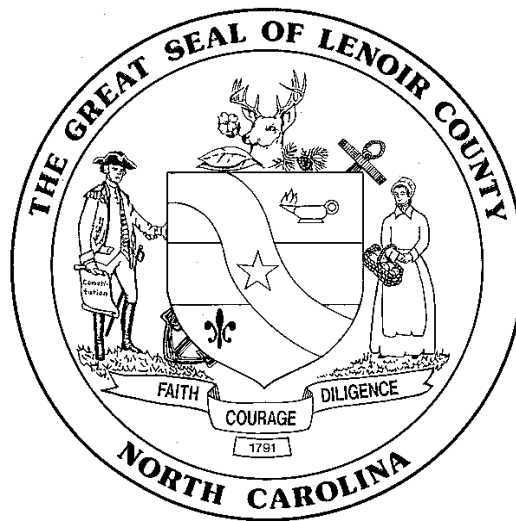


Zoning Ordinance

Lenoir County, NC



August 16, 2004
Amended: April 19, 2021

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LENOIR COUNTY, NORTH CAROLINA

ARTICLE I PURPOSE AND AUTHORITY

An Ordinance establishing zoning regulations in Lenoir County, North Carolina, and providing for the administration, amendment and enforcement of the Ordinance and providing for and defining the duties and powers of the Planning Board in accordance with the provisions of North Carolina General Statutes Chapter 160D, and for the repeal of all ordinances in conflict herewith.

1.1 Purpose

The purpose of this Zoning Ordinance shall be to promote the health, safety, morals and the general welfare by regulating the uses of buildings, structures and land for trade, industry, residence, recreation, public activities or other purposes except farming. The size of yards, courts and other open spaces; the location, height, number of stories, size of buildings and other structures; the percentage of lot that may be occupied and the density and distribution of population shall be regulated. Districts shall be treated and boundaries established for said purposes; and certain terms used in the Ordinance defined; and penalties provided for violation of this Ordinance, and for other purposes.

1.2 Authority and Enactment Clause

The Board of County Commissioners of Lenoir County, North Carolina, pursuant to the authority granted by Chapter 160D of the General Statutes of North Carolina, does hereby ordain and enact into law the following Articles and Sections. This Ordinance is not intended 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.

1.3 Short Title

This Ordinance shall be known as *The Zoning Ordinance of Lenoir County, North Carolina* and may be cited as the Zoning Ordinance.

1.4 Jurisdiction

The provisions of this Ordinance shall apply throughout the County except in areas subject to municipal planning and development regulation jurisdiction. This Ordinance may be exercised within the planning and development regulation jurisdiction of a municipality, upon adoption of a formal resolution by the municipality's governing board requesting same and upon adoption of a formal resolution of the Board of County Commissioners agreeing to such exercise. The Board of County Commissioners reserves the right to decline, for any or no reason, the exercise of any Article of this Chapter within the planning and development regulation jurisdiction of a municipality and further reserves the right to revoke such exercise at any time upon adoption of a formal resolution to such effect, provided that notice of such revocation shall be provided to the relevant municipality upon two years' written notice.

The provisions of this Ordinance shall not affect property used for bona fide farm purposes; provided, however, that this Ordinance shall apply to the use of farm property for nonfarm purposes. The provisions of GS 160D-903 shall control whether the use of property is for “bona fide farm purposes,” and the provisions of such section are incorporated herein by reference as if set forth herein verbatim.

1.5 Effective Date and General Prohibition

This Ordinance shall take effect and be in force from and after its adoption by the County Commissioners of the County of Lenoir, North Carolina, this 3rd day of February 2003.

No person shall commence or proceed with development without first securing approval from the County as herein provided. An approval made pursuant to this Ordinance attaches to and runs with the land.

1.6 Interpretation of District Boundaries

When uncertainty exists with respect to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1.6.1 Delineation of Boundary Lines. District boundary lines are generally intended to be along or parallel to property lines, lot lines, the center line of streets, alleys, railroads, easements, other rights of way, and creeks, streams or other water channels. In the absence of specified distances on the map, dimensions or districts shall be determined by scaling the distance on the Official Zoning Map. Where a district boundary line divides a lot which was a single ownership at the time of passage of this Ordinance, the Planning Board may permit the extension of the regulations for either portion of the lot.

1.6.2 Planning Board Interpretation of District Boundaries. When the street or property layout existing on the ground is at variance with that shown on the official Zoning Map, the Planning Board shall interpret the district boundaries of this Ordinance.

1.6.3 Annexation. When a city annexes, or a city extends its jurisdiction to include, an area that is currently being regulated hereunder by the County, this Ordinance 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 or extension, 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.

1.7 Interpretation of Regulations

Regulations of this Ordinance shall be enforced and interpreted according to the following rules:

1.7.1 Permitted Uses. Uses not designated as permitted uses shall be prohibited.

1.7.2 Minimum Requirements. The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity or the general welfare.

1.7.3 Application of Certain Terms.

(a) "Written" or "in writing" is deemed to include electronic documentation.

(b) 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.

1.8 Conflict with Other Regulations

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 or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

Chapter 160D of the North Carolina General Statutes is applicable to this Chapter. In the event of any conflict between this Ordinance and Chapter 160D, the provisions of Chapter 160D shall control.

