support structures if the work does not constitute a substantial modification of a wireless support structure.

14.8.2. A certification that the applicant is in compliance with all relevant FCC Code of Federal Regulations pertaining to type of service offered during the term of the collocation permit.

14.8.2. An applicant who holds an antenna collocation permit for wireless support structure shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless support structure in strict compliance with all current applicable technical, safety and safety-related codes adopted by the county, state, or federal government, including, but not limited to, the most recent editions of the National Electrical Safety Code and the National Electrical Code, the EIA/TIA-222 G as amended, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding codes the more stringent code shall apply.

14.8.3. A collocation or eligible facilities request application is deemed complete unless the county provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. A county may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, state, and local safety requirements. A county may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

14.8.4. The county shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the county shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

14.8.5. Scotland County requires a fee not to exceed $1,000 for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. The county may engage a third-party consultant for technical consultation and the review of a collocation or eligible facilities request application. The fee imposed by a county for the review of the application may not be used for either of the following:

(a) Travel expenses incurred in a third party's review of a collocation application.
(b) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.

Statutory Reference – N.C.G.S. § 160D-934(b)

14.9. COLLOCATION OF SMALL WIRELESS FACILITIES

14.9.1. Except as expressly provided in this Article, Scotland County shall not prohibit, regulate, or charge for the collocation of small wireless facilities.

14.9.2. Scotland County may not establish a moratorium on (i) filing, receiving, or processing applications or (ii) issuing permits or any other approvals for the collocation of small wireless facilities.

14.9.3. Small wireless facilities that meet the height requirements of G.S. 160D-936(b)(2) shall only be subject to administrative review and approval under subsection (d) of this section if they are collocated (i) in a county right-of-way within any zoning district or (ii) outside of county rights-of-way on property other than single-family residential property.

14.9.4. Scotland County requires the applicant to obtain a permit to collocate a small wireless facility. Scotland County shall receive applications for, process, and issue such permits subject to the following requirements:

(a) A county may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, "services unrelated to the collocation," includes in-kind contributions to the county such as the reservation of fiber, conduit, or pole space for the county.
(b) The wireless provider shall complete an application as specified in form and content by the county. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.
(c) A permit application shall be deemed complete unless the county provides notice otherwise in writing to the applicant within 30 days of submission or within some

other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

(d) The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the county fails to approve or deny the application within 45 days from the time the application is deemed complete or a mutually agreed upon time frame between the county and the applicant.

14.9.5. Denial of Application.

(a) Scotland County may deny an application only on the basis that it does not meet any of the following:

(i) the county's applicable codes,

(ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, county utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment,

(iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way, or

(iv) the historic preservation requirements in G.S. 160D-936(i).

(b) Scotland County must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the county denies an application. The applicant may cure the deficiencies identified by the county and resubmit the application within 30 days of the denial without paying an additional application fee.

(c) County shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

14.9.6. An application shall include an attestation that the small wireless facilities must be collocated on the utility pole, county utility pole, or wireless support structure and that the small wireless facilities must be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the county and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

14.9.7. An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of Scotland County shall be allowed, at the applicant's discretion, to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. The County may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The County may issue a separate permit for each collocation that is approved.

14.9.8. The permit may specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the county and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

14.9.9. Subject to the limitations provided in G.S. 160A-296(a)(6), the County may charge an application fee that shall not exceed the lesser of:

(a) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities,
(b) the amount charged by the county for permitting of any similar activity, or
(c) one hundred dollars ($100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars ($50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the county has the burden of proving that the fee meets the requirements of this subsection.

14.9.10. Subject to the limitations provided in G.S. 160A-296(a)(6), the County may impose a technical consulting fee for each application, not to exceed five hundred dollars ($500.00), to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. The County may engage an outside consultant for technical consultation and the review of an application. The fee imposed by a county for the review of the application shall not be used for either of the following:

(a) Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.
(b) Direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement. In any dispute concerning the appropriateness of a fee, the ~~county~~ County has the burden of proving that the fee meets the requirements of this subsection.

14.9.11. The County may require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the county may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the county reasonable evidence that it is diligently working to place such wireless facility back in service.

14.9.12. The County shall not require an application or permit or charge fees for

(a) routine maintenance,

(b) (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller, or

(c) (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or county utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the county rights-of-way and who is remitting taxes under G.S. 105-164.4(a)(4c) or G.S. 105-164.4(a)(6).

14.9.13. Nothing in this section shall prevent a county from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the county right-of-way.

Statutory Reference – N.C.G.S. § 160D-935

14.10 – 14.11. RESERVED

PART II. ADMINISTRATION

14.12. TOWERS ALLOWED BY ADMINISTRATIVE REVIEW

14.12.1. The following Wireless Communication Facilities may be allowed within Scotland County on an emergency basis by Administrative Review only:

(a) **Temporary Wireless Communications Facilities.** Temporary wireless communications facilities may be permitted by administrative approval for a term not to exceed 90 days. Once granted, a temporary wireless communications facility permit may be extended for an additional 90 days upon evidence of need by the applicant. In case of emergency (i.e., storm damage to an existing tower or other circumstances resulting in the interruption of existing service) the administrative review shall be expedited to the extent feasible.

14.13. SHARED FACILITIES AND COLOCATION POLICY

14.13.1. All new wireless communication facilities shall be engineered, designed and constructed to be capable of sharing the facility with other applicants, to collocate with other existing wireless communication facilities and to accommodate the future collocation of other wireless communication facilities.

14.14. REMOVAL OF ABANDONED SUPPORT STRUCTURES

14.14.1. Under the following circumstances, the board or Zoning administrator may determine that the health, safety, and welfare interests of the county warrant and require the removal of wireless facility and/or wireless support structures:

(a) A wireless facility and/or wireless support structures with a permit have been abandoned (i.e., not used as a wireless facility and/or wireless support structure) for a period exceeding 90 days or a total of 180 days in any 365-day period, except for periods caused by force majeure or acts of God, in which case, repair or removal shall commence within 90 days;

(b) Permitted wireless facility and/or wireless support structures fall into such a state of disrepair that it creates a public health or safety hazard;

(c) A wireless facility and/or wireless support structures that have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required major special use permit or antenna collocation permit, or any other necessary authorization.

14.4.2. If the board or ordinance administrator makes such a determination as noted in ***Section 14.4.1.*** the board or Zoning administrator shall notify the holder of the special use permit or antenna collocation permit for the wireless facility and/or wireless support structure within 48 hours that said wireless facility and/or wireless support structure are to be removed, the board or Zoning administrator may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless facility and/or wireless support structure.

14.4.3. The holder of the major special use permit or antenna collocation permit, or its successors or assigns, shall dismantle and remove such wireless facility and/or wireless support structure, and all associated structures and facilities, from the site and restore the site as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the board or ordinance administrator. However, if the owner of the property upon which the wireless facility and/or wireless support structure are located wishes to retain any access roadway to the wireless facility and/or wireless support structure, the owner may do so with the approval of the board.

14.4.4. If the wireless facility and/or wireless support structure are not removed or substantial progress has not been made to remove the wireless facility and/or wireless support structure within 90 days after the permit holder has received notice, then the board or Zoning administrator may order officials or representatives of the county to remove the wireless facility and/or wireless support structure at the sole expense of the owner or major special use permit or antenna collocation permit holder.

14.4.5. If the county removes, or causes to be removed, wireless facility and/or wireless support structure, and the owner of the wireless facility and/or wireless support structure does not claim and remove it from the site to a lawful location within ten days, then the county may take steps to declare the wireless facility and/or wireless support structure abandoned, and sell them and their components.

14.4.6. Notwithstanding anything in this section to the contrary, the board or ordinance administrator in the case of an antenna collocation permit may approve a temporary use permit/agreement for the wireless facility and/or wireless support structure, for no more than 90 days, during which time a suitable plan for removal, conversion, or relocation of the affected wireless facility and/or wireless support structure shall be developed by the holder of the major special use permit or antenna collocation permit, subject to the approval of the board or ordinance administrator in the case of an antenna collocation permit, and an agreement to such plan shall be executed by the holder of the major special use permit or antenna collocation permit and the county. If such a plan is not developed, approved and executed within the 90-day time-period, then the county may take possession of and dispose of the affected wireless facility and/or wireless support structure in the manner provided in this section.

14.15. NONCONFORMING WIRELESS COMMUNICATION FACILITIES

14.15.1. Wireless communication facilities in existence on the date of the adoption of the ordinance from which this article is derived which do not comply with the requirements of this article (nonconforming wireless communications facilities) are subject to the following provisions:

(a) *Expansion.* Nonconforming wireless communication facilities may continue in use for the purpose now used, but may not be expanded without complying with this article except as further provided in this section.

(b) *Additions.* Nonconforming wireless communications facilities may add additional antennas (belonging to the same provider or other providers) subject to administrative review under this article.

(c) *Repairs or reconstruction.* Nonconforming wireless communications facilities which become damaged due to any reason or cause, may be repaired and restored to its former use, location, and physical dimensions subject to the provisions of this article. Provided, however, that if the damage to the wireless communication facility exceeds 50 percent of replacement cost, said wireless communication facility may only be reconstructed or repaired in compliance with this article.

14.15.2. Any nonconforming wireless communications facility not in use for six months shall be deemed abandoned and all rights as a nonconforming use shall cease.

14.16. REVOCATION OF TOWER AND ANTENNA USE APPLICATIONS

14.16.1. The approval of any tower and antenna use application issued pursuant to this article may be revoked.

(a) If the approval results from a Special Use Permit process, consult ***Section 6.5*** for the process of revocation.

(b) If the approval results from a Zoning Permit process, consult Section 5.16 for the process of revocation.

14.17. ANNUAL REVIEW

14.17.1. Wireless Communication Facilities with an approved Special Use Permit shall report annually to the County on operations to certify that the facility is still in use. Such communication shall be in the form of a letter from the Owner of the facility and directed to the Zoning Administrator.

14.18. FEES

14.18 1. The Board of Commissioners shall establish fees for all permits related to telecommunications towers and facilities. The Board may set a technical consultation fee to offset the actual, direct and reasonable administrative costs incurred for review, processing, and approval of a collocation application. The County may also engage and compensate a third-party consultant for technical consultation and the review of a collocation application.

14.19 – 14.25. RESERVED

ARTICLE 15 – LAND SUBDIVISION REGULATIONS

TABLE OF CONTENTS

PART I. GENERAL REQUIREMENTS 3
15.1. Title 3
15.2. Purpose and Applicability 3
15.3. Authority and Jurisdiction 4
15.4. Abrogation and Greater Restriction 4
15.5. Interpretation 4
15.6. Severability 4
15.7. Prerequisite to Plat Recordation 5
15.8. Thoroughfare Plans 5
15.9. Adequate Public Facilities 5
15.10. Zoning and Other Plans 5
15.11. Fees 5
15.12. Effect on Pending Litigation 2
15.13. Variances 2
15.14. Amendments to this Ordinance 3
15.15 Permit Choice and Vested Rights 3
15.16 Development Moratoria 4
15.17 Effect of Plat Approvals on Dedication 5
15.18 Penalties 5
15.19 Effective Date 6
15.20 Adoption 6
15.21 – 15.30. RESERVED. 6

PART II. DEFINITIONS 7
15.31. Definitions 7
15.32. – 15.35. Reserved 14

PART III. PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS 15
15.36. Plat Required on Any Subdivision of Land 15
15.37. Expedited Process for Certain Subdivision of Land 16
15.38. Determination of Classification- Minor or Major Subdivision, Or Exempt 16
15.39. Combination and Recombination of Land 18
15.40. Resubdivision Procedures 18
15.41. Application; Plan and Plat Approvals 18
15.42 - 15.45. Reserved 18

PART IV. MINOR SUBDIVISION PROCEDURES 19
15.46. Application for Minor Subdivision 19
15.47. Minor Subdivision Sketch Plan 19
15.48. Action on Minor Subdivision Sketch Plan 19
15.49. Minor Subdivision Final Plat 19
15.50. Review Procedure; Approval or Disapproval 22
15.51. Appeal 22
15.52. – 15.55. Reserved 22

PART V. MAJOR SUBDIVISIONS 23
15.56. Application for Major Subdivision 23
15.57. Sketch Plans 23
15.58. Preliminary Plat Submission and Review 24
15.59. Final Plat Submission and Review 26
15.60. Information to Be Depicted on Plats- Minor and Major Subdivisions 32
15.61. – 15-65. Reserved 38

PART VI. - REQUIRED IMPROVEMENTS, DEDICATIONS, RESERVATIONS, AND MINIMUM STANDARDS OF DESIGN FOR MAJOR SUBDIVISIONS 38
15.66. Generally 38
15.67. Suitability of Land 38
15.68. Floodplain or Flood-Prone Areas 38
15.69. Wetlands 39
15.70. Stormwater and Drainage 39
15.71. Sedimentation and Erosion Control 40
15.72. Pre-Sale or Pre-Lease of Subdivision Lots 40
15.73. Completing Development in Phases 41
15.74. Amendment to and Modification of Approved Preliminary Plats 41
15.75. Plat Approval Not Acceptance of Dedication Offers 42
15.76. Performance Guarantee 42
15.77. Construction Cost Estimate 44
15.78. Default 45
15.79. Maintenance of Improvements 45
15.80. Defects Guarantee 46
15.81. Maintenance Guarantee 46
15.82. Vacation of Plats 46
15.83. Dedications and Reservations 47
15.84. Name Duplication 48
15.85. Subdivision Design 48
15.86. Streets 50
15.87. Utilities 52
15.88. Other Requirements 53
15.89. – 15.100. Reserved 55

PART I. GENERAL REQUIREMENTS

15.1. TITLE

This chapter shall be known and may be cited as the subdivision regulations of the county and may be referred to as the Scotland County Subdivision Regulations.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 1.2)

15.2. PURPOSE AND APPLICABILITY

(a) The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the county. It is further designed to provide for:

(1) The orderly growth and development of the county;

(2) The coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways within proposed subdivisions with existing or planned street and highways and with other public facilities;

(3) The dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of right-of-way or easements for street and utility purposes; and

(4) The distribution of population and traffic in such a manner that will mitigate hazards, avoid congestion and overcrowding, and will create conditions that substantially promote the public health, safety and the general welfare.

Statutory Reference – NCGA Chapter 160D-804.

(b) This chapter is designed to further facilitate adequate provision of water, sewerage, parks, schools and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

(c) For the purpose of this Ordinance, subdivision regulations shall be applicable to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Article:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations.

(2) The division of land into parcels greater than 5 acres where no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

(4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Statutory Reference – NCGA Chapter 160D-802.

(Ord. of 9-4-1973, Amend. 1-26-2002, Sections 1.3and 1.4)

15.3. AUTHORITY AND JURISDICTION

This Article is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 160D, Article 8. The regulations contained herein shall govern each and every subdivision within the Scotland County's planning jurisdiction.

Statutory Reference - NCGS Chapter 160D-801 and 802

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 1.1 and 1.11)

15.4. ABROGATION AND GREATER RESTRICTION

It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions the provisions of this Ordinance shall govern.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 1.5)

15.5. INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall not be deemed a limitation or repeal of any other power granted by the North Carolina General Statutes.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 1.6)

15.6. SEVERABILITY

If for any reason any one or more sections, clauses or parts of this ordinance are held invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this ordinance, but shall be confined in its operation to the specific sections, sentences, clauses, or parts of this ordinance held invalid and the invalidity

of any section, sentence, clauses, or parts of this ordinance in any one or more instances shall not affect or prejudice in any way the validity of this ordinance in any other instance.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 1.7)

15.7. RECORDING OF PLATS

The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the county that has not been approved in accordance with these provisions, nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with this section.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 1.9)

15.8. THOROUGHFARE PLANS

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the county, such thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this Article.

15.9. ADEQUATE PUBLIC FACILITIES

To ensure public health, safety, and welfare, the county Planning and Zoning Board shall review each proposed subdivision to determine if public facilities are adequate to serve the development.

(a) The public facilities include, but are not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining whether facilities are adequate. Facilities must be in place within two years of preliminary approval to be considered adequate.

(b) The Planning Board may grant partial approval of developments based on limited adequacy.

15.10. COMPLIANCE WITH ZONING AND OTHER PLANS

Proposed subdivisions must comply in all respects with the requirements of the County Zoning Ordinance and other similar land use plans, if in effect in the area to be subdivided.

15.11. FEES

(a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for subdivision review and approvals, variances, and other administrative relief. The amount of the fees charged shall be as set forth in the County's budget or as established by resolution of the Board of Commissioners filed in the Office of the County Clerk. Fees shall be paid upon submission of a signed application.

(b) Scotland County shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to these regulations at least seven days prior to the first meeting where the imposition of or increase

in the fees or charges is on the agenda for consideration. The local government shall employ at least two of the following means of communication in order to provide the notice required by this section:

(1) Notice of the meeting in a prominent location on a Web site managed or maintained by the local government.

(2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the planning and development regulation jurisdiction of the local government.

(3) Notice of the meeting by electronic mail or other reasonable means to a list of interested parties that is created by the local government for the purpose of notification as required by this section.

(c) During the consideration of the imposition of or increase in fees or charges as provided in subsection (a) of this section, the governing board of the local government shall permit a period of public comment.

(d) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of NCGS 159-12.

Statutory Reference – NCGS Chapter 160D-805.

15.12. EFFECT ON PENDING LITIGATION

All suits at law or in equity, and all prosecutions resulting from the violation of any ordinance heretofore in effect, that are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance, but shall be prosecuted to their finality the same as if this Ordinance had not been adopted.

15.13. VARIANCES

(a) Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this article would cause an unnecessary hardship, the Board of County Commissioners may authorize a variance to the terms of this article only to the extent that is absolutely necessary and not to an extent which violates the intent of this article.