1.9 Severability of Ordinance

If for any reason one or more parts of this Ordinance are held invalid by the courts, such judgment shall not affect the remaining provisions of this Ordinance. The Board of Commissioners hereby declares that it would have passed this Ordinance and each section thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

1.10 Remedies

A violation of this Ordinance may be enforced as follows:

- (a) Notices of Violation. - When staff determines work or activity has been undertaken in violation of this Ordinance or any approval issued hereunder, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the approval and to the landowner of the property involved, if the landowner is not the holder of the 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. The notice of violation may be posted on the property. 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. A notice of

violation may be appealed to the Planning Board, and the Planning Board shall follow quasi-judicial processes as set forth in 11.4.4 below .

- (b) Stop Work Orders. - Whenever any work or activity subject to regulation pursuant to this Ordinance 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. 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. A copy of the order shall be delivered to the holder of the subdivision approval and to the owner of the property involved (if that person is not the holder of the subdivision approval) by personal delivery, electronic delivery, or first-class mail. 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. A stop work order may be appealed to the Planning Board, and the Planning Board shall follow quasi-judicial processes as set forth in 11.4.4 below. 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.
- (c) Remedies. – This Ordinance may be enforced by any remedy provided by G.S. 153A-123. 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 this Ordinance, 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.
- (d) Revocation of Development Approvals. - Development approvals may be revoked by the County by notifying the holder in writing stating the reason for the revocation. 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. 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 County 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. The revocation of a development approval by a staff member may be appealed pursuant to Section 10.6 herein. If an appeal is filed regarding a development regulation adopted by the County pursuant to Chapter 160D, the provisions of Section 10.6 herein regarding stays apply.

ARTICLE II INTERPRETATIONS AND DEFINITIONS

2.1 Interpretation of Ordinance - Minimum Requirements, Greater Restrictions Govern

In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements and deemed neither to limit nor repeal any other powers granted under state statutes. 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 provisions 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 Word and Term Interpretations

Words not defined in this Ordinance shall be given their ordinary and common meaning.

2.2.1 Words used in the present tense include the future tense, and words used in the future tense include the present tense.

2.2.2 Words used in singular number include the plural and words used in the plural number include the singular, unless the context of the particular usage clearly indicates otherwise.

2.2.3 The word "person" includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual.

2.2.4 The word "lot" includes the word "plot" or "parcel".

2.2.5 The word "building" includes the word "structure".

2.2.6 The word "shall" is always mandatory and not merely directory.

2.2.7 The word "may" is permissive.

2.2.8 The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied".

2.2.9 The term "zoning map" or "Official Lenoir County Zoning Map" shall mean the official zoning map(s) of Lenoir County, North Carolina.

2.2.10 The term "Planning Board" shall mean the Zoning Board of Lenoir County, North Carolina.

2.3 Word and Term Definitions

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this article shall have the meanings herein set forth when used in this Ordinance. If a word or phrase used in this Ordinance is not defined by this article or elsewhere in this Ordinance, to the extent such word or phrase is defined in chapter 160D, that definition shall control.

Accessory Building. Any detached minor building in the rear of the main building consisting of masonry, metal or frame walls and roof, one (1) or two (2) stories in height used as an adjunct to the use of a principal building.

Accessory Use. A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Adult/Sexually Oriented Business. any business activity, club or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specific anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but not limited to; adult arcades, adult bookstores, adult motion picture theaters, adult theaters, massage parlors, and/or adult video rental/sale stores.

ALL Adult/Sexually Oriented Businesses must also comply with Lenoir County's Sexually Oriented Business Ordinance.

Alley. A roadway which affords only a secondary means of access to abutting property and not intended for general traffic circulation and not less than sixteen (16) feet wide.

Alterations. The word "alteration" shall include any of the following:

- A. Any addition to the height or depth of a building;
- B. Any change in the location of any of the exterior walls of a building; or
- C. Any increase in the interior accommodations of a building.

Apartment. A room or suite of one (1) or more rooms in a multi-family dwelling intended for use as a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

Automobile Service Station or Filling Station. A building or other structure or a tract of land where gasoline or other similar fuel, stored in tanks, is dispensed directly to users of motor vehicles. The following activities are permitted as accessory uses to a service or filling station: the dispensing of oil, grease, antifreeze, tires, batteries, and automobile accessories directly to users of motor vehicles; tuning motors, minor wheel and brake

adjustment, waxing and polishing and other minor servicing and repair including welding to the extent of installation of the items listed above; washing of automobiles, provided that no chain conveyor, blower, steam cleaner, or other mechanical device is employed, but such activities are permitted under the car wash category. All other activities shall be prohibited, including, but not limited to, upholstering work, auto glass work, painting, tire recapping, auto dismantling and auto sales, but such activities are permitted under the Automobile and small truck repair and/or body work categories.

Airport Hazard. Any structure, tree or use of land, which obstructs the airspace, required for or is otherwise hazardous to the flight of aircraft landing or taking off at the airport.

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

Boarding House. A dwelling, or portion thereof, which contains rooms, provided by the owner or operator, which are designed to be used or intended to be used, let or hired out for occupancy to more than three (3) persons, whether compensation be paid directly or indirectly. By definition boarding house includes guest house or rooming house.

Bona Fide Farm. The use of property as set forth in G.S. 160D-903.

Buffer (or Buffer Strip). A solid fence or wall, or a planted strip which shall be established and maintained in perpetuity by the owner of property when a buffer is required.

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

Building, Principal. A building in which is conducted the principal use of the lot on which said building is situated.

Certificate of Occupancy. A statement, signed by an administrative officer of the County, setting forth that the building, structure or use complies with this Ordinance and that the same may be used for the purposes stated therein.

Certificate of Zoning Compliance. A statement, signed by the Zoning Enforcement Officer or his/her designee, setting forth either that a building or structure complies with the provisions of this Ordinance, or that a building, structure, or parcel of land may lawfully be employed for specified uses, or both.

Convenience Store. A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a supermarket). Items offered for sale may also include automobile and small truck fuel sales. This use is designed and intended to attract and depend upon a large volume of 'stop and go' traffic.

County Commission. The Board of County Commissioners of Lenoir County, North Carolina.

Dangerous to Others. When an individual, within his/her relevant past, has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerous to others [N.C.G.S. 122C-3(11) b]

Developmentally Disabled Person. A person who has a severe or chronic disability attributed to mental or physical impairment or a combination thereof, resulting in substantial functional limitations in life activities. Such limitations may affect the person's ability to self care, utilize receptive and expressive language, learn, be mobile, self-direct, live independently, or be economically self-sufficient. Such persons may require a combination or sequence of special, interdisciplinary, or genetic care, treatment, or other services which are lifelong or extended duration and are individually planned and coordinated.

Dwelling or Dwelling Unit. 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. Units in dormitories, hotels, motels, shelters for the homeless, or other structures designed for transient residents are not dwelling units.

Dwelling, Accessory Use. A dwelling, either detached or attached, located on the same lot as the principal single family dwelling unit.

Dwelling, Caretaker. An accessory dwelling used as a residence by an on-site caretaker to provide security for a business or industrial principal use.

Dwelling, Single-Family. A building arranged or designed to be occupied by one (1) family.

Dwelling, Two-Family. A building arranged or designed to be occupied by two (2) families living independently of each other.

Dwelling, Multi-Family. A building or portion thereof used or designed as a dwelling for three (3) or more families living independently of each other with separate housekeeping and cooking facilities for each, and including apartments and apartment hotels.

Family. One or more persons occupying a dwelling unit and living as a single household.

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. For purposes of this definition, “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.

Freeway. A divided arterial highway for through traffic with full control of access.

Firing Range. Firing range or clubs involving the use of firearms except that the temporary activity known as a “turkey shoot” shall not be considered a firing range.

Frontage. All the property abutting on one (1) side of a street between two (2) intersecting streets, measured along the street line.

Gross Floor Area. The interior floor area of a building exclusive of stairways, storage closets, and elevator shafts.

Group Care Facility. A facility licensed by the State of North Carolina, providing 24-hour supervision for the custodial care of physically or developmentally disabled children and adults but not including Family Care Home as provided for in N.C.G.S. 168-20 through 168-23. A Group Care Facility shall be limited to a Commercial Zoning District only and not more than thirty (30) persons. Group Care Facilities may include supervised living facilities and residential treatment facilities that primarily provide therapy for juveniles adjudicated as delinquent. All applications for permits shall be accompanied by a map showing the nearest existing Group Care Facility, Residential Treatment Facility, or Family Care Home, with the certification that the proposed Group Care Facility will be located no closer to them than one (1) mile, a description of the type of persons to be cared for and the nature of the care to be provided, and plans for proposed structural alterations to existing structures or new construction, including a complete description of the nature and extent of these alterations or new construction. The Special Use Permit shall be revocable with the loss of State licensure, or if the property is vacated or its use discontinued, regardless of the intent of the owner, for greater than 180 days. The licensee shall apply for a review before the Lenoir County Planning Board at least thirty (30) days prior to any proposed change in the management or operation of the facility. If the Board deems that the change will substantially alter the impact of the treatment facility on surrounding properties, or that any of the original conditions are not met by the proposed management or operation, then the Board shall make such findings in an amendment, repeal, or issuance of a new Special Use Permit, as applicable. The owner of any unlicensed Group Care Facility in operation on August 16, 2004 (the date of the

enactment of this amendment) that is made nonconforming by this Ordinance may continue its use while following the procedures to attain compliance with this Ordinance for up to one hundred and eighty (180) days from its adoption. After that date, the property owner of any unlicensed unit or home determined to be in operation for which no application has been filed shall be notified by certified mail or personal service by the zoning administrator or his designee of the violation. The notice shall allow the owner no greater than thirty (30) days within which to either file the appropriate application for permit or to discontinue the use. Enforcement remedies shall be applied as outlined in Article X of this Ordinance. Existing Group Care Facility shall be exempt from the required separation distances for the initial permit only and all provisions herein shall be applicable to any subsequent review.

Handicapped Person. A person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments but not including mentally ill persons who are dangerous to others as defined in N.C.G.S. 122C-3(11) b. Each handicapped person shall have the same right as any other citizen to live and reside in residential communities, homes, and Group Care Facilities, and no person or group of persons, including governmental bodies or political subdivisions of the State, shall be permitted, or have the authority, to prevent any handicapped person, on the basis of his or her handicap, from living and residing in residential communities, homes, and Group Care Facilities on the same basis and conditions as any other citizen (N.C.G.S. 168-9).

Home Occupation. An accessory use of a dwelling unit for gainful employment or supplemental income purposes which is clearly incidental and subordinate to the use of the dwelling as a residence and which does not alter or change the exterior residential character or appearance of the premises except for compliance with appropriate provisions of the North Carolina State Building Code and the Americans with Disabilities Act as they relate to building accessibility for the handicapped.