(b) In granting any variance, the Board shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the possible effect of the proposed subdivision upon traffic conditions in the vicinity.

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; and

(2) The hardship results from conditions that are peculiar to the property, such as

location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance; and

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and

(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secured and substantial justice is achieved.

(c) Any approved variance shall be stated in the minutes of the Board of Commissioners with the conditions and reasoning on which the variance was recommended.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 2.5)

15.14. AMENDMENTS TO THIS ORDINANCE

(a) The Board of Commissioners may from time to time amend the terms of this Ordinance, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation.

(b) The Planning Board shall have 60 days within which to submit its report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have approved the amendment.

(c) The County Board of Commissioners shall adopt no amendment until they have held a legislative hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the County at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than 25, nor less than 10, days prior to the hearing date. In computing the 10 to 25-day period, the date of publication is not to be counted, but the date of the hearing is.

(d) If an application for an amendment to this Ordinance is denied, one calendar year must lapse before the petition may be resubmitted. This limitation shall not affect petitions submitted by the Planning Board, Board of Commissioners, or County administrative staff.

15.15 PERMIT CHOICE AND VESTED RIGHTS

A landowner submitting a preliminary or final plat for approval may declare he is seeking to acquire a vested right pursuant to NCGS Chapter 160D-108 and the Zoning Ordinance by completing the appropriate form and following the procedure described in the Zoning Ordinance.

Statutory Reference – NCGS Chapter 160D-108.

15.16 DEVELOPMENT MORATORIA

The County may adopt temporary moratoria on any development approval required by law. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

(a) ***Notice of public hearing.*** Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the County Board of Commissioners shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the published newspaper notice and hearing requirements required for an amendment to the zoning ordinance.

(b) ***Application of moratorium on existing/pending permits and approvals****.* Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to development set forth in a site-specific or phased development plan approved pursuant to a granted vested right, or to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the county prior to the call for the public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the County prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

(c) ***Contents of ordinance adopting moratorium***. Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

(1) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the county and why those alternative courses of action were not deemed adequate.

(2) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.

(3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.

(4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the county during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

(d) ***Extension of moratorium.*** No moratorium may be subsequently renewed or extended for any additional period unless the county shall have taken all reasonable and feasible steps proposed

to be taken by the County in its ordinance establishing the moratorium to address the problems or conditions leading to the imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in division (C), including what new facts or conditions warrant the extension.

(e) ***Judicial review.*** Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this division (E) shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the county shall have the burden of showing compliance with the procedural requirements of this section.

Statutory Reference – NCGA Chapter 160D-107.

15.17 Effect of Plat Approvals on Dedication

Pursuant to G.S. 160D-806, the approval of a plat does not constitute or effect the acceptance by the county or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat nor be construed to do so.

15.18 Penalties

(a) Any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of SCOTLAND COUNTY, thereafter subdivides the land in violation of the regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the subdivision regulation and recorded in the office of the appropriate register of deeds, shall be subject to any of the penalties described below. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty.

(1) Notwithstanding subsection (b) of this section, this article may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

(2) Nothing in this section shall be construed to limit the use of remedies available to the county. The county may seek to enforce this article by using any one, all, or a combination of remedies.

Statutory Reference - NCGS Chapter 160D- 807(a).

(b) **Permit Denial or Conditioning.** As long as a violation of this Ordinance remains uncorrected, the Subdivision Administrator may deny or withhold approval, or cause the denial or withholding of approval, of a building permit required pursuant to NCGS 160D-1110 a zoning or special use permit, or any other certificate or authorization issued by the County that is sought for the property on which the violation occurs. The Subdivision Administrator may also condition, or

cause to be conditioned, a building, zoning, or special use permit, certificate, or authorization on the correction of the violation and/or payment of a civil penalty, and/or posting of a compliance security.

(c) **Injunctive and Abatement Relief in Superior Court**. The County may apply to a General Court of Justice in accordance with the provisions of NCGS 160A-175(e), to bring action for injunction of any illegal subdivision, transfer, conveyance, sale of land, or other violation of this Ordinance and the Court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this Ordinance.

(d) The Subdivision Administrator, in consultation with the County Attorney, is authorized to determine the amount of payment that will be accepted in full and final settlement of some or all of the claims the County may have in connection with the violation. The Subdivision Administrator shall indicate, in writing, the claims from which the violator is released.

Statutory Reference - NCGS Chapter 160D- 807(a).

15.19 EFFECTIVE DATE

This Ordinance shall take effect and be in full force from and after April 4, 2022_____.

15.20 ADOPTION

Duly adopted by the Scotland County Board of Commissioners, in the State of North Carolina, on_April 4, 2022_____.

15.21 – 15.30. RESERVED.

PART II. DEFINITIONS

15.31. DEFINITIONS

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

Administrator. The officer designated by the County Board of Commissioners to administer this Ordinance.

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

Arterial Street. A street used, or intended to be used, primarily for fast or heavy through traffic. Arterial street shall include freeways and expressways as well as standard arterial, minor arterial, and major collector for rural type streets and highways for urban areas as defined by the North Carolina Highway Commission functional highway classification guide.

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

Board of Commissioners. The Board of Commissioners of Scotland County, North Carolina.

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

Buffer Yard. A strip of land which is established to separate one type of land use from another type of land use and which contains natural or planted vegetation, berms, walks, or fences.

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

Building Line. The line, established by the eaves or roof overhang, beyond which the building shall not extend, except as provided for in the Zoning Ordinance.

Collector Street. A street whose principal function is to carry traffic between cul-de-sac, local, and sub collector streets, and streets of higher classification, but that may also provide direct access to abutting properties. SR 1515 is the collector street located in the county.

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

Comprehensive Plan. A comprehensive plan that has been officially adopted by the governing board pursuant to NCGS 160D-501.

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

Corner Lot. A lot abutting 2 or more streets at their intersection.

County. Refers to Scotland County, North Carolina.

County Commissioners. Board of County Commissioners, Scotland County, North Carolina

County Planning and Zoning Board. The board created by the Board of County Commissioners and authorized to plan land use within Scotland County, North Carolina.

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

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

Dedication. A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Developer. A person engaging in development (See Subdivider).

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. This definition shall also include the subdivision of land.

Development, Density of. The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new streets, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks, shall be used for density calculations.

Double Frontage Lot. A continuous (through) lot which is accessible from both streets upon which it fronts. See Through Lot.

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

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

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

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

Existing Lot. See Lot of Record.

Family. One or more persons occupying a dwelling unit and living as a single household.

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

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

Grade. The slope of a road, street, or other public way specified in percentage terms. The degree of inclination of a slope.

Interior Lot. A lot other than a corner lot with only one frontage on a street.

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

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

Lot of Record. A lot, plot, parcel, or tract recorded in the Office of the Scotland County Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation. Also, a lot that is part of a subdivision, a plat of which has been recorded in the Office of the Scotland County Register of Deeds prior to the original adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the original adoption of this Ordinance.

Major Subdivision. All subdivisions not classified as minor subdivisions, including, but not limited to, subdivisions of 5 or more lots, or any size subdivision requiring any new public and/or or private street, extension of the local government facilities, or the creation of any public improvements.

Manufactured Home. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act. For manufactured homes built before adoption of the HUD code "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that

connect on site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. (***N.C.G.S. 160D-102 and N.C.G.S. 143-145(7)***

A manufactured home (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis. (HUD.GOV)

Minor Subdivision. A division of a tract of land where:

- All lots front on an existing public street, and/or no more than one lot is created that is served by an exclusive access easement;
- Public water and/or sanitary sewerage systems, other than laterals to serve individual lots, are not to be extended; and
- The installation of drainage improvements that would require easements through one or more lots to serve other lots are not necessary.
- No new public or private street or roads, or right-of-way dedication, no easements, no utility extension, where the entire tract to be subdivided is five acres or less in size, and where four or fewer lots result after the subdivision is completed.

The minor subdivision procedure may not be used a second time within three years on any property less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or any legal interest in the original subdivision at the time the subdivision received preliminary or final plat approval.

Modular Home. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two (2) or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the North Carolina State Building Code applicable to site built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site.

To qualify for a label or seal under subsection (a) of this section, a single-family modular home must meet or exceed the following construction and design standards:

(1) Roof pitch. - For homes with a single predominant roofline, the pitch of the roof shall be no less than five feet rise for every 12 feet of run.

(2) Eave projection. - The eave projections of the roof shall be no less than 10 inches, which may not include a gutter around the perimeter of the home, unless the roof pitch is 8/12 or greater.

(3) Exterior wall. - The minimum height of the exterior wall shall be at least seven feet six inches for the first story.

(4) Siding and roofing materials. - The materials and texture for the exterior materials shall be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.

(5) Foundations. - The home shall be designed to require foundation supports around the perimeter. The supports may be in the form of piers, pier and curtain wall, piling foundations, a perimeter wall, or other approved perimeter supports. (1971, c. 1099; 1989, c. 653, s. 2; 2003-400, s. 17.)

Statutory Reference – NCGS 160D-910 and NCGS 143-139.1

Official Maps or Plans. Any maps or plans officially adopted by the Board of Commissioners as a guide to the development of the County.

Open Space. An area (land and/or water) generally lacking in manmade structures and reserved for enjoyment in its unaltered state.

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

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

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

Plan. Any documented and approved program of recommended action, policy, intention, etc., which sets forth goals and objectives along with criteria, standards and implementing procedures necessary for effectively guiding and controlling decisions relative to facilitating development and growth management. The plan is sometimes referred to as the land development plan or land use plan.

Planned Unit Development. A permitted use designed to provide for developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an element of the plan related to effecting the long-term value of the entire development.

Plat. A map, drawn to scale, of a surveyed parcel of land that is to be, or has been, subdivided.

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

Private Drive. A vehicular travel way not dedicated or offered for dedication as a public street, providing access to parking lot(s) for 2 or more principal buildings in a group housing development

Private Driveway. A roadway serving 2 or fewer lots, building sites or other divisions of land and not intended to be public ingress or egress.

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

Private Street. A vehicular travel-way or private way not dedicated or offered for dedication as a public street, but resembling a cul-de-sac or a local street by carrying traffic from a series of driveways to the public street system.

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

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

Public Street. A dedicated public right-of-way for vehicular traffic which:

- has been accepted by the county or the North Carolina Department of Transportation for maintenance; or
- is not yet accepted but in which the roadway design and construction have been approved under public standards for vehicular traffic and is to be offered for acceptance by the County or North Carolina Department of Transportation for maintenance.

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

Recreation Area or Park. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various manmade features that accommodate such activities.

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

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

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

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

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

Single-Tier Lot. A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Sight Distance Easement. An easement that grants to the County and/or North Carolina Department of Transportation the right to maintain unobstructed view across property located at a street intersection.

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

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

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

Structure. Anything constructed, erected, or placed on the land, at grade or below grade. It includes, but is not limited to, buildings, signs, load bearing walls, docks, columns, pools and parking areas.

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

Subdivider. Any person who subdivides or develops any land deemed to be a subdivision (See Developer).

Subdivision. All divisions of a tract or parcel of land into 2 or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future), and includes all divisions of land involving the dedication of a new street or a change in existing streets; however, the following shall not be included within this definition nor be subject to the regulations authorized by this Ordinance:

- The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County, as shown in its subdivision regulations.
- The division of land into parcels greater than 5 acres where no street right-of-way dedication is involved.
- The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation corridors.
- The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of- way dedication is involved and where the resultant lots are equal to or exceed the standards of the County, as shown in its subdivision regulations.

Subdivision Administrator. The officer appointed by the Board of Commissioners to administer these regulations and to assist administratively other boards and commissions. The title of said officer shall be "Subdivision Administrator" for the purposes of this Ordinance.

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

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

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

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

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

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

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

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 7.0)

15.32. – 15.35. RESERVED

PART III. PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

15.36. PLAT REQUIRED ON ANY SUBDIVISION OF LAND

(a) After the effective date of these regulations, no person shall subdivide, or re-subdivide and/or offer for sale, gift, exchange, or other way of conveyance any land subject to these regulations, except in accordance with and pursuant to one of the following:

(1) Certification by the Subdivision Administrator that the division is not subject to, or exempt from these regulations; or

(2) Final Plat approval for a minor subdivision is granted by the Subdivision Administrator; or

(3) Final Plat approval for a major subdivision is granted by the Planning Board, after review and approval by the Planning Board and Board of Commissioners of a Preliminary Plat.

Statutory Reference – NCGS Chapter 160D-803(c).

(b) No Zoning, Special Use, Sign, Building, and/or other permit required by Scotland County shall be issued on any lot that has been subdivided or re-subdivided in violation of these regulations.

(c) No street shall be maintained by the County nor street dedication accepted for ownership and maintenance, no construction permits issued, nor shall water, or other County facilities or services be extended to or connected with any subdivision for which a plat is required to be approved, unless and until such Final Plat has been approved by the County in accordance with these regulations.

(d) After the effective date that this subdivision regulation is adopted, no subdivision within the County's planning and development regulation jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the governing board or appropriate body, as specified in the subdivision regulation, and until this approval shall have been entered on the face of the plat in writing by an authorized representative of the County. The review officer, pursuant to NCGS 47-30.2, shall not certify a subdivision plat that has not been approved in accordance with these provisions nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with this section.

Statutory Reference – NCGS Chapter 160D-803(d).

15.37. EXPEDITED PROCESS FOR CERTAIN SUBDIVISION OF LAND

(a) Subject to ***Section 15.36(c),*** Scotland County shall require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

(1) No street right-of-way dedication is involved.

(2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.

(3) The entire area of the tract or parcel to be divided is greater than 5 acres.

(4) After division, no more than three lots result from the division.

(5) After division, all resultant lots comply with all of the following:

i. All lot dimension size requirements of the applicable land-use regulations, if any.
ii. The use of the lots is in conformity with the applicable zoning requirements, if any.
iii. A permanent means of ingress and egress is recorded for each lot.

Statutory Reference *– NCGS Chapter 160D-802(c).*

(b) Under no circumstances shall a division of land involving the dedication of a new public street, or change in an existing public street be considered exempt from these regulations.

15.38. DETERMINATION OF CLASSIFICATION- MINOR OR MAJOR SUBDIVISION, OR EXEMPT

(a) All subdivisions shall be considered major subdivisions except those defined as minor subdivisions or determined as exempt. Major subdivisions shall be reviewed in accordance with the procedures of **Part V** this Article. Minor subdivisions shall be reviewed in accordance with the provisions **PART IV**. However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road or right-of-way from the property to be subdivided, the subdivision shall not qualify under the minor subdivision procedure. Furthermore, the minor subdivision procedure may not be used a second time within three years on any property less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or any legal interest in the original subdivision at the time the subdivision received preliminary of final plat approval.

(b) The term "minor subdivision" is defined as one involving no new public or private street or roads, or right-of-way dedication, no easements, no utility extension, where the entire tract to be subdivided is five acres or less in size, and where four or fewer lots result after the subdivision is completed.

(c) **Exempt Subdivisions.** For the purpose of this Ordinance, subdivision regulations shall be applicable to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Article:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations.

(2) The division of land into parcels greater than 5 acres where no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

(4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Statutory Reference – NCGS Chapter 160D-802(a).

(d) **Exempt Determination:** If the Subdivision Administrator determines that the proposed division is exempt from the provisions of these regulations and does not require approval, the plat shall be endorsed to that effect and may then be recorded in the Office of the Register of Deeds. The endorsement shall read as follows

Certificate of Exemption; No Approval Required

I hereby certify that the division of land shown and described hereon is not division of land subject to the Scotland County Subdivision Regulations.

_____ _____

Subdivision Administrator Date

(1) **Appeal:** The subdivider may appeal the denial of a requested exemption to the Board of Commissioners at their next regular meeting.

15.39. COMBINATION AND RECOMBINATION OF LAND

In cases where a combination or recombination of previously subdivided and recorded lots is proposed (such as property lines between lots being reconfigured) that involve individual private septic systems for waste disposal, and an existing house or facility is located on any of the resultant lots that have been reduced in size by the proposal, the following certificate shall be shown on the plat and endorsed by the Scotland County Health Department prior to exemption certification required:

Certificate of Septic System Approval for Recombination of Land

The recombination of existing lots has been reviewed by the Scotland County Health Department, Environmental Health Division. Based on available information, this proposal does not appear to adversely affect the suitability of the lots for the issuance of an Improvement Permit, or the installation, maintenance, or repair of any existing wastewater system.

_____ _____

Environmental Health Specialist Date

15.40. RESUBDIVISION PROCEDURES

For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

15.41. APPLICATION; PLAN AND PLAT APPROVALS

(a) **Submission**: Unless otherwise specified, all applications for plan/plat review and certification or approval under these regulations shall be submitted by the owner of the property or the authorized agent of such owner to the Subdivision Administrator together with such fees as required.

(b) **Processing**: All applications for plan/plat certification or approval shall be submitted, reviewed and processed in accordance with the requirements of these regulations. The Subdivision Administrator may refuse to process an incomplete application.

(c) **Approved Plans and Plats:** A copy of required plans and plats or information submitted with the application shall be returned to the applicant after the appropriate party has marked the copy either approved or disapproved and attested to same. A similarly marked copy shall be retained by the SubdivisionAdministrator.