Juvenile Adjudicated as Delinquent. A minor, less than 18 years of age, who has, through the criminal justice system, been determined to have committed offenses or violations of law. Such persons may be subject to, or court ordered to participate in, varying degrees of therapy, treatment, or behavior modification, including specialized living situations and/or incarceration.

Junk/Salvage Yard. The use of more than six hundred (600) square feet of any lot for the storage, keeping or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. **ALL Junk/Salvage Yards must also comply with Lenoir County's Junkyard and Automobile Graveyard Ordinance.**

Kennel, Commercial. Any building, structure, or land area used, primarily for sale or profit or for humane purposes, for the boarding, breeding, training, showing, or raising of five (5) or more dogs, cats or other animals four (4) months of age or older. This

definition shall not apply to dogs or cats owned by an individual or club where such animals are kept on a lot of five (5) or more acres and provided that any structures built for keeping of such animals are located one hundred (100) feet or more from the nearest adjacent dwelling and fifty (50) feet or more from any adjoining property. Pet shops and veterinary hospitals shall be exempt from the definition of commercial kennel.

Landfill, Construction and Demolition Debris. A sanitary landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes as approved by the NC Division of Solid Waste Management.

Landfill, Land Clearing. A facility for the land disposal of solid waste that is generated solely from land clearing activities including stumps, trees, limbs, brush, grass and other naturally occurring vegetative material wastes.

Landfill, Sanitary. A facility for disposal of solid waste on land in a sanitary manner in accordance with NC GS 130A-290.

Lenoir County Future Land Use Plan. A comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the County. This plan is intended to guide coordinated, efficient, and orderly development within the planning and development regulation jurisdiction of the County based on an analysis of present and future needs. Such planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. This plan addresses many of the factors set forth in GS 160D – 501(b), and future updates to such plan may address any or all of the factors therein described. Amendments to the Land Use Plan shall follow the process mandated for the adoption of zoning text amendments set forth in Section 12.1 below. All zoning regulations shall be made in accordance with the Land Use Plan.

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 Area. The total area circumscribed by boundaries of a lot except that when the legal instrument creating a lot shows the boundary of the lot extending into a public road or private right-of-way, then the lot boundary for purposes of computing the lot area shall be the road right-of-way line, or if the road right-of-way line cannot be determined, a line running parallel to and thirty (30) feet from the center of the traveled portion of the road.

Lot Depth. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

Lot Line, Front. The boundary line of a lot running along a road right-of-way. If a lot has two property lines which are also road right-of-way lines abutting different roads, then the shorter of those two lines shall constitute the front lot line; if both lines are equal,

the front lot line shall be determined by the property owner if the front property line has not been designated on a final plat (minimum building lines are construed to designate the front lot line).

Lot Lines. The lines bounding a lot.

Lot of Record. A lot, plot, parcel, or tract recorded in the Office of the Lenoir County Register of Deeds in conformance with the Ordinance(s) in effect at the time of recordation or a lot described by metes and bounds, the description of which has been recorded prior to the adoption of this Ordinance.

Lot Width. The horizontal distance between the side lot lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Low Volume Traffic Generation. Uses such as furniture stores, carpet stores, major appliance stores, etc. that sell items that are large and bulky, that need a relatively large amount of storage or display area for each unit offered for sale, and that therefore generate less customer traffic per square foot of floor space than stores selling smaller items.

Manufactured Home. A structure as defined in G.S. 143-145(7) as which is 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 semipermanent 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 semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width,

Manufactured Home, Class A. A manufactured home that:

- (i) is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended;
- (ii) is not dated prior to 1976;

- (iii) has all windows and doors intact and in working condition;
- (iv) is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the dwelling site on its own chassis;
- (v) meets or exceeds the construction standards of the U. S. Department of Housing and Urban Development; and
- (vi) conforms to the following appearance criteria:
 - A. The dwelling unit has a minimum width, as assembled on site, of twenty (20) feet;
 - B. The roof pitch of the dwelling unit has a minimum vertical rise of three (3) inches for each twelve (12) inches of horizontal run and the roof is finished with asphalt or fiberglass shingles;
 - C. Continuous, permanent curtain wall, unpierced except for required ventilation and access, is installed under the dwelling unit; and
 - D. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

Manufactured Home, Class B. Any manufactured home that does not meet the definitional criteria of a Class A manufactured home but which, at a minimum, exceeds forty (40) feet in length and eight (8) feet in width. [Manufactured homes that do not meet the definitional criteria of Class A or B manufactured homes are classified as recreational vehicles. See definition of Recreational Vehicle.]

Manufactured Home Park. any site or tract of land upon which are located three or more contiguous manufactured housing spaces to be occupied for dwelling purposes.
ALL Manufactured Home Parks must also comply with Lenoir County's Manufactured Housing Park Ordinance.

Manufactured Home Space. A designated area of land within a manufactured home park designed for the accommodation of a single manufactured home in accordance with the requirements of this Ordinance.

Migrant Labor Housing. A farm accessory use where single family dwellings or manufactured homes are used as temporary housing for migrant farm laborers.

Mining. The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process

constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and 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; but shall not include those aspects of deep mining not having significant effect on the surfaces, and shall not include excavation or grading when conducted solely in aid of on site farming or construction. This definition shall not apply to mining operations on one acre or less.