15.42 - 15.45. RESERVED

PART IV. MINOR SUBDIVISION PROCEDURES

15.46. APPLICATION FOR MINOR SUBDIVISION

An application for minor subdivision plat review including a sketch plan shall be submitted on a form approved by the County Board of Commissioners, to the Subdivision Administrator. One original of the documents shall be submitted. Submission shall be accompanied by a filing fee as required in by this Ordinance. The fee schedule shall be set by the County Board of Commissioners.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 3.1 Abbreviated Plat Review and Approval Procedure)

15.47. MINOR SUBDIVISION SKETCH PLAN

One original sketch plan of the proposed subdivision shall contain the following information:

(a) The boundaries of the tract and the portion of the tract to be subdivided;

(b) The total acreage to be subdivided;

(c) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions roads, and waterways;

(d) The existing street layout and right-of-way width, lot layout and size of lots; new streets shall comply with the NC Department of Transportation included in the *Minimum Construction Standards for Subdivision Roads*, as most recently adopted.

(e) The name, address and telephone number of the owner;

(f) The name, if any, of the proposed subdivision;

(g) The zoning classification of the tract and of adjacent properties;

(h) A statement from the county health department that a copy of the sketch plan has been submitted to them, if septic tanks or other on-site water or waste water systems are to be used in the subdivision.

15.48. ACTION ON MINOR SUBDIVISION SKETCH PLAN

The Subdivision Administrator shall review the sketch plan for general compliance with the requirements of this article and the applicable zoning regulations. Approval shall be noted by the Subdivision Administrator's signature on the face of the Sketch Plan together with the date.

15.49. MINOR SUBDIVISION FINAL PLAT

Upon approval of the sketch plan the subdivider may proceed with the preparation of the final plat in accordance with the requirements of this article.

(a) The final plat shall be prepared by a professional land surveyor currently licensed and registered in the state by the state board of registration for professional engineers and land surveyors.

(b) The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in NCGS 47-30 and the standards of practice for land surveying in the state.

(c) Two Originals of the plat shall be submitted. Material and drawing medium for the original shall be in accordance with the standards of practice for land surveying in the state where applicable, and the requirements of the county register of deeds.

(d) The final plat shall be of a size suitable for recording with the county register of deeds. Maps may be placed on more than one sheet with appropriate match lines.

(e) Submission of the final plat shall be accompanied by a filing fee set by the County. This final plat shall meet the specifications in NCGS 47-85. The following signed certificate shall appear on each copy of the final plat:

(1) ***Certificate of Ownership and Dedication***.

Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of Scotland County and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

_____ _____

Date Owner

(2) ***Certificate of Survey and Accuracy.*** In accordance with the *Manual of Practice for Land Surveying in North Carolina, on* the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information. In accordance with NCGS 47-30, The certificate required shall include (i) the source of information for the survey, (ii) data indicating the ratio of precision or positional accuracy of the survey before adjustments, and (iii) the seal and signature pursuant to Chapter 89C of the General Statutes, and shall be in substantially the following form:

State of North Carolina, Scotland County

I, _____, hereby certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book ____, page ____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book ____, page ____; that the ratio of precision or positional accuracy as calculated is _____; that this plat was prepared in accordance with G.S. 47-30 as amended.

Witness my original signature, license number and seal this _____ day of _____, A.D., _____.

Signature of Registered Land Surveyor _____

Official Seal or Stamp _____

(3) ***Certificate of Approval for Recording***. Following the review by the Subdivision Administrator, the Final Plat shall be approved, conditionally approved with modifications to bring the plat into compliance, or disapproved with reason, within 45 days of its first consideration of the plat.

During the review of the Final Plat the Subdivision Administrator may appoint an engineer or surveyor to confirm the accuracy of the Final Plat (if agreed to by the County Board of Commissioners). If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected.

If the Final Plat is approved, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Minor Subdivision Approval

I hereby certify that the minor subdivision final plat shown hereon has been found to comply with the Scotland County Subdivision Regulations. Provided that this plat be recorded within 60 days of final approval on the date shown below.

_____

Subdivision Administrator/Date

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 3.4 The Final Plat)

15.50. REVIEW PROCEDURE; APPROVAL OR DISAPPROVAL

(a) If the Subdivision Administrator approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

> ***Certificate of Approval for Recording***
>
> I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the County of Scotland, North Carolina.
>
> _____
>
> Subdivision Administrator

(a) One copy shall be retained by the Subdivision Administrator for the Planning Office Record.

(b) The subdivider shall file the approved final plat with the register of deeds of the county within 90 days of Planning Board approval; otherwise such approval shall be null and void.

15.51. APPEAL

Appeals of subdivision decisions may be made pursuant to G.S. 160D-1403:

(a) When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is quasi-judicial, then that decision of the board shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of G.S. 160D-406 and this section shall apply to those appeals.

(b) When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is administrative, then that decision of the board shall be subject to review by filing an action in superior court seeking appropriate declaratory or equitable relief within 30 days from receipt of the written notice of the decision, which shall be made as provided in G.S. 160D-403(b).

(c) For purposes of this section, a subdivision regulation shall be deemed to authorize a quasi-judicial decision if the decision-making entity under G.S. 160D-803(c) is authorized to decide whether to approve or deny the plat based not only upon whether the application complies with the specific requirements set forth in the regulation but also on whether the application complies with one or more generally stated standards requiring a discretionary decision to be made.

Statutory Reference – NCGA Chapter 160D-808.

15.52. – 15.55. RESERVED

PART V. MAJOR SUBDIVISIONS

15.56. APPLICATION FOR MAJOR SUBDIVISION

An application for major subdivision plat review shall be submitted by filing a copy of the application, on a form approved by the County Board of Commissioners, with the Subdivision Administrator. The application shall consist of a form approved by the County Board of Commissioners accompanied by a Sketch Plan. Two (2) copies of the documents shall be submitted. Submission of the sketch plan shall be accompanied by a filing fee as required in by this Ordinance. The fee schedule shall be set by the County Board of Commissioners.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 3.0 Plat Review and Approval Procedure)

15.57. SKETCH PLANS

(a) *Contents.* Prior to the preliminary plat submissions, the subdivider shall submit to the Planning Board five copies of a sketch plan of the proposed subdivision containing the following information:

(1) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;

(2) The boundaries of the tract and the portion of the tract to be subdivided;

(3) The total acreage to be subdivided;

(4) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;

(5) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;

(6) The name, address, and telephone number of the owner;

(7) The name, if any, of the proposed subdivision;

(8) Streets and lots of adjacent developed or platted properties;

(9) The zoning classification (if applicable) of the tract and of adjacent properties;

(10) A statement from the county health department that a copy of the sketch plan has been submitted to them, if septic tanks or other on-site water or wastewater systems are to be used in the subdivision.

(b) *Submission and Review Procedure for Sketch Plan.*

(1) The sketch plan shall be submitted at least ten (10) working days prior to the Planning Board meeting at which it will be reviewed.

(2) The Planning Board shall review the sketch plan for general compliance with the requirements of this article and the Zoning Ordinance, if applicable;

(3) The Planning Board shall advise the subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

(4) If approved, one copy of the sketch plan shall be retained as a part of the minutes of the Planning Board with the other copy being returned to the subdivider or his authorized agent.

(5) If disapproved, the Planning Board shall notify the Applicant in writing as to the reasons why. The applicant shall have the opportunity to withdraw the plan or adjust the sketch plan and resubmit the plan for review at a subsequent meeting of the Planning Board.

15.58. PRELIMINARY PLAT SUBMISSION AND REVIEW

(a) *Submission Procedure*. Preliminary plats shall meet the specifications in ***Section 15-60***. For every subdivision within the territorial jurisdiction the subdivider shall submit a preliminary plat which shall be reviewed and approved by the Planning Board before any construction or installation of improvements may begin. Five (5) copies of the preliminary plat (as well as any additional copies which the subdivision administrator determines are needed to be sent to other agencies) shall be submitted to the subdivision administrator at least ten (10) working days prior to the Planning Board meeting at which the subdivider desires the review of the preliminary plat.

(b) *Agency Referrals.* Prior to submittal of the Preliminary Plat for review by the Planning Board, the Subdivision Administrator shall refer the Plat to the applicable reviewing agencies listed below. In cases where the completion and development of the subdivision would require permits granted by an agency, that agency shall officially approve by certificate or permit the subdivision proposal. The review and certification process shall include, but not be limited to, the following agencies who shall submit their findings, recommendations, and certificates in writing to the Planning Board. The following agencies, as deemed applicable by the Subdivision Administrator, shall be given the opportunity to review and certify within their area of responsibility:

(1) The District Engineer of the North Carolina Department of Transportation shall review as to existing and proposed publicly dedicated streets and highways, private street, exclusive access easement, and joint driveway connections to State maintained streets and highways, and related drainage systems as they affect such streets and highways. The Subdivision Administrator, Public Works Director, and County engineer shall review as to existing and proposed private streets, exclusive access easements, and joint driveway easements, including their connections to existing and proposed streets maintained by the County. The Public Works Director and County engineer shall review private streets and their related drainage systems as they affect streets and drainage facilities managed by the County.

(2) The Scotland County Environmental Health Department shall review and certify as to proposed on-site water and sewage systems. The Public Works Director shall review and certify as to proposed public water and sewer systems.

(3) The Scotland County 911 Addressing Department shall review and certify in regards to proposed street names and property addressing.

(4) The North Carolina Department of Environment and Natural Resources, Land Quality Section, shall review and certify as to erosion and sediment control as applicable under State sedimentation control regulations.

(5) The Scotland County Sherriff's Department, Fire Department and Emergency Service Department shall review as to their ability to provide adequate service to the subdivision.

Statutory Reference – NCGS Chapter 160D-803(b).

(c) *Procedure*.

The Planning Board shall review the preliminary plat at or before its next regularly scheduled meeting which follows at least 45 days after the administrator receives the preliminary plat and the comments from the appropriate agencies. The Planning Board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 45 days of its first consideration of the plat.

(1) If the Planning Board recommends approval of the preliminary plat, it shall retain one copy of the plat for its minutes, transmit one copy of the plat to the administrator with its recommendation, and return the final copy to the subdivider.

(a) If the Planning Board approves the preliminary plat, such approval shall be noted on two copies of the plat. One copy of the plat shall be retained by the Planning Board and one copy shall be returned to the subdivider. If the Planning Board approves the preliminary plat with conditions, approval shall by noted on two (2) copies of the plat along with a reference to the conditions. One copy of the plat along with the conditions shall be returned to the subdivider. The other copy shall be filed with the documents for the subdivision.

(2) If the Planning Board recommends conditional approval of the preliminary plat it shall keep one copy of the plat for its minutes, transmit one copy of the plat and its recommendation to the administrator, and return the remaining copy of the plat and its recommendation to the subdivider.

(3) If the Planning Board recommends disapproval of the preliminary plat, it shall retain one copy of the plat for its minutes, transmit one copy of the plat and its recommendation to the administrator, and return the remaining copy of the plat and its recommendation to the subdivider. If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the board of county commissioners.

(a) If the Planning Board disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing.

(4) If the Planning Board does not make a written recommendation within 45 days after its first consideration of the plat, the subdivider may apply to the board of county commissioners for approval or disapproval.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 3.3 Preliminary Plat)

15.59. FINAL PLAT SUBMISSION AND REVIEW

(a) *Preparation of final plat and installation of improvements.* Upon approval of the preliminary plat by the Planning Board, the subdivider may proceed with the preparation of the final plat, and the installation of, or arrangement for required improvements in accordance with the approved preliminary plat and the requirements or this article. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this article or guaranteed their installation as provided herein. No final plat will be accepted or reviewed by the Planning Board unless accompanied by written notice by the county clerk acknowledging compliance with any applicable improvement or guarantee standards of this Ordinance. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time; such portion shall conform to all requirements of this Ordinance.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 3.4 Final Plat)

(b) *Improvements guarantees.*

(1) *Agreement and security required.* In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the county may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Planning Board, if all other requirements of this article are met. To secure this agreement, the subdivider shall provide, subject to the approval of the county commissioners, either one, or a combination of the following guarantees not exceeding 1.25 times the entire cost as provided herein:

a. *Surety performance bond.* The subdivider shall obtain a performance bond from a surety bonding company authorized to do business in the state. The bond shall be payable to the county and shall be in an amount equal to 1.25 times the entire cost, as estimated by the subdivider and approved by the county commissioners, of installing all required improvements. The duration of the bond shall be until such time as the improvements are accepted by the county commissioners.

b. *Cash or equivalent security.* The subdivider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the county or in escrow with a financial institution designated as an official depository of the county. The use of any instrument other than cash shall be subject to the approval of the county commissioners. The amount of deposit shall be equal to 1.25 times the cost, as estimated by the subdivider and approved by the county commissioners, of installing all required improvements. If cash or other instrument is deposited in escrow with a financial institution as provided in this section, then the subdivider shall file with the county commissioners an agreement between the financial institution and himself guaranteeing the following:

i. That said escrow account shall be held in trust until released by the county commissioners and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and

ii. That in the case of a failure on the part of the subdivider to complete said improvements the financial institution shall, upon notification by the county commissioners, and submission by the county commissioners to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the county the funds estimated to complete the improvement up to the full balance of the escrow account, or deliver to the county any other instruments fully endorsed or otherwise made payable in full to the county.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 2.4-1)

(2) *Default.* Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the county commissioners pay all or any portion of the bond or escrow fund to the county up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the county commissioners, in its discretion, may expend such portion of said funds as it deems necessary to complete all improvements.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 2.4-2)

(3) *Release of guarantee security.* The county commissioners may release a portion of any security posted as the improvements are completed and recommended for approval by the Planning Board. Within 45 days after receiving the Planning Board recommendation, the county commissioners shall approve said improvements. If the county commissioners approve said improvements, then it shall immediately release any security posted.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 2.4-3)

(c) *Submission Procedure.*

(1) The subdivider shall submit the final plat, so marked, to the administrator not less than 10 (ten) working days prior to the Planning Board meeting at which it will be reviewed; further, the final plat for the first stage of the subdivision shall be submitted not more than six months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void, unless a written extension of this limit is granted by the Planning Board on or before the sixth month anniversary of the approval.

(2) The final plat shall be prepared by a professional land surveyor currently licensed and registered in the state by the state board of registration for professional engineers and land surveyors.

(3) The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in ***Section 15.54*** and the standards of practice for land surveying in the state. Five copies of the final plat shall be submitted; two of these shall be on reproducible material; three shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the standards of practice for land surveying in the state, where applicable, and the requirements of the county register of deeds.

(4) The final plat shall be of a size suitable for recording with the county register of deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

(5) Submission of the final plat shall be accompanied by a filing fee.

(6) The final plat shall meet the specifications of this Article. The following signed certificates shall appear on all five copies of the final plat:

a. Certificate of Ownership and Dedication:

Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of Scotland County and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines as noted, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, and water lines to the County of Scotland.

_____ _____

Date Owner

State of _____

County of _____

I, _____, a Notary Public of the State and County aforesaid, hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and notarial seal, this the ___ day of _____, 20___.

_____ _____

Notary Commission Expires

(7) There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including a recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer authorized to take acknowledgements by the professional land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

b. Certificate of Survey Accuracy:

State of North Carolina, Scotland County

I, _____, hereby certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book ____, page ____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book ____, page ____; that the ratio of precision or positional accuracy as calculated is _____; that this plat was prepared in accordance with the Scotland County Subdivision Ordinance Section 15.54, as amended.

Witness my original signature, registration number and seal this _____ day of _____, A.D., _____.

_____

Registered Land Surveyor

Official Seal or Stamp

(8) There shall appear on each plat a certificate of approval of the design and installation of streets, utilities, and other required improvements and payment of filing fee:

a. Certificate of Approval of Design and Installation:

Certificate of Approval of Design and Installation

I hereby certify that all streets, utilities and other required improvements have been installed in an acceptable manner and according to County specifications and standards in the _____ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the County of Scotland has been received, and that the filing fee for this plat, in the amount of _____ has been paid.

_____
Subdivision Administrator for Scotland County

Date: _____

(9) There shall appear on each plat a certificate of approval of the Review Officer:

a. ***Certificate of Review Officer.***

Certificate of Review Officer

I, _____, Review Officer of Scotland County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

_____
Review Officer

_____
Date

(d) *Review Procedure: Approval, Disapproval and Repeal.*

(1) The Planning Board shall review the final plat at or before its next regularly scheduled meeting which follows at least 45 days after the administrator receives the final plat. The Planning Board shall recommend approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within 45 days of its first consideration of the plat.

(2) During its review of the final plat, the Planning Board may appoint a professional land surveyor to confirm the accuracy of the final plat (if agreed to by the county commissioners). If substantial errors are found, the costs shall not be recommended for approval until such errors have been corrected.

(3) If the Planning Board recommends approval of the final plat it shall retain one copy and transmit all remaining copies of the plat and its written recommendations to the subdivider through the administrator.

(4) If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one print of the plat for its minutes, return its written recommendations and two reproducible copies of the plat to the subdivider, and transmit one print of the plat and its written recommendation to the administrator.

(5) If the Planning Board recommends disapproval of the final plat, it shall instruct the subdivider concerning resubmission of a revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this article, and resubmit same for reconsideration by the Planning Board, or appeal the decision to the Board of County Commissioners.

(6) Failure of the Planning Board to make a written recommendation within 45 days shall constitute grounds for the subdivider to apply to the board of county commissioners for approval.

(7) If the subdivider appeals to the board of county commissioners, the commissioners shall review and approve or disapprove the final plat within 45 days after the plat and recommendations of Planning Board have been received by the administrator.

(8) If the Planning Board approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

a. Certificate of Approval for Recording

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the County of Scotland, North Carolina and that this plat has been approved by the Scotland County Planning Board for recording in the Office of the Register of Deeds of Scotland County.

_____ _____

Chairperson of Planning Board Date

(9) If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Planning Board as part of its proceedings, one copy of the reasons shall be transmitted to the administrator, and one copy of the reasons and remaining copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Planning Board.

(10) If the final plat is approved by the Planning Board, the original tracing and one print of the plat shall be retained by the subdivider. One reproducible tracing and one print shall be filed with the county clerk, and one print shall be returned to the Planning Board for its records.

(11) The subdivider shall file the approved final plat with the register of deeds of the county within 90 days of Planning Board approval; otherwise such approval shall be null and void.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 3.4)

15.60. Information to Be Depicted on Plats- Minor and Major Subdivisions

The information to be contained in or depicted on final plats for minor subdivisions and preliminary and final plats for major subdivisions. An "X" indicates that the information is required.

Table 15-1
Information Requirements for Plats

Information	Final Plat for Minor Subdivisions	Preliminary Plat for Major Subdivisions	Final Plat for Major Subdivisions
Title block containing:			
Name of owner	X	X	X
Location (including township, county and state)	X	X	X
Date or dates survey was conducted and plat prepared	X	X	X
A scale of drawing in feet per inch listed in words or figures	X	X	X
A bar graph	X	X	X
Name, address, registration number and seal of the professional land surveyor	X	X	X
The name of the subdivider	X	X	X
A sketch vicinity map showing the relationship between the proposed subdivider and surrounding area	X	X	X

Information	**Final Plat for Minor Subdivisions**	**Preliminary Plat for Major Subdivisions**	**Final Plat for Major Subdivisions**
Corporate limits, township boundaries, county lines if on the subdivision tract	X	X	X
The names, address and telephone numbers of all owners, mortgages, professional land surveyor, land planner architects, landscape architects, and professional engineers responsible for the subdivision		X	X
The registration numbers and seals of the professional engineers	X	X	X
Date of plat preparation	X	X	X
North arrow and orientation	X	X	X
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown	X	X	X
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands	X	X	X
The names of owners of adjoining properties	X	X	X
The names of any adjoining subdivisions of record or proposed and under review	X	X	X
Minimum building setback lines	X	X	X
The zoning classifications of the tract to be subdivided and adjoining properties (if applicable)	X	X	X
Existing property lines on the tract to be subdivided and on adjoining properties	X	X	X

Information	Final Plat for Minor Subdivisions	Preliminary Plat for Major Subdivisions	Final Plat for Major Subdivisions
Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	X	X	X
Proposed lot lines, lot and block numbers, and approximate dimensions		X	
The lots numbered consecutively throughout the subdivision	X		X
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds and any other natural features affecting the site		X	
The exact location of the flood hazard, floodway and floodway fringe areas from the county's FHBM or other FEMA maps	X	X	X
The following data concerning streets:			
Proposed streets	No new public streets/ROW permitted	X	X
Existing and platted streets on adjoining properties and in the proposed subdivision	X	X	X
Rights-of-way, location and dimensions	Of existing streets/roads only	X	X
Pavement widths		X	X
Approximate grades		X	X
Design engineering data for all corners and curves		X	X
Typical street cross sections		X	X

Street names		X	X
Information	**Final Plat for Minor Subdivisions**	**Preliminary Plat for Major Subdivisions**	**Final Plat for Major Subdivisions**
Street maintenance agreement		X	X
Type of street dedication; all streets must be designated either public or private. Where all public streets are involved which will not be dedicated to a municipality, the subdivider must submit the following documents to the state department of transportation district highway office for review: a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the district engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed drainage facilities and drainage areas.		X	X
Where streets are dedicated to public, but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street in street.		X	
If any street is proposed to intersect with a state maintained road, the subdivider shall apply for driveway approval as required by the state department of transportation, division of highways' manual on driveway regulations	x	x	x
Evidence that the subdivider has obtained approval.		X	x
The location and dimensions of all:			
Utility and other easements		X	x
Areas to be dedicated to or reserved for public use		X	X

Information	Final Plat for Minor Subdivisions	Preliminary Plat for Major Subdivisions	Final Plat for Major Subdivisions
Areas to be used for purposes other than residential with the purpose of each stated		X	X
The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in subdivider's ownership) of recreation and open space lands		X	X
The plans for utility layouts including:			
Sanitary sewers	Existing only	X	
Storm sewers		X	
Other drainage facilities, if any	Existing only	X	
Water distribution lines	Existing only	X	
Natural gas lines		X	
Telephone lines		X	
Electric lines		X	
Illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blow offs, manholes, force mains and gate valves		X	
Plans for individual water supply and sewage disposal systems, if any		X	X
Site calculations including:			
Acreage in total tract to be subdivided		X	
Acreage in other nonresidential uses		X	

Information	Final Plat for Minor Subdivisions	Preliminary Plat for Major Subdivisions	Final Plat for Major Subdivisions
Total number of parcels created		X	
Acreage of smallest lot in subdivision		X	
Linear feet in streets:		X	
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places	X	X	X
Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute			X
-The accurate locations and descriptions of all monuments, markers and control points			X
A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas are established.		X	X
A copy of the erosion control plan submitted to the appropriate authority, if such a plan is required.		X	
Topographic map if required.		X	
All certifications required in for major subdivisions.			X
Any other information considered by the subdivider, Planning Board, or county commissioners to be pertinent to the review of the plat.		X	X

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 3.5)

15.61. – 15-65. RESERVED.

PART VI. - REQUIRED IMPROVEMENTS, DEDICATIONS, RESERVATIONS, AND MINIMUM STANDARDS OF DESIGN FOR MAJOR SUBDIVISIONS

15.66. GENERALLY

Each subdivision shall contain the improvements specified in this Part, which shall be installed in accordance with the requirements of this article and paid for by the subdivider, unless other means of financing is specifically stated in this article. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

15.67. SUITABILITY OF LAND

(a) Land which has been determined by the Planning Board on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.

(b) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the county health department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.

(c) Subdivisions shall not be located in areas that are susceptible to regular flooding as noted on FEMA maps. Existing subdivisions located in hazard areas shall not be allowed to expand.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 2.6)

15.68. FLOODPLAIN OR FLOOD-PRONE AREAS

(a) All subdivision proposals shall be consistent to minimize flood damage. Flood prone areas shall be indicated by studies, reports, or maps by agencies including the Federal Emergency Management Agency (FEMA), the US Army Corps of Engineers, the Soil Conservation Service, the Department of Housing and Urban Development, the US Geological Survey, and the North Carolina Department of Environmental and Natural Resources.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage

(c) Base Flood Elevation (BFE) data shall be provided for subdivision proposals that contain 50

or more lots or that involve a tract of land 5 acres or more in size.

(d) No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of the current Flood Damage Prevention Ordinance.

(e) All violations and corrective procedures will be in full compliance with the terms set forth in the current Flood Damage Prevention Ordinance.

15.69. WETLANDS

If a developer, corporation, private homeowner, or other person proposes to perform construction/filling activities in or near a lake, stream, creek, tributary, or any unnamed body of water and its adjacent wetlands, Federal permit authorization may be required by the US Army Corps of Engineers prior to commencement of earth-disturbing activities. Filling activities include, but are not limited to, construction of road crossings, sewer or utility line installations, grading, placement of soil from ditching or other excavations, or placement of fill for commercial or residential development. A wetlands determination and specific permit requirements may be obtained from the Wilmington Field Office of the US Army Corps of Engineers.

15.70. STORMWATER AND DRAINAGE

The sub-divider shall develop a stormwater management plan that describes adequate drainage system for the proper drainage of all surface water. See Section 15-65 for *Design Standards*.

(a) The stormwater disposal system shall be connected to an approved system where one exists and shall be adequate for all present and future development. The system shall incorporate proper engineering practices to insure proper drainage.

(b) No surface water shall be channeled or directed into a sanitary sewer.

(c) Where a subdivision is traversed by a stream or drainage way, a drainage easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.

(d) When an approved system does not exist, the sub-divider shall incorporate North Carolina Department of Environment and Natural Resources Stormwater Best Management Practices Guideline to minimize water quality impacts.

(e) Any stormwater management plans shall be reviewed/approved by the Subdivision Administrator as part of the review process.

15.71. SEDIMENTATION AND EROSION CONTROL

The sub-divider shall comply with all requirements of the *"North Carolina Sedimentation Pollution Control Act of 1973" and* all locally adopted sediment control ordinances.

15.72. PRE-SALE OR PRE-LEASE OF SUBDIVISION LOTS

(a) The subdivider, upon approval of the preliminary plat, may enter into contracts to sell or lease the lots shown on the approved preliminary plat, provided that the contract does all of the following:

(1) Incorporates as an attachment a copy of the approved preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the approved and recorded final plat prior to closing and conveyance.

(2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final approved and recorded plat differs in any material respect from the approved preliminary plat.

(3) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final approved and recorded plat.

(4) Provides that if the approved and recorded final plat differs in any material respect from the approved preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final approved and recorded plat, during which 15- day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

Statutory Reference – NCGS Chapter 160D-807(b).

(b) The provisions of this subsection 4-14(a)(4) above shall not prohibit any owner or his or her agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under this ordinance or recorded with the Office of the Scotland County Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind

of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the requirements of this chapter and recorded in the Office of the Scotland County Register of Deeds.

Statutory Reference – NCGS Chapter 160D-807(c).

15.73. COMPLETING DEVELOPMENT IN PHASES

(a) If a subdivision is to be developed or constructed in phases, the sub- divider shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of these regulations that will be satisfied with respect to each phase or stage.

(b) Preliminary Plats may be vested under the procedures in the Scotland County Zoning Ordinance.

15.74. AMENDMENT TO AND MODIFICATION OF APPROVED PRELIMINARY PLATS

(a) Insignificant deviations from the Plat approval issued by the Planning Board are permissible and the Subdivision Administrator may authorize such insignificant deviations. A deviation may be considered insignificant if it does not involve any of the following:

(1) any substantive change in a condition of approval;

(2) an increase in the number of building lots proposed;

(3) any substantial change in the location of, or any decrease in, the amount of open space, buffers, or areas reserved for recreational use;

(4) any substantial change in pedestrian and/or vehicular access or circulation including road classification;

(5) any change in the provision of services such as water supply and wastewater disposal;

(6) any substantial change in the location of utilities or other easements.

(b) All other requests for changes in approved Preliminary Plats will be processed as a modification to the original application. If such requests are to be acted upon by the Planning Board, new conditions may be imposed only on the specific site or area requested to be modified in accordance with these regulations, but the applicant retains the right to reject such additional conditions by withdrawing his/her request for an amendment and may then proceed in accordance with the previously approved Preliminary Plat.

(c) The Subdivision Administrator shall determine whether amendments to and modifications

of permits fall within the categories set forth above in Paragraph (a).

(d) An applicant requesting approval of changes shall submit a written request for such approval to the Subdivision Administrator, which request shall identify the changes. Approval of all changes must be given in writing.

(e) A vested right established in accordance with the Scotland County Zoning Ordinance shall not be extended by any amendments or modifications to an approved site specific development plan unless expressly provided for by the County.

15.75. PLAT APPROVAL NOT ACCEPTANCE OF DEDICATION OFFERS

(a) The approval of a plat shall not be deemed to constitute the acceptance by the local government or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, any governing board may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its planning and development regulation jurisdiction. Acceptance of dedication of lands or facilities located within the planning and development regulation jurisdiction but outside the corporate limits of a city shall not place on the city any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and a city shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

(b) The County shall not have the authority to require, as a condition of subdivision approval, the dedication of water systems or facilities, or other public entity operating a water system shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the time of issuance of a certificate of occupancy for the first unit of housing in the subdivision, a city or county shall not, as part of its subdivision regulation applied to facilities or land outside the corporate limits of a city, require dedication of water systems or facilities as a condition for subdivision approval.

Statutory Reference – NCGS Chapter 160D-806.

15.76. PERFORMANCE GUARANTEE

(a) ***Agreement and security required.*** In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the County Board of Commissioners may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements.

The subdivider shall be allowed to choose which security or combination of securities that he or she wishes to provide from the choices provided below. The county shall not have the authority to dictate which form of security will be accepted as an improvement guarantee, and shall be required to offer a range of options of types of improvements guarantees from which the

subdivider may choose.

(b) ***Guarantees***: Once the agreements are signed by both parties and the security required herein is provided, the final plat may be approved, if all other requirements of this chapter are met. To secure this agreement, the subdivider shall provide either one or a combination of the following guarantees:

(1) Type. – The type of the performance guarantee shall be at the election of the developer. The term "performance guarantee" means any of the following forms of guarantee:

i. Surety bond issued by any company authorized to do business in this State.
ii. Letter of credit issued by any financial institution licensed to do business in this State.
iii. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

(1) Duration. – The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

(2) Extension. – A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the local government, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (5) of this subsection and shall include the total cost of all incomplete improvements.

(3) Release. -- The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the local government that the improvements for which the performance guarantee is being required are complete. The local government shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to local government acceptance. When required improvements that are secured by a bond are completed to the specifications of the local government, or are accepted by the local government, if subject to its acceptance, upon request by the developer, the local government shall timely provide written acknowledgement that the required improvements have been completed.

(4) Amount. -- The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The local government may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements.

Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

(5) Timing. – A local government, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.

(6) Coverage. -- The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

(7) Legal responsibilities. No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

i. The local government to whom the performance guarantee is provided.

ii. The developer at whose request or for whose benefit the performance guarantee is given.

iii. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.

(8) Multiple guarantees. – The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

(9) Exclusion. – Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

Statutory Reference – NCGS Chapter 160D-804.1.

15.77. CONSTRUCTION COST ESTIMATE

The financial guarantee shall be accompanied by an itemized estimate for the cost of construction that includes quantities and unit prices for construction materials and activities such as clearing and grading. The estimate shall be prepared by an engineer, contractor, or other individual qualified to calculate the cost to complete the improvements according to approved plans and specifications, who has no direct or indirect ownership interest in the subdivision. The construction cost estimate shall include a 50% construction

contingency to account for unanticipated conditions or circumstances discovered during the development process.

15.78. DEFAULT

Upon default, meaning failure on the part of the sub-divider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the County, pay all or any portion of the bond or escrow fund to the County up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Board of Commissioners, in its discretion, may expend such portion of said funds as it deems necessary to complete all improvements.

15.79. MAINTENANCE OF IMPROVEMENTS

(a) Improvements installed as a requirement of subdivision approval shall be maintained by the sub-divider until they are accepted for maintenance by:

(1) for a public street, Scotland County or the North Carolina Department of Transportation as appropriate;

(2) for utilities, Scotland County;

(3) for landscaping, the homeowners;

(4) for private streets, and/or community facilities such as recreation and stormwater management improvements, a homeowners' or neighborhood association, or similar legal entity.

(b) Where a neighborhood or homeowners' association, or similar legal entity, is to be responsible for the maintenance and control of any improvements required as part of the subdivision approval, the sub- divider shall file with the Subdivision Administrator and record with the Final Plat, a declaration of covenants and restrictions, articles of incorporation, where required, and/or by-laws as approved by the County Attorney that will govern the maintenance and control of such improvements. Provisions shall include, but not be limited to, the following:

(1) The association shall be established before any homes are sold and any building occupied;

(2) Membership shall be mandatory for each homebuyer and all successive buyers;

(3) The association shall be responsible for liability insurance, local taxes and maintenance of recreation and other facilities, including streets (e.g., when street

maintenance is to be provided by a homeowners' association until such time as the County or State, as applicable, assumes street maintenance responsibility), and utility lines;

(4) The homeowners must pay their pro rate share of the costs, and any sums levied by the association that remain unpaid shall become a lien on the individual homeowner's property that shall be subordinate only to tax and mortgage liens;

(5) If all or any portion of the property held by the association is being disposed of, or if the association is dissolved, adequate recreation space shall be deeded to the County or the appropriate unit of local government;

(6) The lot owner of each dwelling unit or lot shall have voting rights in the association; and

(7) The homeowners' association shall be able to adjust any assessments to meet changed needs.

(8) When articles of incorporation are required they shall be submitted in the form in which they will be filed with the North Carolina Secretary of State. Upon filing, a copy of the articles of incorporation shall be provided to the Subdivision Administrator.

15.80. DEFECTS GUARANTEE

The Planning Board shall require a bond guaranteeing utility taps, street pavement, drainage facilities, water and sewer lines, and other improvements against defects for one year. This bond shall be in the amount determined by the County's engineer and shall be in cash or be made by a surety company authorized to do business in the State.

15.81. MAINTENANCE GUARANTEE

The Subdivision Administrator shall secure from all sub-dividers a letter in which the sub-divider shall agree to maintain the backfill and any improvements located thereon and therein and any ditch which has been dug in connection with the installation of such improvements. Such letter shall be binding on the sub-divider for a period of one year after the acceptance of such improvements by the County.

15.82. VACATION OF PLATS

(a) Any plat or any part of any plat must be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

(b) Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument, which abridges or destroys any public right in any of its public uses, improvements, streets or alleys.

(c) Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public right in the streets, alleys and public grounds, and all dedications laid out or described in such plat.

(d) When lots have been sold, the plat may be vacated in the manner provided in divisions (A), (B) and (C) of this section by all owners of the lots in such plat joining in the execution of such writing.

15.83. DEDICATIONS AND RESERVATIONS

(a) Land subject to flooding as denoted in the county's flood plain maps and land deemed by the Planning Board to be uninhabitable for other reasons including, but not limited to, slopes in excess of 25%, slumping soils, wetlands, habitats for endangered species, and historic/archeological sites, shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravated the flood hazard. Such land within a plan shall be set aside for such uses as will not be endangered by periodic or occasional inundation, or will not produce unsatisfactory living conditions.

(1) Past records of flood levels shall be used to determine sufficient area from the centerline of streams to provide adequate protection from the most severe flood of record.

(b) Where land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further subdivision.

(c) Where a proposed residential subdivision contains or is adjacent to a major highway, it shall be planned so as to avoid having lots fronting on the highway in such a manner as to derive their access from said highway, preferably by providing a marginal access street for these lots or by backing the lots to the highway.