Modular Home. A structure as defined in G.S. 105-164.3(143) as a factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, and bears a seal or label issued by the Department of Insurance pursuant to G.S. 143-139.1..

Nonconforming Use. A structure or land lawfully occupied by an existing use which does not conform with the permitted uses for the zoning district in which it is situated, either at the effective date of this Ordinance, or as a result of subsequent amendments to this Ordinance.

Physically Disabled Person. A person with any physical impairment that substantially limits one or more of such person's major life activities. Such impairments may include, but are not limited to, any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin and endocrine.

Planned Unit Development. A housing project with dwelling units grouped into clusters, an appreciable amount of land reserved for open space, and part of the land used for nonresidential purposes and higher densities than conventional single-family projects.

Planning Board. A quasi-judicial body, appointed by the County Board of Commissioners, that is given certain powers under this Ordinance, established pursuant to G.S. 160D-301.

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 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.

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 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.

Recreational Vehicle. A vehicle which is built on a single chassis, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

Residential Treatment Facility. A facility that primarily provides 24-hour supervision and Level I, II, III therapeutic treatment as licensed by the North Carolina Department of Health and Human Services for adults or children with behavioral disorders, or juveniles adjudicated in a court of law as delinquent. Residential Treatment Facilities are allowed by Special Use Permit in a Commercial Zoning District only. In addition to satisfying the prescribed requirements and criteria for a Special Use Permit, the following documentation shall accompany the application in order to be considered complete:

- 1) The proposed facility is located no less than one (1) mile from any existing Residential Treatment Facility, Group Care Facility, or Family Care Home.
- 2) A description of the type of persons to be cared for and the nature of the care to be provided.
- 3) Plans for proposed structural alterations to existing structures or new construction, including a complete description of the nature and extent of these alterations or new construction.
- 4) Licensure of the applicant. If unlicensed, the applicant shall have the ability to obtain and provide documentation showing that he/she is in the process of obtaining a license from the North Carolina Department of Health and Human Services.
- 5) Empirical data demonstrating a need for the facility.
- 6) The facility shall house no more than six (6) clients.
- 7) The status of residents for which the facility is to provide treatment (i.e. – “the facility is intended to provide treatment for juveniles adjudicated as delinquent”, etc.)
- 8) Provision for one (1) parking space for each six (6) patient beds, one (1) for each staff or visiting doctor, and one (1) space for each four (4) employees.

The Special Use Permit shall be revocable with the loss of State licensure, or if the property is vacated or its use discontinued, regardless of the intent of the owner, for

greater than 180 days. The licensee shall apply for a review before the Lenoir County Planning Board at least thirty (30) days prior to any proposed change in the management or operation of the facility. If the Board deems that the change will substantially alter the impact of the treatment facility on surrounding properties, or that any of the original conditions are not met by the proposed management or operation, then the Board shall make such findings in an amendment, repeal, or issuance of a new Special Use Permit, as applicable. The owner of any unlicensed Residential Treatment Facility in operation on August 16, 2004 (the date of enactment of this amendment) that is made nonconforming by this Ordinance may continue its use while following the procedures to attain compliance with this Ordinance for up to one hundred and eighty (180) days from its adoption. After that date, the property owner of any unlicensed unit or home determined to be in operation for which no application has been filed shall be notified by certified mail or personal service by the zoning administrator or his designee of the violation. The notice shall allow the owner no greater than thirty (30) days within, which to either file the appropriate application for permit or to discontinue the use. Enforcement remedies shall be applied as outlined in Article X of this Ordinance. Existing Residential Treatment Facility shall be exempt from the required separation distances for the initial permit only and all provisions herein shall be applicable to any subsequent review.

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. The term includes permits previously referenced to as conditional use permits or special exceptions.

Structure. Anything constructed, erected, or placed.

Subdivision.

The division of land for the purpose of sale or development as specified in G.S. 160D-802.

All subdivisions of land must also comply with Lenoir County's Subdivision Ordinance.

Supervised Living Facility. A facility providing a structured living environment for developmentally disabled adults or children within the context of a residential setting. Supervision may vary from full time to part time depending on the severity of the developmental disability.

Total Retail Space. Any space within a structure that is used for the direct sale of merchandise to the public and storage areas for those items.

Transfer facility. A permanent structure with mechanical equipment used for the collection or compaction of solid waste prior to transportation for final disposal.

Use. The purpose for which land or a building or structure is arranged, designed or intended, or for which either land or a building or structure is, or may be, occupied or maintained.

Use, Principal Permitted. A use which is permitted outright in a district for which a Zoning Permit may be issued by the Zoning Enforcement Officer.

Variance. A modification of the requirements of this Ordinance as described in 11.4.1 below.

Zoning Map. The Official Zoning Map of Lenoir County, North Carolina, dated February 3, 2003, with all amendments subsequently adopted and filed in the office of the Lenoir County Zoning Enforcement Officer.

ARTICLE III GENERAL PROVISIONS

The regulations set forth in this Ordinance affect all land, every structure and every use of land or structure within all areas zoned by Lenoir County.

3.1 New Uses or Construction

No person shall commence or proceed with development without first securing approval from the County as herein provided. As defined in GS 160D-102(12), “development” means any of the following:

- 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.

3.2 Conforming Uses

After the effective date of this Ordinance, land or structures, or uses of land or structures which conform to the regulations for the zoning district in which the use or structure is located may be continued, provided that any structural alteration or change in use shall conform with the regulations herein specified.