(d) Where a proposed subdivision contains or is adjacent to a railroad right-of-way, it shall be planned so as to avoid having residential lots front on a street, which parallels and is adjacent to the railroad right-of-way.

(e) Subdivision showing reserve strips controlling access to public ways will not be approved except when the control and disposition of land comprising such strips is placed within the county's jurisdiction under conditions meeting the approval of the Subdivision Administrator.

(f) All subdivided land shall be part of a usable and numbered lot or it shall be reserved as permanent open space. All major subdivisions shall be required to reserve a minimum of 5% or more of the gross land area as permanent open space, subject to the review of the Planning Board.

(g) If the entire area shown on an approved preliminary plat is not to be recorded at the same time as one unit, but instead, sections or units of the entire subdivision are to be recorded at subsequent time intervals, then the unit boundaries shall be so designated as to permit each unit recorded to function independently of the unit to follow it in the proposed recording schedule of the subdivider. Temporary turnarounds shall be constructed by the developer, as required by the county, at the ends of streets, which are presently dead-end, but are planned as through streets when the adjacent unit ultimately recorded.

(h) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the County Health Department, a structural engineer, and soils expert determine that the land is suitable for the purpose proposed.

15.84. NAME DUPLICATION

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the county.

15.85. SUBDIVISION DESIGN

(a) *Blocks.*

(1) The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

(2) Blocks shall not be less than 400 feet or more than 1,800 feet.

(3) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.

(4) Where deemed necessary by the Planning Board, a pedestrian crosswalk at least 15 feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.

(5) Block numbers shall conform to the county street numbering system.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 4.4)

(b) *Lots.*

(1) If applicable, all lots in new subdivisions shall conform to any zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional

requirements of the zoning ordinance. It is not sufficient merely for the average lot to meet zoning requirements. In unzoned areas of the county, the following chart provides dimensional requirements. This chart is for unzoned areas:

Table 15-2
Dimensional Requirements

Minimum lot area	Public Water and Sewer	Public Water, No Public Sewer	No Public Water, No Public Sewer	Septic Tank On Watersheds
Minimum lot width	50 ft.	100 ft.	100. ft.	*
Minimum lot depth	200 ft.	250 ft.	300 ft.	*
Minimum setback lines				
Front	50 ft.	50 ft.	50 ft.	*
Side	15 ft.	15 ft.	15 ft.	*
Side abutting street	20 ft.	20 ft.	20 ft.	*
Rear	25 ft.	25 ft.	25 ft.	*

*Restricted by county ordinance

(2) Lots shall meet any applicable requirements of the county health department.

(3) Double frontage lots shall be avoided wherever possible.

(4) Side lot lines shall be substantially at right angles to or radial to street lines.

(c) *Easements.*

(1) *Utility easements.* Easements for underground or above ground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 12 feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines. The Planning Board will determine whether one

easement is sufficient or whether several easements are necessary to accommodate the various facilities and the subdivider shall provide the required easements.

(2) *Drainage easements.* Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.

(d) *Buffering/Landscaping/Screening.* All buffers and landscaping shall conform to the requirements of the Zoning Ordinance as outlined in Part 3 of Article 10 of the Zoning Ordinance – LANDSCAPING, BUFFERING, and SCREENING.

(e) *Outdoor Lighting.* All outdoor lighting shall conform to the requirements of the Zoning Ordinance as outlined in Part 4 of Article 10 of the Zoning Ordinance – OUTDOOR LIGHTING.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 4.5)

15.86. STREETS

(a) *Type of street required.* All subdivision lots shall abut on a public street. All public streets shall be built to the standards of this article and all other applicable standards of the county and the state department of transportation. Public streets which are eligible for acceptance into the state highway system shall be constructed to the standards necessary to be put on the state highway system or the standard in this article, whichever is stricter in regard to each particular item, and shall be put on such system. Streets which are not eligible to be put on the state highway system because there are too few lots or residences shall, nevertheless, be dedicated to the public and shall be in accordance with the standards in this article or the standards necessary to be put on the state highway system, whichever is stricter in regard to each particular item, so as to be eligible to be put on the system at a later date. A written maintenance agreement with provisions for maintenance of the street until it is put on the state system shall be included with the final plat. No lots may be sold until this provision is satisfied.

(b) *Subdivisions street disclosure statement.* All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the state system, before lots are sold, and statement explaining the status of the street shall be included with the final plat.

(c) *Half-streets.* The dedication of half-streets of less than 60 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than 60 feet of right-of-way is required, a partial width right-of-way, not less than 60 feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider; provided that the width of the partial dedication is such as to permit the installation of such

facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

(d) *Marginal access streets.* Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

(e) *Access to adjacent properties.* Where, in the opinion of the Planning Board, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround provided.

(f) *Nonresidential streets.* The subdivider of a nonresidential subdivision shall provide streets in accordance with I.F-4 of the North Carolina Roads, Minimum Construction Standards, July 1, 1985; and the standards in this article, whichever are stricter in regard to each particular item.

(g) *Design standards.* The design of all streets and roads within the jurisdiction of this article shall be in accordance with the accepted policies of the state department of transportation, division of highways, as taken or modified from the American Association of State Highway Officials (AASHO) manuals. The North Carolina Department of Transportation, Division of Highways' Subdivision Roads Minimum Construction Standards, July 1, 1985, shall apply for any items not included in this article, or where stricter than this article. The following signed certificates shall appear on all copies of the final plat:

Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the County of Scotland and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer and water to the County.

_____ _____

Subdivider Date

(h) *Other requirements.*

(1) *Through traffic.* Through traffic discouraged on residential collector and local streets residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to ensure convenient access to places of public assembly.

(2) *Sidewalks.* Sidewalks may be required by the Planning Board on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of five feet, and shall consist of a minimum thickness of four inches of concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a planned

unit or group development. Sidewalks shall consist of a minimum of six inches of concrete at driveway crossings.

(3) *Street names.* Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court, etc. All street names and addressing shall comply with the county's 911 Addressing Requirements. Street names shall be subject to the approval of the county.

(4) *Street name signs.* The subdivider shall be required to provide and erect street name signs to county standards at all intersections within the subdivision.

(5) *Permits for connection to state roads.* An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the division of highways.

(6) *Offsets to utility poles.* Poles for overhead utilities should be located clear of roadway shoulders, as close to the right-of-way as possible. On streets with curb and gutter, utility poles should be set back a minimum distance of six feet from the face of curb.

(7) *Wheelchair ramps.* In accordance with G.S. 136-44.14, all street curbs in the state being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities, or altered for any reason after September 1, 1973, shall provide wheelchair ramps for the physically handicapped at all intersection where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

(8) *Curb and gutter.* The subdivider may construct curbs and gutters, but it is not required by this article for plat approval.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 4.1-4.2)

15.87. UTILITIES

(a) *Water and sanitary sewer systems.* Each lot in all subdivisions within the county's jurisdiction shall be provided with an extension of the county's water (and/or sanitary sewer) systems at the subdivider's expense if practical. A subdivision lot in the county's jurisdiction may be provided with extensions to a municipal system in lieu of the county system. Water and sanitary sewer lines, connections, and equipment shall be in accordance with the county standards. All lots in subdivisions not connected to municipal or county water and/or sanitary sewer systems must have a suitable source of water supply and sanitary sewage disposal, which complies with the regulations of the appropriate agencies.

(b) *Storm water drainage system.* The subdivider shall provide a surface water drainage system constructed to the standards of the state department of transportation, as reflected in,

Handbook for the Design of Highway Surface Drainage Structures, (1973), subject to review by the county engineer/county consulting engineer.

(c) *Streetlights.* All subdivisions that have one or more public streets shall have streetlights installed at no more than 200 feet apart along each street. The subdivider is responsible for installation expenses. The long-term maintenance of the streetlights is to be assigned prior to the selling of any lots.

15.88. OTHER REQUIREMENTS

(a) *Placement of monuments.* Unless otherwise specified by this article, the manual of practice for land surveying as adopted by the state board of registration for professional engineers and land surveyors, under the provisions of title 21 of the North Carolina Administrative Code, chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for survey and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.

(b) *Construction procedures.* No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities. No building, zoning or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this ordinance until all the requirements of this article have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the administrator of this article to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the surety.

(c) *Oversized improvements.* The county may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the county requires the installation of improvements in excess of the standards adopted by reference, the county shall pay the cost differential between the improvement required and the standards in this article.

(d) *Exclusive Access Easements*. Exclusive access easements serving one lot shall only be permitted in minor subdivisions and shall meet the following standards:

(1) An exclusive access easement shall serve only one single-family dwelling and its uninhabited accessory structures;

(2) Lots to be served by an exclusive access easement shall not be created in an area served by public water or sewer;

(3) The minimum lot size shall be one acre (excluding the easement portion);

(4) The minimum easement width shall be 25 feet measured up the entire length of the

easement;

(5) The minimum separation between the easement portion and any other platted access or right-of-way shall be 150 feet;

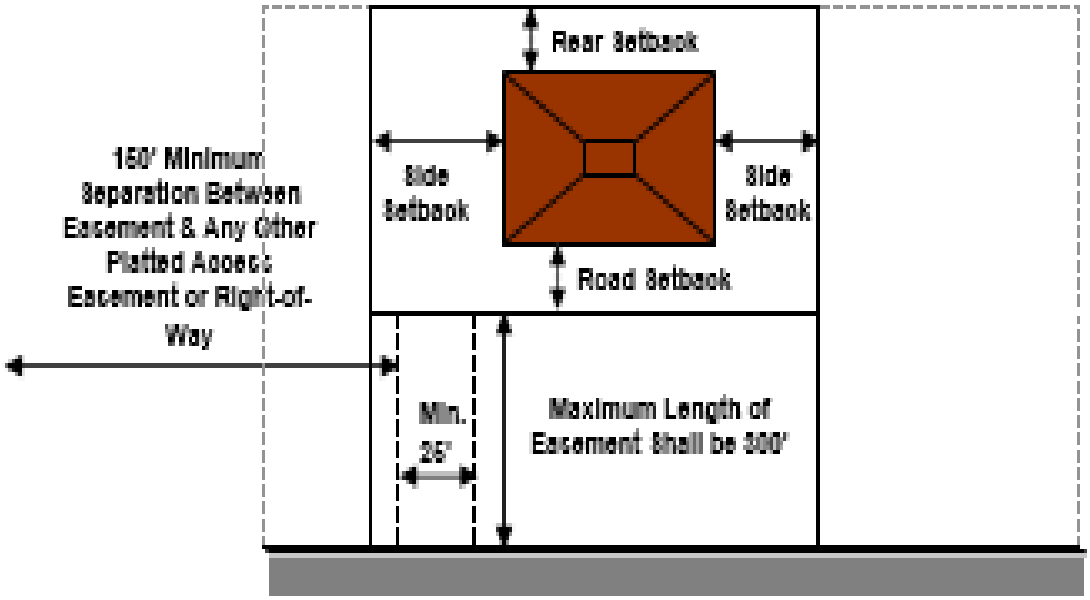
(6) The location of the easement shall be recorded and labeled on the plat as "private";

(7) The exclusive access easement shall permit ingress, egress, and regress and necessary utilities required to serve the lot;

(8) Building setbacks shall be provided as illustrated in *Figure 15-1.* The easement portion of the lot shall not be used to calculate building setbacks.

(9) Further subdivision of lots accessed by an exclusive access easement shall be prohibited. A notice of this fact shall be placed on the Final Plat submitted for approval.

Figure 15-1. Illustration of Exclusive Access Easement.



(e) *Construction Standards.*

(1) All standards and specifications of the County shall govern the design, construction, and installation of all improvements. The Board of Commissioners may order suspension of work being performed if such standards and specifications are not being conformed to.

(2) Prior to the commencement of such construction, the sub-divider shall advise the Subdivision Administrator in writing, at least 15 working days in advance of such work, that construction is to be commenced. The Subdivision Administrator, in conjunction with other applicable agencies, shall inspect such work. During construction, the building site shall be maintained by the sub- divider in a safe and sanitary manner. Prior to the issuance of an occupancy permit, all stumps, litter, rubbish, brush, weeds, dead trees,

roots, debris, and scrap building materials shall be removed by the sub- divider.

(f) Construction Procedures:

i. Commencement: No construction or installation of improvements shall commence in a proposed subdivision until the Preliminary Plat has been approved, and all plans and specifications have been approved by the appropriate authorities.

ii. Permits: No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this Ordinance until all the requirements of this Ordinance have been met.

iii. Access: The Subdivision Administrator shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this Ordinance.

iv. Inspection: The sub-divider, prior to commencing any work within the subdivision, shall make arrangements with the Subdivision Administrator to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

v. Erosion Control: The sub-divider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected.

vi. Existing Flora: The sub-divider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainage ways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction. Such trees are to be preserved by well islands or retaining walls whenever abutting grades are altered. Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.

vii. Construction: Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.

(Ord. of 9-4-1973, Amend. 1-26-2002, Section 5.0 and 6.0)

15.89. – 15.100. RESERVED

ARTICLE 16 – PERMIT REVIEW PROCESS AND DEVELOPMENT AGREEMENTS

TABLE OF CONTENTS

SECTION 16.1. Applicability. 1
SECTION 16.2. Definitions. 2
SECTION 16.3. General. 4
SECTION 16.4. Zoning Permits. 6
SECTION 16.5. Development Agreements. 7
SECTION 16.6. Rezoning (Zoning Map Amendment). 14
SECTION 16.7. Sign Permit. 15
SECTION 16.8. Site Plan - Minor. 15
SECTION 16.9. Site Plan - Major 16
SECTION 16.10. Special Use Permit. 18
SECTION 16.11. Temporary Use Permit. 19
SECTION 16.12. Variance. 20
SECTION 16.13. Vested Rights Certificate 20
SECTION 16.14. Zoning Text Amendment. 21
SECTION 16.15. Inspections. 22
SECTION 16.16. Pre-Application Meeting with Administrative Staff 22
SECTION 16.17. – 16.25. Reserved. 22

SECTION 16.1. Applicability.

The purpose of this Article is to establish an orderly process to develop land within Scotland County. It is also the intent of this Article to provide a clear and understandable development process that is fair and equitable to all interests, including the applicants/petitioners, affected neighbors, County staff, related agencies, the Planning Board and the County Board of Commissioners. The development review process applies to all development actions within the planning jurisdiction.

16.1.1. **Permit Required.** No building, dwelling, or any other structure shall be erected, moved, extended, enlarged, or structurally altered until a zoning permit and special use permit, where required, for such work has been issued unless the building or structure is specifically exempted.

(Ord. 7/7/2003, Section 15.2)

16.1.2. **No Work Permitted Prior to Issuance of Permit.** No land shall be used or occupied, and the use of any land shall not be changed, until a zoning permit and any other applicable permit to be issued by Scotland County for such work has been issued.

16.1.3. **No Movement of Structure Prior to Issuance of Permit**. No building or structure, including a manufactured home, shall be moved from an area outside the County's zoning jurisdiction to any lot within the County's jurisdiction or from one lot to another lot, or on the same lot within the County's zoning jurisdiction unless such building shall subsequently be made to conform to the then existing building, plumbing, electrical, manufactured home, and zoning codes of the County. If a building, excluding a manufactured home, is moved from outside the County's zoning jurisdiction, the zoning permit fee shall include a mileage fee for each mile of distance from the County Hall to the house to be moved. Any building or manufactured home so moved shall be made to conform to the required codes of the County within twelve months from the earlier of either (i) the date of the receipt of a zoning permit issued by the Zoning Official, or (ii) the date the building or manufactured home is moved into the County limits.

16.1.4. **Work Only as Approved in Permit.** Zoning permits and other development permits are issued under this Ordinance only when a review of the application submitted, including the site plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided herein, all development shall occur strictly in accordance with such approved plans and applications.

16.1.5. **Exemption from Zoning Permit.** The following are exempt from zoning permit requirements:

(a) Farm buildings (other than residences and buildings used in animal feeder/breeder operations) used for bona fide farm purposes;
(b) Facilities (other than buildings) of a public utility; and
(c) Signs specifically exempted in Article 10**.**

16.1.6. **Exemption from Site Plan Review.** Single-family homes on conforming lots, temporary uses, and internal construction that does not increase gross floor area or building height, the density or intensity of use, or affect parking requirements are exempt from Site Plan Review, but are still subject to the standards of this Ordinance.

SECTION 16.2. Definitions.

As used under this Article and consistent with the definitions contained in **Article 2,** the following terms shall mean:

16.2.1. **Site Plan.** A scaled drawing which shows what already exists on the property and shows what is proposed for the property. For example, a residential site plan depicts everything within the property lines; namely, a footprint of any existing structures, driveways and parking areas, pathways, trails and easements, drainage ways, utility lines, landscaping and other natural features.

(a) *Minor Site Plans.* As used under this Article and consistent with the definitions contained in **Article 2**, the term "Minor Site Plan" shall mean a scaled drawing which shows what already exists on the property and what is proposed for the property**.** A Minor Site Plan shall be reviewed by the Zoning Administrator and include the following types of development:

I. Changes in use.
II. New single-building non-residential development or additions of less than 2,500 square feet in gross floor area.
III. New single-building, multi-family development with five to eight dwelling units.

(b) *Major Site Plans.* As used under this Article and consistent with the definitions contained in **Article 2**, the term "Major Site Plan" shall mean a scaled drawing developed from a survey of the property which details the structures and conditions existing on the property and what is proposed for the property. A Major Site Plan shall be reviewed by the Zoning Administrator and referred to the Planning Board for their review and approval. Major Site Plans shall apply to the following:

I. New nonresidential or multi-family development with two or more buildings.
II. New single-building nonresidential development or additions with 2,500 square feet or more in gross floor area.
III. New single-building multi-family development with nine or more dwelling units.
IV. Development that results in a new street connection with an existing street or street stub in a single-family residential neighborhood.
V. Zero-lot-line developments.

16.2.2. **Plat**. As used under this Article and consistent with the definitions contained in **Article 2**, the term "Plat" shall mean a surveyed map or plan of a parcel of land which is to be, or has been subdivided.

16.2.3. **Zoning Permit.** As used under this Article and consistent with the definitions contained in **Article 2**, the term "Zoning Permit" shall mean a permit issued by the Zoning Administrator that certifies compliance with the Zoning Ordinance and authorizes the recipient to make use of property in accordance with the requirements of this Ordinance.

16.2.4. **Quasi-Judicial Decision.** A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation.

Statutory Reference – NCGS 160D-132.

16.2.5. **Variance**. A request to deviate from current *zoning* requirements. If granted, it permits the owner to use his land in a way that is ordinarily not permitted by the *zoning* ordinance. It is not a change

in the *zoning* law, but a waiver from the requirements of the *zoning* ordinance. Variances run with the land and are not a personal right of any individual applicant, therefore the personal circumstances of an applicant are irrelevant. If, however, the applicant is a person with disabilities, the Federal Fair Housing Act requires that the County make reasonable accommodation for that person.

Statutory Reference – NCGS 160D-132, Note 381

16.2.6. **Appeal**. A request for a review of the interpretation of any provision of this Ordinance.

16.2.7. **Special Use Permit.** A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as "conditional use permits" or "special exceptions."

Statutory Reference – NCGS 160D-132.

SECTION 16.3. General.

16.3.1. **Review Process and Permit.** ***Table 16-1*** below shows which decision-making and review bodies have roles in the process of approving or appealing development permits issued by the County.

Table 16-1

Development Review Process and Permits/Development Agreements

Key: A = Appeal D = Decision R = Recommendation S= Staff Review PH = Public Hearing Required				
Procedure	**County Board of Commissioners**	**Planning Board**	**Planning and Zoning Staff**	**Other**
Administrative Decisions by Zoning Administrator			**D**	Appeal is to the Board of Adjustment (See Section 5.14)
Zoning Permit			**D**	See Section 12.4.
Building Permit				Issued by Scotland County Building Inspections Dept.
Certificate of Occupancy				Issued by Scotland County Building Inspections Dept.
Development Agreement	**D,A**	**R**	**R**	See Section 12.5.
Floodplain Development Permit			**D**	See Floodplain Regulations
Planned Unit Development (PUD)	**PH,D,A**	**R**	**R**	See Scotland County Subdivision Regulations
Re-Zoning (Zoning Map Amendment)	**PH,D,A**	**R**	**R**	See Section 12.6.
Sign Permit		**A**	**D**	See Section 12.7.
Key: A = Appeal D = Decision R = Recommendation S= Staff Review PH = Public Hearing Required				
Procedure	**County Board of Commissioners**	**Planning Board**	**Planning and Zoning Staff**	**Other**
Site Plan - Minor		**A**	**D**	See Section 12.8.
Site Plan - Major	**PH, D, A**	**R**	**R**	See Section 12.9.
Special Use Permit	**PH, D, A**	**R**	**R**	See Section 12.10.
Subdivisions - Minor		**A**	**D**	See Scotland County Subdivision Regulations
Subdivisions - Major	**PH, D, A**	**R**	**R**	See Scotland County Subdivision Regulations
Temporary Use Permit		**A**	**D**	See Section 12.11
Variance	**PH, D, A**	**R**	**R**	See Section 12.12.
Vested Rights Certificate		**A**	**D**	See Section 12.13.
Zoning Text Amendment	**PH, D, A**	**R**	**R**	See Section 12.14.

16.3.2. **Submission:** Unless otherwise specified, all applications for permits under this Ordinance shall be submitted by the owner of the property or the authorized agent of such owner to the Zoning Administrator.

16.3.3. **Form of Submission:** An application for any permit under this Ordinance shall be submitted in such form and format as required by Scotland County, together with such fees as required.

16.3.4. **Waiver of Submission Requirements:** The Zoning Administrator may waive submission of required elements of information when, in his/her opinion, such information is otherwise available or is not necessary to review the application. The Zoning Administrator may refuse to process an incomplete application.

16.3.5. **Processing**: All applications for permits shall be submitted, reviewed and processed as expeditiously as possible in accordance with the requirements of this Ordinance.

16.3.6. **Approved Plans:** A copy of required plans or information submitted with the application shall be returned to the applicant after the Zoning Administrator has marked the copy either approved or disapproved and attested to same. A similarly marked copy shall be retained by Scotland County.

16.3.7. **Health Department Improvements Permit Required:** A permit for any building or use for which a State or County Health Department permit for installation of a well or a sewage disposal system is required or for which approval by the State or County Health Department of an existing well or sewage disposal system is required, shall not be issued until such permit or approval has been issued by the State or County Health Department.

SECTION 16.4. Zoning Permits.

16.4.1. **Permit Required**: Compliance with the County's zoning ordinance (development regulations) must be verified by the Zoning Administrator. Compliance shall be evidenced by a Zoning Permit issued in accordance with the requirements of **Section 5.3, Zoning Permit Procedure.**

Cross Reference – Section 5.3, Zoning Permit Procedure

16.4.2. **Minor or Major Site Plan Required.** The Zoning Permit shall also include a site plan, the specifications for which are determined by whether the proposed development project requires a Minor or Major Site Plan. The applicant should first check to see that the zoning is in compliance for the proposed development project by requesting/attending a Pre-Application Meeting with the Administrative staff as described in **Section 16.16** then proceed with submittal of a site plan or construction drawings. Requirements for *Minor Site Plans* are outlined in **Section 16.8.** Requirements for *Major Site Plans* are outlined in **Section 16.9**.

16.4.3. **If Proposed Development Project is not Zoning Compliant.** If the proposed development project is not zoning compliant, the applicant should consult the Zoning Administrator to determine if a request for or a variance is required before proceeding with the submittal of a site plan or construction drawings. This may also be discussed at a Pre-Application Meeting as described in **Section 16.16.**

16.4.4. **Issuance**. The issuance of a zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or, (subject to obtaining a building permit), to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures. However, except as provided in **Section 16.1.1.** the intended use may not be commenced and no building may be occupied until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the issuance of a special use permit have been met.

16.4.5. **Display of Zoning Permits.** Zoning permits (and building permits) shall be displayed during all construction and may not be removed until the Scotland County Zoning Officer and the Scotland County Building Inspector have issued a Certificate of Compliance.

SECTION 16.5. Development Agreements.

Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources, creating community impacts and opportunities that are difficult to accommodate within traditional zoning processes, and require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development. Recognizing this, the NC General Assembly has authorized local governments to enter into development agreements with developers, subject to the procedures outlined in this Section.

When entering into such agreements, Scotland County may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the County's development regulations. When the County Board of Commissioners approves the rezoning of any property associated with a development agreement executed and recorded pursuant to this Section, the provisions of G.S. 160D-6-5(a) apply. Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements.

Statutory Reference *– N.C.G.S. Chapter 160D- 1001 (a)-(d)*

16.5.1. **Definitions**.

(a) Development. The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels.

(b) Public Facilities. Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

Statutory Reference *– N.C.G.S. Chapter 160D- 1002.*

16.5.2. *Authority*. The County may enter into a Development Agreement with a developer, subject to the procedures and standards of this section. In entering into such a Development Agreement, the County may not exercise any authority or make any commitment not authorized by general or local act, and may not impose any tax or fee not authorized by otherwise applicable law. If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the Development Agreement.

***Statutory Reference** – N.C.G.S. Chapter 160D- 1001(b) and 160D-1006(c).*

16.5.3. *Applicability*. The Development Agreement procedure allows the County and the developer to enter into an agreement for completion of the development, subject to compliance with specific requirements set down in the agreement. A Development Agreement may be applied to a development of any size, however, all proposed developments of at least 3 buildable acres shall be subject to a development agreement. The terms of a Development Agreement apply to all successors in interest.

***Statutory Reference** – N.C.G.S. Chapter 160D- 1004.*

16.5.4. *Duration*. Development Agreement issued by the County shall be of a reasonable length of time based upon the complexity of the development proposed in the agreement.

***Statutory Reference** – N.C.G.S. Chapter 160D- 1004.*

16.5.5. *Development Agreement Standards*. For consideration of the County to participate in a Development Agreement, a development subject to the agreement must meet the following criteria:

(a) Planned Development. The information regarding the property subject to the Development Agreement shall contain details of the property and the planned development in accordance with the NC State General Statute requirements.

(b) *Phasing and Duration of Development*. The development shall demonstrate phasing and participation in the proposed agreement shall be of reasonable terms that shall be specified in the agreement.

(c) Impact on Capital Improvements. The development shall demonstrate the impact on existing and future provisions of capital improvements by the County including at least one of the following: transportation, potable water, sanitary sewer, solid waste, stormwater management, educational, parks and recreational, and health systems and facilities.

16.5.6. *Contents of Application.* An application for a Development Agreement shall include a proposed Development Agreement that shall, at a minimum, address all of the following:

(a) A legal description of the property subject to the agreement and the names of its legal and equitable property owners.
(b) The duration of the agreement.

(c) A development schedule, including commencement dates and interim completion dates at no greater than five-year intervals.

(d) The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.

(e) A description of public facilities that will service the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development.

(f) If the Development Agreement provides that the County shall provide certain public facilities, the Development Agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development (such as meeting defined completion percentages or other performance standards).

(g) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property.

(h) A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing their permitting requirements, conditions, terms, or restrictions.

(i) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the County for the public health, safety, or welfare of its citizens.

(j) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(k) An indemnification and "hold harmless" clause whereby the developer/property owner holds the County and its agents harmless from liability for damages, injury, or death that may arise from the direct or indirect operations of the owner, developers, contractors, and subcontractors that relate to the project.

(l) The proposed Development Agreement may include the following:

i. A provision that the entire development or any phase of it be commenced or completed within a specified period of time.

ii. Other defined performance standards to be met by the developer.

iii. Other matters not inconsistent with law.

(m) The application shall include a master plan that depicts the general configuration and relationship of the principal elements of the proposed development, including major uses, general building types, pedestrian and vehicular circulation, open space, public facilities, and phasing.

i. If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.

ii. The development agreement also may cover any other matter, including defined performance standards, not inconsistent with N.C.G.S. Chapter

160D. The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local government pursuant to G.S. 160D-8-4 shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

Statutory Reference *– N.C.G.S. Chapter 160D- 1006.*

iii. *Modifications*. Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. Changes which constitute a major modification may be determined as provided for in the development agreement. Changes which are deemed Minor may be processed administratively.

Statutory Reference *– N.C.G.S. Chapter 160D- 1006(e).*

16.5.8. *Procedure for Entering into Development Agreements with Developers.*

(a) *Submittal*.

i. The Application for a Development Agreement shall be submitted, together with all other related permit/development approval applications, to the Zoning Administrator.

ii. The Zoning Administrator shall review the contents to ensure that the application is complete. If the application is not completed, the applicant shall be notified within ten (10) calendar days.

iii. When the completed application is received and verified, the Zoning Administrator shall request and place the consideration of this application on the agenda for the next meeting of the Planning Board.

(b) *Review and Recommendation of the Planning Board*. Following consideration and review, the Planning Board shall make on the following recommendations:

i. The County enter into the Development Agreement as submitted;

ii. The County enter into the Development Agreement application subject to modifications agreed to by the applicant, in writing; or

iii. The County not enter into the Development Agreement.

(c) *Consideration of the Development Agreement by the Board of Commissioners*.

i. Before entering in to a development agreement, the County Board of Commissioners shall conduct a legislative hearing. The County Clerk shall

schedule a public hearing before the Scotland County Board of Commissioners for the Development Agreement application. The notice provisions of G.S. 160D-6-2 applicable to zoning map amendments shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained. This hearing may be held jointly with any hearing required for other permits and approvals necessary of this same project.

Statutory Reference *– N.C.G.S. Chapter 160D- 1005.*

ii. Following consideration and review of the recommendation from the Planning Board, the Board of Commissioners shall take one of the following actions:

1) Enter into the Development Agreement as submitted;
2) Enter into the Development Agreement, subject to modifications agreed to by the applicant, in writing;
3) Not enter into the Development Agreement; or
4) Remand of the application back to the Planning Commission for further consideration.

16.5.9. *Recordation*. The developer shall record the agreement with the Scotland County Register of Deeds within 14 days after the local government and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

Statutory Reference *– N.C.G.S. Chapter 160D- 1011.*

16.5.10. *Approval of Debt.* In the event that any of the obligations of the local governments in the development agreement constitute debt, the local government shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the local government, with any applicable constitutional and statutory procedures for the approval of this debt. The agreement shall be signed by the County Attorney, Finance Director, and Mayor.

Statutory Reference *– N.C.G.S. Chapter 160D- 1012.*

16.5.11. *Vesting*.

(a) 12.5.11.1. Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property

subject to a development agreement are those in force at the time of execution of the agreement.

(b) 12.5.11.2. Except for grounds specified in G.S. 160D-1-8(e), Scotland County may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.

(c) 12.5.11.3. In the event State or federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, Scotland County may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the development agreement.

Statutory Reference *– N.C.G.S. Chapter 160D- 1007.*

16.5.12. *Termination*. Development agreements may be terminated by mutual consent of the parties.

Statutory Reference *– N.C.G.S. Chapter 160D- 1009.*

16.5.13. *Annual Review; Breach and Cure.*

(a) *Annual Review*. During any period of time in which a development permit is active, the County shall review the development at least once every 12 months for compliance with the agreement. The developer shall be required to demonstrate good faith compliance with the terms of the Development Agreement.

Statutory Reference *– N.C.G.S. Chapter 160D- 1009.*

(b) *Breach and Cure*

i. A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement.

ii. *Material Breach*: If the County finds and determines that the developer has committed a material breach of the terms or conditions of the Development Agreement, the County shall serve written notice of the breach upon the developer

within a reasonable time after the periodic review. Such notice shall set forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and shall provide the developer a reasonable time in which to cure the material breach.

iii. *Failure to Cure Material Breach*. If the developer fails to cure the material breach within the time given, then the County unilaterally may terminate or modify the Development Agreement.

iv. *Appeal*. The notice of termination or modification may be appealed to the Board of Adjustment for review and decision.

v. *Other Penalties for Breach.* An ordinance adopted pursuant to G.S. 160D-10.3 or the development agreement may specify other penalties for breach in lieu of termination, including but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the local government to enforce applicable law.

Statutory Reference *– N.C.G.S. Chapter 160D- 1008.*

16.5.14. **Amendments to Development Agreement.**

(a) *Mutual Consent.* A Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

(b) *Major Modification*. Consideration of a proposed major modification of a Development Agreement shall follow the same procedures as required for initial approval of the agreement.

(c) *Minor Modification.* The County Board of Commissioners delegatse these to the Zoning Administrator who may approve minor modifications of the Development Agreement with the mutual consent of the other parties to the agreement, without following the same procedures as required for initial approval of the agreement, upon making written findings that the proposed modifications would not significantly change the use, intensity, or design of the development, would be consistent with the purposes and goals of the agreement, would comply with this Ordinance, and would not adversely affect the public health, safety, or general welfare.

Cross Reference – Section 12.5.7.

16.5.15. **Assumption of Jurisdiction over Development Agreements.**

(a) *County Assumes Planning Jurisdiction.* If the County assumes planning jurisdiction over property subject to a Development Agreement established by another jurisdiction, such development agreement shall be valid for the duration of the

agreement, or eight years from the effective date of the County's assumption of planning jurisdiction over the subject property, whichever is earlier.

(b) *Rights and Obligations.* The parties to the development agreement and the County shall have the same rights and obligations with respect to each other regarding matters addressed in the Development Agreement as if the property had remained in the previous jurisdiction.

(c) *Modification or Suspension.* The County may modify or suspend the provisions of the Development Agreement if the County determines that the failure to do so would place the residents of the area subject to the Development Agreement, or the residents of the County's planning jurisdiction, or both, in a condition dangerous to their health or safety, or both.

16.5.16. **Change of Jurisdiction.**

(a) A development agreement entered into by Scotland County before the effective date of a change of jurisdiction shall be valid for the duration of the agreement, or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the local government assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.

(b) In assuming jurisdiction, Scotland County may modify or suspend the provisions of the development agreement if the County determines that the failure to do so would place the residents of the territory subject to the development agreement, or the residents of the County, or both, in a condition dangerous to their health or safety, or both.

Statutory Reference *– N.C.G.S. Chapter 160D- 1010.*

SECTION 16.6. Rezoning (Zoning Map Amendment).

16.6.1. *Procedure*. The procedure for an amendment to the Official Zoning Map of Scotland County shall include:

(a) Initiation of amendment and filing with the County Clerk.
(b) Planning Board review and recommendation.
(c) Hearing held by the Board of Commissioners.
(d) Board of Commissioners review and action.
(e) A written determination by the Board of Commissioners.

(Ord. 7/7/2003, Section 32)

Cross Reference - The details for the procedures above are outlined in **Section 7.3** of this Ordinance - PROCEDURE FOR TEXT OR ZONING MAP AMENDMENT (REZONING).

SECTION 16.7. Sign Permit.

16.7.1. *Permit Required.* Except as otherwise provided, no sign shall be erected, altered, constructed, moved, converted or enlarged except in accordance with the provisions of this chapter and pursuant to issuance of a Sign Permit. No Sign Permit shall be issued unless plans and supporting information have been submitted to clearly demonstrate that the sign will conform to all applicable requirements of this Article, or to clearly demonstrate that the sign is exempt from issuance of a Sign Permit.