3.3 Nonconforming Lots, Uses and Structures

After the effective date of this Ordinance, pre-existing structures or uses of land or structures which would be prohibited under the regulations for the zoning district in which the use is located shall be considered as nonconforming. Nonconforming structures or uses may be continued provided they conform to the following provisions:

3.3.1 Reserved

3.3.2 Reserved

3.3.3 Extension of Nonconforming Uses. Nonconforming uses shall not hereafter be enlarged or extended in any way.

3.3.4 Change of Nonconforming Uses. A nonconforming use shall not be changed to any use but a use listed as permitted in the regulations for the district in which such nonconforming use is located.

3.3.5 Cessation of Nonconforming Uses. If active operations of a nonconforming use are discontinued for a continuous period of six (6) months, such nonconforming use shall thereafter be used only for a conforming use.

3.3.6 Repair and Alteration of Nonconforming Uses. Normal maintenance and repair in a building or structure occupied by a nonconforming use is permitted provided it does not expanded or enlarge the nonconforming use.

3.3.7 Damage or Destruction of Nonconforming Uses. Any nonconforming building or structure or any building or structure containing a nonconforming use, which has been damaged by fire or other causes, may be reconstructed and used as before if the reconstruction is done within two (2) years of such damage, unless such building or structure has been declared by the County Building Inspector to have been damaged to an extent exceeding fifty (50) percent of its assessed value at the time of destruction. If the building is damaged to a degree greater than fifty (50) percent, future use of the building and site must be in conformance with the zoning district regulations.

3.4 Reserved

3.5 Reserved

3.6 Planned Unit Developments

Planned Unit Developments as defined in the definition section of this Ordinance are permitted only in the zoning districts where Planned Unit Developments are listed as a special use.

3.7 Density Credits or Severable Development Rights

Density credits or severable development rights for dedicated rights-of-way shall be provided to a developer pursuant to G.S. 136-66.10 or 136-66.11. The County reserves the right to determine whether density credits or severable development rights shall be provided in any particular case.

ARTICLE IV OFFICIAL ZONING MAP

4.1 Official Zoning Map Established and Identified

The “Official Zoning Map of Lenoir County, North Carolina”, hereinafter referred to as the “Official Zoning Map” is hereby adopted by reference and is declared to be a part of this Ordinance.

4.2 Amendments of the Official Zoning Map

4.2.1 Procedures for amending the Official Zoning Map are set forth in Article XII.

4.2.2 If, in accordance with these provisions, amendments are made in the Zoning Districts or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by the Board of Commissioners, together with an entry on the Official Zoning Map, indicating the date the change was adopted.

4.2.3 No amendment shall become effective until such change shall be recorded on the Official Zoning Map.

4.2.4 The Official Zoning Map shall be maintained for public inspection in the office of the Zoning Enforcement Administrator. Copies of the Official Zoning Map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the clerk to the board of county commissioners in accordance with G.S. 153A-50, shall be admissible into evidence and shall have the same force and effect as would the original map.

4.3 Unauthorized Alteration of Official Zoning Map

No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures established herein. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance.

4.4 Location of Official Zoning Map; Status of Reproduction

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 Zoning Enforcement Officer shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the County.

4.5 Replacement of Official Zoning Map

4.5.1 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, the Board of Commissioners of Lenoir County 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 such correction shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof.

- 4.5.2** 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.

ARTICLE V ESTABLISHMENT OF ZONING DISTRICT AND DISTRICT USE REGULATIONS

5.1 Establishment of Zoning Districts

For the purposes of this Ordinance, Lenoir County is divided into the following use districts:

- 5.1.1 R - Rural.** The regulations of this district are designed to retain the open characteristics of the land, but to allow moderate development, which conforms to the characteristics of the surrounding establishments. Such uses might include agricultural, residential, commercial, and some light industrial uses.
- 5.1.2 C - Commercial.** The purpose of this district shall be to provide for the proper grouping and development of those uses, which are related to municipal central business districts or neighborhood business areas. Such uses might include retail and wholesale use, office uses and those retail uses, which provide essential items for day to day living to neighboring residential areas.
- 5.1.3 I – Industrial.** This district is designed to accommodate all industries except those that could be objectionable by reason of their associated foul odors, smoke, dust, noise, glare or vibrations. Residential and commercial uses are strictly prohibited within an I - Industrial District.

5.2 District Use Regulations

The following table lists each zoning district and the various uses permitted within each of said zones. No land or building shall be used, erected, altered or enlarged, unless it is listed specifically among the permitted uses on the following table.

- 5.2.1** Uses which are permitted within a district are indicated by the letter P.
- 5.2.2** Uses which are prohibited within a district are indicated by a blank space or are not listed.
- 5.2.3** Uses which are permitted within a district as a special use upon approval by the County Planning Board are indicated by the letter S.
- 5.2.4** Uses not listed in any district may be added to this Ordinance by amendment.
- 5.2.5** Supplementary regulations for each zoning district follow the Table of District Use Regulations.

5.3 Table of Permitted Uses (following pages)

PERMITTED USES	R - RURAL	C - COMMERCIAL	I - INDUSTRIAL
Accessory Uses	P	P	P
Adult/Sexually Oriented Businesses ¹		S	S
Agriculture or Rural Farm Use	P	P	P
Alcoholic Beverages, Packaged, Retail Sales	S	P	P
Ambulance Service	P	P	P
Animal Medical Care	P	P	P
Apparel & Accessory Sales (Dept. Stores)	S	P	S
Assemblies, Community (Assembly Hall, Armory Community Center)	P	P	S
Auction Sales	P	P	P
Automobile and Small Truck Parts and Accessories Sales	S	P	P
Automobile, Truck and Trailer Rental	S	P	P
Automobile and Small Truck Repair and/or Body Work (Not including tire recapping, commercial wrecking, dismantling or storage of junked vehicles)	S	P	P
Automobile and Small Truck Sales, New and Used	S	P	P
Banks, Savings & Loan Companies & other financial Activities, including drive-in window service	S	P	P
Barber & Beauty Shops	P	P	S
Bicycle Sale & Repair	P	P	S
Boarding House	S	P	S
Boats & Accessories, Retail Sales & Service	S	P	P
Bottling Plants	S	S	P
Bottled Gas Distributing & Bulk Storage of Flammable Liquids & Gases	S	S	P
Builders Supply	S	P	P
Buildings which are used exclusively by Federal, State or Local government for public purposes	P	P	P
Bus Station	S	P	S
Cabinet Making	S	P	P
Campgrounds & Related Uses	S	S	S
Car Wash	S	P	S
Cemetery	P	S	S
Church, Place of Worship	P	P	P
Children's Day Care Centers and Kindergartens	P	P	S
Clinic Service, Medical & Dental	P	P	S
Club or Lodge	S	P	S
PERMITTED USES	R - RURAL	C - COMMERCIAL	I - INDUSTRIAL
Coal Sales & Storage		S	S
Construction Storage	S	P	P

TABLE OF PERMITTED USES

Contractor's Yards & Outdoor Storage Areas	S	P	P
Convalescent Home	P	P	S
Convenience Store	S	P	S
Cotton Gin	S	P	P
Dairy Products, Wholesale and Processing	S	P	P
Drive-In Curb Service, Transactions Between Patrons In automobiles & Employees in Buildings, Conducted at a Distance Indirectly or with the Assistance of Messengers.	S	P	S
Drive-In Window Services, Transactions Conducted Directly Between Patrons in Automobiles and Employees in Buildings, not Including Sale of Food and Beverages	S	P	S
Dry Cleaning and Laundry Collection	S	P	S
Dry Cleaning, Commercial	S	P	S
Dwelling, Accessory	S	P	
Dwelling, Caretaker	S	P	
Dwelling, Multi-Family (3-5 units)	P	P	
Dwelling, Multi-Family (greater than 5 units) Any multiple family dwelling, containing more than 5 dwelling units & any combination of structures on the same lot or parcel containing more than 5 dwelling units is a special use subject to requirements set forth in Article X, Section 10.3.5, Planned Unit Development	S	S	
Dwelling, Manufactured Home, Class A & B	P	P	
Dwelling, Single-Family	P	P	
Dwelling, Two-Family	P	P	
Eating or Drinking Facility (Drive-In Excluded)	P	P	S
Exterminating Services	S	P	S
Family Care Home	P	P	
Farm Machinery Sales & Service	S	P	S
Farm Supplies Merchandising (excluding farm machinery)	S	P	S
Fire Stations	P	P	P
Firing Range	S		
Flower Shop-Florist	P	P	S
PERMITTED USES	R - RURAL	C - COMMERCIAL	I - INDUSTRIAL
Food Freezer Operation	S	S	S
Food Sales, Grocery Store, Supermarket	P	P	S
Funeral Home	S	P	S

¹ See Ordinance to Regulate Adult and Sexually Oriented Businesses.

² See Ordinance Regulating Junkyards and Automobile Graveyards.

³ See Manufactured Housing Park Ordinance

P = Permitted General Use
S = Special Use Permit Required

TABLE OF PERMITTED USES

Garage for storing only of automobile vehicles as an accessory to a quasi-public or public institution	S	S	S
Gift Shop with Operations Conducted Within a Building	S	P	S
Golf, Miniature, Outdoor and for a Profit	P	S	
Golf Course	P	S	
Group Care Facility		S	
Hardware, Paint and Garden Supply Sales	S	P	S
Hatchery	S	S	S
Health and Welfare Centers	S	P	S
Home Furnishings & Appliance Sales	S	P	S
Home Occupation	P	P	
Hospital Or Sanitarium Care	S	P	S
Hotels and Motels	S	P	S
Industrial Sales of Equipment or Repair Services	S	P	P
Institutions which include grounds and facilities for recreation & community center buildings, lakes, parks & similar facilities operated on a non-profit basis	P	P	S
Junk/Salvage Yard ²	S		
Kennels, Commercial	S		
Laboratory, Medical and Dental	S	P	S
Laboratory, Research	S	P	S
Landfill, Land Clearing (publicly or privately owned)	S	P	S
Landfill, Sanitary (publicly or privately owned); Landfill, Construction and Demolition Debris, (publicly or privately owned)	S	S	S
Laundry or Dry Cleaning Customer Self Service	S	P	S
Library, Public	P	P	P
Livestock Sales and Auctioning	S		
Locksmith, Gunsmith	S	P	S
Mining Operations	S		
Manufactured Home Park ³	S		
Manufactured Home Sales	S	S	
Migrant Labor Housing	P	S	
Nursery (Plants), Greenhouses	P	S	S
PERMITTED USES	R - RURAL	C - COMMERCIAL	I - INDUSTRIAL
Nursing Home	P	S	S
Office	P	P	S
Office Supplies and Equipment Sales and	S	P	S

¹ See Ordinance to Regulate Adult and Sexually Oriented Businesses.