(Ord. 7/7/2003, Section 15.2)

16.7.2. *Permit Form.* Application for permits shall be submitted on forms obtainable at the Office of the Zoning Administrator.

16.7.3. The detailed procedures for securing a sign permit are included in **Article 10 Part 2.**

Cross Reference – Article 10

SECTION 16.8. Site Plan - Minor.

16.8.1. A Minor Site Plan shall be reviewed by the Zoning Administrator and shall be a scaled drawing which shows what already exists on the property and what is proposed for the property. The Minor Site Plan Review Process shall apply to all development not covered by a Major Site Plan as outlined in **Section 16.9**.

16.8.2. A Minor Site Plan shall include the following:

(a) A scale.
(b) Clear identification of the structure or use proposed.
(c) Property boundaries, lot dimension, setbacks, and Property Identification Number for the subject property.
(d) Major physical features including water bodies, creeks, wetlands, buildings, streets, and the like.
(e) Proposed land use, streets, rights-of-way, buildings, and/or lot arrangements, including proposed lot sizes, common areas, and the buffers required.
(f) Name, address, and telephone number of applicant, owner, and persons (firm) preparing the development plan.

16.8.3. *Submittal*. Applicants eligible for Minor Site Plan review shall submit the Zoning Permit Application and the Minor Site Plan to the County Clerk unless otherwise instructed by the Zoning Administrator. One print and one digital copy of the application and plan is required. Payment of the applicable fee is also required.

16.8.4. *As-Builts Site Plan Required.* For Minor Site Plans, an as-built site plan shall be submitted to the Zoning Administrator by the applicant upon completion of the building foundation(s) to ensure that setbacks and building orientation match the approved site plan. If the survey shows that the placement of the building is incorrect, then the Zoning Administrator shall issue a stop-work order and all construction shall be halted until the problem is remedied.

SECTION 16.9. Site Plan - Major.

16.9.1. A Major Site Plan shall be a scaled drawing developed from a survey of the property which details the structures and conditions existing on the property and what is proposed for the property. A Major Site Plan shall be reviewed by the Zoning Administrator and referred to the Planning Board for their review and approval. Major Site Plans shall apply to the following:

(a) New multi-family development with two or more buildings.
(b) New non-residential development with two or more buildings.
(c) New non-residential development which is a single building or additions with 2,500 square feet or more in gross floor area.
(d) New single-building multi-family development with three or more dwelling units.
(e) Development that results in a new street connection with an existing street or street stub in a single-family residential neighborhood.
(f) Zero-lot-line developments.

16.9.2. Major Site Plan review may take place in two stages: first, review of a voluntary Preliminary Site Plan, and second, review of a more detailed Final Site Plan. There is no requirement to prepare a Preliminary Site Plan, and applicants may file a Site Plan application that meets the Final Site Plan requirements without undergoing the Preliminary Site Plan step.

(a) The Preliminary Site Plan is not required to include highly-detailed, fully-engineered elements. It is intended to show general compliance with Zoning requirements and conditions of approval. County staff will provide comments or information to be included on the Final Site Plan as part of the review of a voluntary Preliminary Site Plan.
(b) The Final Site Plan is required to include all details and required engineering necessary to demonstrate full compliance with the Zoning requirements and other applicable County Code, as appropriate.

16.9.3. A Major Site Plan shall be survey grade and shall include the following:

(a) A scale that shall be the same scale as required for development plan submittal.
(b) Property boundaries and total acreage, including NC PINs (Property Identification Numbers) for all properties.

(c) Major topographical and physical features including water bodies, creeks, wetlands, buildings, streets, and the like.
(d) Proposed streets, rights-of-way, buildings, and/or lot arrangements, including proposed lot sizes, common areas, and the buffers required.
(e) Existing and proposed land use, drawn to scale, with brief project description including proposed structures, yard setbacks, building sizes, unit sizes, lot sizes, open space, amenities, the amount of impervious surfaces in square feet and the percentage of impervious surface of the entire development and the like.
(f) Name, address, and telephone number of applicant, owner, and persons (firm) preparing the development plan.
(g) Adjacent street names, numbers, and right-of-way widths.
(h) Zoning district classification of site and surrounding properties, including any water supply watershed(s) and zoning of properties located across adjacent streets.
(i) The boundaries of any proposed phasing.
(j) Sites, if any, for schools, parks, churches, and playgrounds.
(k) Acreage in public uses.
(l) Approximate number of lots.
(m) Sketch vicinity map showing the relation of the proposed site to existing uses of the land.

16.9.4. *Major Site Plan and Construction Drawings Submitted for Review*. Three (3) hard copies and one (1) digital copy of all major site plans shall be submitted in accordance with **Subsection 16.9.3**, as applicable, and shall be accompanied by the completed application and payment of a fee as adopted by the County Board of Commissioners. All major site plans shall be submitted twenty-one (21) days in advance of the Planning Board meeting at which they are to be reviewed.

16.9.5. *Construction Drawings.* The Construction Drawings for Major Site Plans shall be submitted with the site plan. The construction drawings shall be reviewed concurrent with the major site plan. Construction drawings shall be approved administratively prior to the issuance of a zoning permit.

16.9.6. *Submittal Requirements.* Construction Drawings shall include the following:
(a) Site Plan;
(b) Existing Conditions;
(c) Grading Plan;
(d) Soil and Erosion Control Plan;
(e) Landscaping Details;
(f) Lighting Plan;
(g) Street Details, if applicable;
(h) Infrastructure Details; and
(i) Stormwater Control Plan NOTE: Improvements such as roads, curbs, bumpers, and sidewalks shall be indicated with cross sections, design details, and dimensions.

16.9.7. *Staff Review.* The Zoning Administrator will circulate the plan to relevant governmental agencies and officials for comments and recommendations. The reviewing agencies and officials may include, but not necessarily be limited to the following: Police Department, Fire Department, Scotland Building Inspections Department, Public Works, County Attorney, Other Utilities Providers, Scotland County Health Department, and the US Army Corps of Engineers. The Zoning Administrator will prepare a staff recommendation for the proposed development and forward this to the Planning Board for consideration.

16.9.8. *Review by Planning Board.* Following a complete review by the staff and preparation of the staff recommendation, the Zoning Administrator shall schedule the application for review by the Planning Board at the next regularly scheduled meeting. The Planning Board shall review the proposed project and either approve or deny the proposed project. A written determination from the Planning Board shall be forwarded to the County Board of Commissioners within thirty (30) days of application review. for consideration. If a recommendation is not made within 30 days, the application shall be forwarded to the County Board without a recommendation from the Planning Board.

16.9.9. *Action by County Board.* Once the recommendation of the Planning Board has been made, or the 30-day period elapses without a recommendation, the County Board shall follow the quasi-judicial procedures outlined in **Article 6.** The County Board may take the following actions:

(a) Approve the application as received.
(b) Approve the application with conditions.
(c) Deny the application.
(d) Table the application for a specific number of days. The County Board may also request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the request.
(e) Return the application to the Planning Board for further consideration. This deferral does not restart the initial Planning Board 30-day review period. The County Council may direct that the Board return a decision by a certain date.

16.9.10. *Appeal of County Board Decisions.* When considering action on subdivision plats or site plans, the County Board of Commissioners is making a quasi-judicial decision. Any appeal of the decision of the County Board shall be made to Superior Court as outlined in **Section 6-8.**

SECTION 16.10. Special Use Permit.

16.10.1. *Definition*. A Special use permit is a permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as “conditional use permits” or “special exceptions.”.

Statutory Reference – N.C.G.S. Chapter 160D-102.

16.10.2. *Applicability*. Through the application of Special Use Permits certain property uses may be allowed in several districts where these uses would not otherwise be acceptable. By means of controls exercised through the special use permit procedures, property uses which may otherwise be undesirable in certain districts can be developed to minimize any adverse effects they might have on surrounding properties.

16.10.3. *Procedure.* The procedure for application, review and decisions on Special Use Permits is outlined in ***Article 6.***

SECTION 16.11. Temporary Use Permit.

Section 11.4.68. of this Ordinance outlines the types of temporary uses permitted in the zoning jurisdiction of Scotland County. Temporary Use Permits issued for any such temporary use shall include the following:

16.11.1. *Temporary Use Permit Required***.** Every use that is classified as a temporary use in the zoning district in which it is to be located shall be placed or established on the property only after receiving a temporary use permit.

16.11.2. *Filing and Contents of Application***.**

(a) An application for a temporary use permit may be filed only by the owner of the property, or by an agent, lessee, or contract purchaser specifically authorized by the owner to file such application.

(b) An application for a temporary use permit shall be filed with the Zoning Administrator. Where appropriate, each application shall be accompanied by a Minor Site Plan which complies with the standards set forth in **Section 16.8** of this Ordinance.

16.11.3**.** *Filing Deadline***.** All applications for temporary use permits shall be filed at least two (2) weeks prior to the date the temporary use will commence, or at least four (4) weeks prior to the date the temporary use will commence if public safety support is requested from the County. The Zoning Administrator may waive this filing deadline requirement in an individual case, for good cause shown.

16.11.4. *Approval Criteria***.** The Zoning Administrator shall issue a temporary use permit if the proposed temporary use satisfies the requirements set forth in **Section 11.4.68**.

16.11.5**.** *Duration of Permit.* A temporary use permit shall be valid only for the time period stated on the permit as included in **Section 11.4.68.**

16.11.6. *Temporary Structure Permit Required***.** No tent, trailer, or other temporary structure governed by the State Building Code shall be occupied or used in conjunction with a temporary use until and unless the applicant has received a tent permit or a building permit from the Inspections and Permits Department pursuant to the State Building Code.

SECTION 16.12. Variance.

16.12.1. *Definition*. A request to deviate from current *zoning* requirements. If granted, it permits the owner to use his land in a way that is ordinarily not permitted by the *zoning* ordinance. It is not a change in the *zoning* law, but a waiver from the requirements of the *zoning* ordinance. Variances run with the land and are not a personal right of any individual applicant, therefore the personal circumstances of an applicant are irrelevant. If, however, the applicant is a person with disabilities, the Federal Fair Housing Act requires that the County make reasonable accommodation for that person. (***N.C.G.S. 160D-102, Note 381)***

Statutory Authority – NCGS Chapter 160D-102.

16.12.2. *Development Approval (Permit) Required*. A Zoning Variance is a development approval (permit) issued by Scotland County. As such, applicants for a variance are advised that no person shall commence or proceed with development within the County's jurisdiction without first securing any development approvals from the County.

Statutory Authority – NCGS Chapter 160D-403(a) and 404

16.12.3. *Procedure.* The procedure for application, review and decisions on Special Use Permits is outlined **in Section 6.4.**

SECTION 16.13. Vested Rights Certificate.

A Vested Rights Certificate allows an applicant with an approved and unexpired Site Plan, Subdivision Plan, or Final Plat to "vest" the plan or plat, in accordance with the ordinance. Such "vesting" allows development to continue on an approved plan even if certain deadlines are not met and/or there are code changes that might otherwise affect continued development of the property.

An application for a Vested Rights Certificate may be filed concurrently or following approval of a Site Plan, Subdivision Plan, or Final Plat application. In approving the vested rights certificate, the Zoning Administrator may apply conditions of approval.

Cross Reference – Section 13.1, Vested Rights

16.13.1. *Applicability*. A vested right may be established, in accordance with Chapter 160D-108 of the North Carolina General Statutes. The types of vesting plans and duration of those plans are outlined in Section 13.1 of this Ordinance.

16.13.2. *Vested Rights Certificate Procedure*.

(a) *Pre-Application Conference Required*. A pre-application conference with the Zoning Administrator is required as outlined in **Section 16.16** of this Ordinance.

(b) *Application Submittal and Acceptance*. Applications may be initiated by the landowner on a form approved by the County Board of Commissioners.

(c) *Staff Review*. The Zoning Administrator shall review the application, prepare a staff report, and provide a recommendation in accordance with the Vested Rights Certificate Review Standards in **Section 16.13.4**. of this Ordinance.

(d) *Public Notification*. Public notification shall comply with the standards outlined in quasi-judicial hearings included in **Section 6.7**.

(e) *County Board of Commissioners Review and Decision*.

i. Conduct Hearing. The hearing shall comply with the standards outlined in quasi-judicial hearings included in **Section 6.7**.

ii. The County Board of Commissioners, after the conclusion of a quasi-judicial hearing, shall decide the application in accordance with the Vested Rights Certificate Review Standards. The decision shall be one of the following:

1. Approval of the vested rights certificate as proposed;
2. Approval of a revised vested rights certificate;
3. Denial of vested rights certificate; or
4. Remand of the vested rights certificate application to the Planning and Development Director for further review.

16.13.4. *Vested Rights Certificate Review Standards***.** A vested rights certificate shall be approved if the applicant demonstrates:

(a) The vested rights certificate is for an approved site plan, group development plan, or preliminary plat;

(b) The development is valid and unexpired; and

(c) Any required variances have been obtained.

16.13.5. *Vested Rights Certificate.*

(a) Following approval of a vested right, each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan established a zoning vested right under N.C.G.S. Chapter 160D-108. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."

16.13.6. *Amendment***.** Amendment of vested rights certificate may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

SECTION 16.14. Zoning Text Amendment.

16.14.1. *Procedure*. The procedure for an amendment to the text of the official Zoning Ordinance of Scotland County shall include:

(a) Initiation of amendment and filing with the County Clerk.

(b) Planning Board review and recommendation.

(c) Hearing held by the Board of Commissioners.
(d) Board of Commissioners review and action.
(e) A written determination by the Board of Commissioners.

16.14.2. The details for the procedures above are outlined in Section 7.3 of this Ordinance - **PROCEDURE FOR TEXT OR ZONING MAP AMENDMENT (REZONING).**

SECTION 16.15. Inspections.

16.15.1. *Periodic Inspections*. The Zoning Administrator shall have the right, upon presentation of proper credentials, or inspection warrant, if necessary, to enter on any premises within the planning jurisdiction of Scotland County at any reasonable hour for the purposes of inspection, determination of plan compliance or other enforcement action.

16.15.2. *Investigations***.** The Zoning Administrator shall have the power to conduct such investigation as he may reasonably deem necessary to carry out his duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.

SECTION 16.16. Pre-Application Meeting with Administrative Staff.

Unless waived by the Zoning Administrator, a pre-application meeting is required for all business/commercial and industrial projects, triplex, quadraplex, and all other multi-family residential projects, all special use permit projects, all rezoning projects, vested rights certifications and any other project as determined by the Administrative staff. The meeting will include a non-binding and informal review of the development proposal and is intended to provide information to the applicant on the procedures and policies of the County. The meeting does not confer upon the applicant any development rights.

SECTION 16.17. – 16.25. Reserved.

ARTICLE 17 – VESTED RIGHTS AND MORATORIA

Table of Contents

17.1. VESTED RIGHTS AND PERMIT CHOICE 1
17.2. MORATORIUMS 6
17.3. – 17.5. RESERVED 7

17.1. VESTED RIGHTS AND PERMIT CHOICE

17.1.1. *Purpose*. The purpose of this Section is to ensure reasonable certainty, stability, and fairness in the development regulation process, secure the reasonable expectations of landowners, and foster cooperation between the public and private sectors in land-use planning and development. This purpose is based upon the General Assembly's recognition that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. The General Assembly has found that it is therefore necessary and desirable to provide for the establishment of certain vested rights. These provisions strike an appropriate balance between private expectations and the public interest.

Statutory Reference - § 160D-1014(a)

17.1.2. *Permit choice*. When an application made in accordance with local regulation is submitted for a development approval required pursuant to NCGS Chapter 160D-1014 and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. This section applies to all development approvals issued by the County. The duration of vested rights created by development approvals are as set forth in **Section 13.1.4.**

Statutory Reference - § 160D-1014(b)

17.1.3. *Process to claim vested right*. A person claiming a statutory or common law vested right may submit information to substantiate that claim on a form approved by the County Board of Commissioners to the Zoning Administrator who shall make an initial determination as to the existence of the vested right. The Zoning Administrator's determination may be appealed under G.S. 160D-405. On appeal the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-405(c).

Statutory Reference - § 160D-1014(c)

17.1.4. *Types and duration of statutory vested rights*. Except as provided by this section and subject to **Section 17.1.2**. of this section, amendments in local development regulations shall not be applicable or enforceable with regard to development that has been permitted or approved pursuant to this Article so long as one of the approvals listed in this Article remains valid and unexpired. Each type of vested right listed below is defined by and is subject to the limitations provided in this section and the cited statutes. Vested rights established under this section are not mutually exclusive. The establishment of a vested right under one Section does not preclude vesting under one or more other Sections or by common law principles.

(a) *Six months -- Building permits.* Pursuant to G.S. 160D-11-9, a building permit expires six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.

(b) *One year -- Other local development approvals.* Pursuant to G.S. 160D-4-3(c), unless otherwise specified by this section, statute, or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law.

(c) *Two to five years -- Site specific vesting plans.*

(i) Duration. A vested right for a site specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific vesting plan unless expressly provided by the County. The County may provide that rights regarding a site specific vesting plan shall be vested for a period exceeding two years, but not exceeding five years, if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. This determination shall be in the discretion of the County and shall be made following the process specified by **Section 17.1.4.(c)(4)** below for the particular form of a site specific vesting plan involved.

(ii) Relation to building permits. A right vested as provided in this Section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of G.S.160D-11-9 and G.S. 160D-11-13 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this Section exists.

(iii) Requirements for site specific vesting plans. For the purposes of this section a "site-specific vesting plan" means a plan submitted to the County which identifies with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: A planned unit development plan, a subdivision plat, a site plan,

a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as may be used by a local government.

(a) Unless otherwise expressly provided by the County, the plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.

(b) What constitutes a site specific vesting plan shall be defined by the relevant development regulation and the development approval that triggers vesting shall be so identified. At a minimum, the regulation shall designate a vesting point earlier than the issuance of a building permit. In the event the County fails to adopt a regulation setting forth what constitutes a site specific vesting plan, any development approval shall be considered to be a site specific vesting plan.

(c) A variance shall not constitute a "site specific vesting plan" and approval of a site specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site specific vesting plan.

(iv) *Process for approval and amendment of site specific vesting plans*. If a site specific vesting plan is based on an approval required by a local development regulation, the local government shall provide whatever notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site specific vesting established by this Section. If the site specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-6-2 shall be held.

(a) The County may approve a site specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights.

(b) The County shall not require a landowner to waive vested rights as a condition of developmental approval. A site specific vesting plan shall be deemed approved upon the effective date of the County's decision approving the plan or such other date as determined by the County Council upon approval.

(c)An approved site specific vesting plan and its conditions may be amended with the approval of the owner and the local government as follows:

(1) Any substantial modification must be reviewed and approved in the same manner as the original approval;

(2) Minor modifications may be approved by staff, if such are defined and authorized by local regulation.

17.1.5. *Seven years -- Multi-phase developments*. A multi-phased development shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multi-phased development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(a) For purposes of this Section, "multi-phased development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

17.1.6. *Indefinite -- Development agreements*. A vested right of reasonable duration may be specified in a development agreement approved under Article 10 NCGS Chapter 160D.

Statutory Reference - § 160D-1014(d)

17.1.7. *Continuing review*. Following approval or conditional approval of a statutory vested right, the County may make subsequent reviews and require approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

(a) The County may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

Statutory Reference - § 160D-1014(e)

17.1.8. *Exceptions*.

(a) A vested right, once established, precludes any zoning action by the County that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except:

(i) With the written consent of the affected landowner;

(ii) Upon findings, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a

serious threat to the public health, and safety, and welfare if the project were to proceed as contemplated in the approved vested right;

(iii) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the County together with interest as is provided in G.S. 160D-1-6. Compensation shall not include any diminution in the value of the property that is caused by such action;

(iv) Upon findings, after notice and an evidentiary hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the County to the vested right; or

(v) Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the approved vested right, in which case the County may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.

(b) The establishment of a vested right under this section shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.

(c) Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change or impair the authority of the County to adopt and enforce development regulation provisions governing nonconforming situations or uses.

Statutory Reference - § 160D-1014(f)

17.1.9. *Miscellaneous provisions*.

(a) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a vested right under this section, all successors to the original landowner shall be entitled to exercise such rights.

(b) Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that

a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

Statutory Reference - § 160D-1014(g)

17.1.10. *Vested Rights Certificate*. A Vested Rights Certificate allows an applicant with an approved and unexpired Site Plan, Subdivision Plan, or Final Plat to "vest" the plan or plat, in accordance with the ordinance. Such "vesting" allows development to continue on an approved plan even if certain deadlines are not met and/or there are code changes that might otherwise affect continued development of the property.

(a) An application for a Vested Rights Certificate may be filed concurrently or following approval of a Site Plan, Subdivision Plan, or Final Plat application in compliance with the regulations outlined in **Section 12.13** of this Ordinance**.**

17.2. MORATORIUMS

17.2.1. *Authority*. The County may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or ordinances as to development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

Statutory Reference – N.C.G.S. Chapter 160D-107(a)

17.2.2. *Hearing required*. Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance, a development regulation imposing a development moratorium with a duration of 60 days or any shorter period, the governing board shall hold a public legislative hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 160D-6-1.60.

Statutory Reference - N.C.G.S. Chapter 160D-107(b)

17.2.3. *Exempt projects.* Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. 160D-11-1461 is outstanding, to any project for which a conditional use permit application or special use permit application has been accepted as complete, to development set forth in a site-specific or phased development vesting plan approved pursuant to G.S. 160D-1-14, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or development approval, or to preliminary or final subdivision plats that have been accepted for review by the county local government prior to the call for public a hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the county local government prior to the call for public a hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium. Notwithstanding the foregoing, if a complete application

for a development approval has been submitted prior to the effective date of a moratorium, G.S. 160D-1-14(b) shall be applicable when permit processing resumes.

Statutory Reference - N.C.G.S. Chapter 160D-107(c)

17.2.4. *Required statements*. Any ordinance development regulation establishing a development moratorium must expressly include at the time of adoption each of the following:

(a) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the local government and why those alternative courses of action were not deemed adequate.

(b) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.

(c) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.

(d) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the county local government during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

Statutory Reference - N.C.G.S. Chapter 160D-107(d)

17.2.5. *Limit on renewal or extension.* No moratorium may be subsequently renewed or extended for any additional period unless the county local government shall have taken all reasonable and feasible steps proposed to be taken by the county in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (1) through (4) of this Section, including what new facts or conditions warrant the extension.

Statutory Reference - N.C.G.S. Chapter 160D-107(e)

17.2.6. *Expedited judicial review.* Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down scheduled for expedited immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such actions, the county local government shall have the burden of showing compliance with the procedural requirements of this Section.

Statutory Reference - N.C.G.S. Chapter 160D-107(f)

17.3. – 17.5. RESERVED

ARTICLE 18 – NON-CONFORMING SITUATIONS

Table of Contents

18.1 Purpose of Ordinance on Non-Conforming Situations 1
18.2 Non-Conforming Situations - General 1
18.3 Non-Conforming Lots 3
18.4 Non-Conforming Structures 3
18.5 Reconstruction After Casualty Damages 4
18.6 Non-Conforming Uses 5
18.7 Board of Adjustment and Non-Conformities 6
18.8 Nonconforming Signs 7
18.9. – 18.15. Reserved. 7

18.1 Purpose of Ordinance on Non-Conforming Situations

There exist uses of land, structures, lots of record, and signs that were lawfully established before this Ordinance was adopted or amended, that now do not conform to its terms and requirements. A nonconforming situation occurs when, on the effective date of this Ordinance, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matter as density and setback requirement) is not in conformity with this Ordinance, because signs do not meet the requirements of this Ordinance, or because land or buildings are used for purposes made unlawful by this Ordinance.

The purpose and intent of this article is to regulate and limit the continued existence of those uses, structures, lots of record, and signs that do not conform to the provisions of this Ordinance, or any subsequent amendments.

18.2 Non-Conforming Situations - General

18.2.1. **Applicability** - This Article applies to any nonconformity. There are four categories of nonconformities as defined below:

(a) *Nonconforming Lot(Land)*: A lot, parcel, or tract of land lawfully established prior to the adoption or amendment of the Zoning Ordinance that fails to meet all current

requirements for area, width, and/or configuration of the zoning district in which it is located.

(b) *Nonconforming Site Feature:* A feature, or absence of a feature, of a development site that was lawfully established before the adoption or amendment of the Zoning Ordinance.

(c) *Nonconforming Structure:* A structure lawfully established before the adoption or amendment of the Zoning Ordinance that no longer complies with all regulations applicable to the zoning district in which the structure is located.

(d) *Nonconforming Use:* A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable for the district in which the property is located. The term also refers to the activity that constitutes the use made of the property. The term includes any pre-existing structure, object of natural growth, or use of land or building that is inconsistent with the provisions of this Ordinance or an amendment thereto. Any use or structure not established legally at the time, it shall be considered a violation of this Ordinance and is not a nonconformity.

(Ord. 7/7/2003, Section 22)

18.2.2. **Continuation of Nonconformities**

(a) On or after the effective date of this Ordinance, a nonconformity that was lawfully operated, established, or commenced in accordance with the provisions of all ordinances, statutes, or regulations in effect at that time may continue subject to this Article.

(b) For the purpose of determining whether a right to continue nonconformity is lost pursuant to this subsection, all of the structures, activities and operations maintained on a lot are generally to be considered as a whole. For instance, the discontinuance of a small portion of a nonconforming use for a reasonable or limited period of time, such as the temporary vacancy of a single manufactured home in a nonconforming manufactured home park, would not require the entire park to be discontinued.

(Ord. 7/7/2003, Section 22)

18.2.3. **Minor Repairs and Maintenance**

(a) Minor repairs and normal maintenance that are required to keep nonconforming uses, structures, lots of record, and signs in a safe condition are permitted, provided the minor repair or maintenance does not extend, expand, or enlarge the nonconforming aspect. For the purposes of this section, "minor repair or normal maintenance" shall mean:

(i) **Maintenance of Safe Condition** - Repairs that are necessary to maintain a nonconforming use, structure, lot of record, or sign in a safe condition; and

(ii) **Maintenance of Land for Safety** - Maintenance of land areas to protect against health hazards and promote the safety of surrounding uses.

18.2.4. **Changes in Tenancy**

(a) No change of title, possession, or right to possession of property, whether that property is real estate or an improvement to the real estate, structure or use, involved shall be construed to prevent the continuance of a nonconforming use.

18.3 NON-CONFORMING LOTS

18.3.1. Nonconforming lots may be used for any permitted use allowed in the zoning district in which they are located.

18.3.2. The Zoning Administrator may relax setback requirements up to thirty percent (30%) for permitted structures on a nonconforming lot.

18.3.3. A lot of record reduced to less than the required area, width, and/or setback dimensions of the zoning district in which it is located as the result of a condemnation or purchase by a Local, County, State, or Federal Government Agency becomes a nonconforming lot of record.

(Ord. 7/7/2003, Section 22)

18.4 NON-CONFORMING STRUCTURES

18.4.1. **Continuance of Nonconforming Structures**

(a) Nonconforming structures may be occupied, operated and maintained in a state of good repair subject to all limitations in this Section and the provisions of Section 18.4.4. (Exception for Repairs Pursuant to Public Order), but no nonconforming structure may be enlarged or extended except as allowed by this

18.4.2. **Enlargement, Expansion, And Replacement**

(a) A nonconforming structure may be enlarged, expanded, or replaced provided it can be made in compliance with all of the provisions of this Ordinance. The enlargement, expansion, or replacement of a nonconforming structure is permitted provided it does not increase the degree of nonconformity. For example, a back porch or addition could be added when the non-conformity is failing to meet the front setback.

(b) Manufactured homes within a nonconforming manufactured home park may be replaced with the appropriate permits.

(c) A nonconforming manufactured home can only be replaced by another manufactured home pursuant to the issuance a Special Use Permit in accordance with Article 6.

(Ord. 7/7/2003, Section 22)

18.4.3. **Termination of Legal Nonconforming Status of Structures**

(a) The right to occupy and maintain a nonconforming structure terminates and ceases to exist whenever the structure:

(i) Is damaged in any manner and from any cause, except natural disasters, where the cost of repairing the damage exceeds fifty percent (50%) of the current assessed tax value of structure; or

(ii) Becomes obsolete or substandard under any applicable County Ordinances or North Carolina State Law as determined by the proper County official, and where the cost of bringing the structure into compliance exceeds fifty percent (50%) of the current assessed tax value of structure.

(b) The Applicant shall engage a qualified professional to estimate the cost of repairs or otherwise bringing a structure into compliance with applicable codes and this report shall be provided to the Zoning Administrator in writing. The cost of land or any other factors other than the nonconforming structure itself will not be included in determining the replacement cost.

18.4.4. **Exception for Repairs Pursuant to Public Order**

(a) Nothing in this Section will be deemed to prevent the strengthening or restoration of a structure to a safe condition in accordance with an order of a public official charged with protecting the public safety, provided the restoration is not otherwise in violation of the various provisions of this Section prohibiting the repair, restoration of partially damaged or destroyed structures.

(b) **Replacement of Manufactured Homes.** Nonconforming Class B or C manufactured homes may be replaced by a Class A manufactured home, or another nonconforming Class B manufactured home, provided:

(i) The replacement nonconforming Class B manufactured home has a larger habitable floor area or newer construction date than the nonconforming manufactured home being replaced.

18.5 RECONSTRUCTION AFTER CASUALTY DAMAGES

18.5.1. **Destruction or Damage Beyond 50 Percent of Value**

(a) In the event any nonconforming use is damaged or destroyed, by any means, to an extent more than 50 percent of its replacement value at the time of damage or destruction, it shall only be restored in a manner that conforms with the provisions of this Ordinance except as outlined in subsections (d) and (e) below.

(b) New construction (including the establishment of off-street parking, landscaping, signs, and other site features) shall be in accordance with the requirements of this Ordinance.

(c) A lawfully nonconforming multifamily residential structure located in a residential zoning district, if damaged or destroyed, by any means, to an extent more than 50 percent of its replacement value at the time of damage or destruction, shall be eligible for reconstruction to its prior level of density if a Building Permit for such restoration is obtained within six months of the casualty damage, and repair is actually begun within 12 months after the date of such damage or destruction and is diligently pursued to completion.

(d) Such structures may be reconstructed to their previous form and location under the following circumstances, as applicable:

(i) A single multifamily structure has been damaged or destroyed.

(ii) The structures are duplex, triplex or quadraplex housing types.

(iii) The structures contain five or more units, are part of a larger complex of similar structures and not more than 50 percent of the total number of principal structures within the complex have been damaged or destroyed to an extent more than 50 percent of their replacement value.

(iv) Conforming buffers are established prior to issuance of the Building Permit(s).

(e) Manufactured Homes Class A, B, or C which are damaged or destroyed by any means to an extent more than 50% of the replacement value of the homes at the time of damage may only be replaced if the manufactured home is a conforming use on a conforming lot. No Class C manufactured homes shall be replaced by another Class C home. Class B manufactured homes shall be replaced by a Class A home or a Class B home with a larger habitable floor space or newer construction date than the nonconforming manufactured home being replaced.

18.5.2. **Damage of 49 Percent or Less of Value.**

(a) In the event a structure housing a nonconforming use is damaged or destroyed, by any means, to an extent of 49 percent or less of its replacement value at the time of damage or destruction, it may be re-built to its previous form if a Building Permit for such repair or restoration is obtained within 180 days of the casualty damage, and repair or restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.

(b) In no event shall repair or restoration increase, expand, or enlarge the degree of nonconformity.

18.6 NON-CONFORMING USES

18.6.1. **Expansion or Enlargement**

(a) Conforming structures in which a nonconforming use is operated may not be enlarged or extended except as required by law or this Ordinance.

(b) A nonconforming use may be extended throughout any portion of a current existing structure. A nonconforming use may not be extended to additional structures or land outside the original structure.

(c) The volume, intensity, or frequency of use of the property where a nonconforming use exists may be increased, and the equipment or processes used at the location may be changed, if these amount only to changes in the degree of activity rather than changes of use, and no violations of this Ordinance occur.

(d) Nonconforming uses of open land may not be extended to cover more area than was occupied by the use when it became nonconforming. A use involving removal of natural material from the lot (e.g., a sand pit) may be expanded to the boundaries outlined by their permit from the State of North Carolina.

(e) The spaces within a nonconforming manufactured homes park may not be increased except by a Special Use Permit. Manufactured homes within a nonconforming manufactured home park may be replaced with appropriate permits.

18.6.2. **Change of Use**

(a) Any nonconforming use may be changed to a conforming use provided the site shall comply with all other development standards for the use.

18.6.3. **Abandonment and Termination of Nonconformities**

(a) Any future use of a property where a nonconformity exists must be brought into compliance with the provisions of this Ordinance if the nonconformity is abandoned or terminated for twenty-four (24) or more consecutive months.

(b) Any of the following specific acts immediately terminates nonconformity:

(i) Changing a nonconformity to conform to the requirements of this Ordinance. This type of termination applies only to the nonconforming use existing prior to the change;

(ii) Abandonment of a nonconformity for a period of twenty-four (24) or more consecutive calendar months, or more; or

(iii)A violation of this Ordinance.

18.7 BOARD OF ADJUSTMENT AND NON-CONFORMITIES

18.7.1. Except as allowed elsewhere in this Article, no person may engage in any activity causing an increase in the extent of a nonconformity.

18.7.2. Property owners seeking approval to expand or enlarge a nonconforming use or structure shall make application to the Board of Adjustment for such expansion or enlargement.

18.7.3. The Board of Adjustment shall hear and consider such requests in the same manner as a Special Use Permit application.

18.7.4. The Board of Adjustment in approving an application shall, in addition to those findings necessary for the issuance of a Special Use Permit, find whether the proposed alteration,

expansion, change, or rebuilding of the non-conforming use will have a substantial adverse impact upon adjacent properties, the neighborhood, or the public.

18.7.5. The Board of Adjustment may impose any reasonable conditions, standards, or safeguards to mitigate any potential hazards or problems of the application.

18.8 NONCONFORMING SIGNS

18.8.1. **Conformance Required.** Any sign legally in use prior to the effective date of this Ordinance which does not satisfy the requirements of this Ordinance is declared nonconforming and such sign shall either be brought into conformity with the provisions of this Ordinance or amortized under Section 18.7.2 The eventual elimination, as expeditiously and fairly as possible, of nonconforming signs is as much a subject of health, safety, and welfare as is the regulation of new signs.

18.8.2. **Nonconforming and Prohibited Sign Removal Schedule.** All nonconforming and prohibited signs not found in compliance with the requirements of this Ordinance shall be brought into compliance with the requirements of this Ordinance or removed entirely, including the entire sign and any associated components or equipment, no later than the compliance date shown in the Table 18-1 below.

Table 18-1
Nonconforming Sign Compliance Schedule

SIGN TYPE	TIMEFRAME
Signs allowed without a permit in all zoning districts	6 months
Permanent signs that exceed the maximum copy area and/or maximum height requirements of this article	2 years
Permanent signs not permitted in the zoning district in which they are located	2 years

18.8.3. **Nonconforming Off-Premises Advertising Signs.** Off-Premises advertising signs (such as billboards) shall be subject to the regulations contained in Article 10.

18.9. – 18.15. RESERVED.