² See Ordinance Regulating Junkyards and Automobile Graveyards.

³ See Manufactured Housing Park Ordinance

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TABLE OF PERMITTED USES

Service			
Pharmacy	S	P	S
Photography, Commercial	S	P	S
Planned Unit Development	S		
Printing or Reproduction	S	P	S
Processing Establishment with operations conducted within a building	S	P	S
Public Utility Station or Substation, Recycling/ Garbage Convenience Centers	P	P	S
Public Utility Works, Shops or Storage Yards	S	S	S
Race Tracks/Drag Strips, Automobiles and Trucks	S	S	
Radio, Telephone or Television Transmitting Towers	P	P	S
Radio or Television Studio Activities Only	S	P	S
Railroad Yard	S		
Recreation or Amusement Enterprise, conducted inside a building for a profit and not otherwise listed herein	S	S	S
Recreation or Amusement Enterprise, conducted outside a building and for profit and not otherwise listed herein	S	S	S
Recreation Uses, conducted Indoors For Profit	S	P	
Recreation Uses, Non-Profit	P	S	S
Relocation of any previously occupied residential dwelling from a Special Flood Hazard Area (100-year Floodplain)	S	S	
Repair, Rental and/or Servicing or any product the retail sale of which is a use by right in the same district	S	P	S
Residential Treatment Facility		S	
Retailing or Servicing with operations conducted and merchandise stored entirely within a building and otherwise not listed herein	S	P	S
Retailing or Servicing with operations conducted and merchandise stored inside or outside a building and not otherwise listed herein	S	P	S
PERMITTED USES	R - RURAL	C - COMMERCIAL	I - INDUSTRIAL
Riding Academy	P	S	
Sales & Rental of Goods, Merchandise & Equipment - Low Volume Traffic Generation	S	P	S
Sawmill/Chipping Mill	S	S	S

¹ See Ordinance to Regulate Adult and Sexually Oriented Businesses.

² See Ordinance Regulating Junkyards and Automobile Graveyards.

³ See Manufactured Housing Park Ordinance

P = Permitted General Use
S = Special Use Permit Required

TABLE OF PERMITTED USES

School, Business or Commercial	S	S	S
School, Elementary or Secondary	S	S	S
School, Trade or Vocational	S	S	S
Service Station	S	P	P
Sheet Metal Fabrication	S	S	S
Slaughterhouse/Abattoir	S		
Storage, Mini-warehouse	S	P	S
Storage, Warehouses	S	P	S
Sludge (by-product of wastewater treatment) field application	S		
Tailoring	P	P	S
Taxicab Stand Operation	S	S	S
Tire Recapping	S	P	S
Tobacco Sales, Warehousing	S	P	S
Tobacco Processing	S	S	S
Trades Contractor Activities Excluding Outside Storage of Equipment and Supplies	S	P	S
Trades Contractor Activities with Outside Storage of Equipment and Supplies	S	P	S
Transfer Facility, Solid Waste (publicly owned)	S	P	S
Truck, Large Sales/Rentals	S	P	S
Truck Terminal Activities, Repair, Hauling &/or Storage	S	P	S
Underground high-voltage electric power transmission lines; underground liquid fuel transmission lines	P	P	P
Underground low voltage electric power distribution lines, telephone lines, water and sewer lines, low or medium pressure gas distribution	P	P	P
Upholstering or Furniture Refinishing	S	P	S
Variety, Gift and Hobby Supply Sales	S	P	S
Wholesale Sales with Operations conducted & merchandise stored entirely within a building and not otherwise listed herein	S	P	S

PERMITTED USES	R - RURAL	C - COMMERCIAL	I - INDUSTRIAL
Wholesale operations with any operations conducted or merchandise stored outside a building, completely shielded from view from adjacent lots or from public right-of-way	S	P	S

¹ See Ordinance to Regulate Adult and Sexually Oriented Businesses.

² See Ordinance Regulating Junkyards and Automobile Graveyards.

³ See Manufactured Housing Park Ordinance

P = Permitted General Use
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TABLE OF PERMITTED USES

¹ See Ordinance to Regulate Adult and Sexually Oriented Businesses.

² See Ordinance Regulating Junkyards and Automobile Graveyards.

³ See Manufactured Housing Park Ordinance

P = Permitted General Use
S = Special Use Permit Required

ARTICLE VI RESERVED

ARTICLE VII SUPPLEMENTAL DISTRICT REGULATIONS FOR ALL DISTRICTS

7.1 Reserved

7.2 Driveways and Curb Cuts

All Driveways and Curb Cuts shall conform with all North Carolina Division of Transportation standards.

7.3 Reserved

ARTICLE VIII PROVISIONS FOR USES ALLOWED AS SPECIAL USE PERMITS

8.1 Objectives and Purpose of Special Use Permits

Special Use Permits add flexibility to the Zoning Ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised throughout the Special Use Permit procedures, property uses which would otherwise be undesirable in certain districts can be developed to minimize any adverse effects they might have on surrounding properties.

8.2 Special Use Permits

8.2.1 Special Use Permits may be issued by the Planning Board for the establishment of uses listed as special uses in Articles V. The Planning Board may review and make recommendations on any special use.

8.2.2 A Special Use Permit Applicant shall submit an application to the Zoning Enforcement Officer at least thirty (30) days prior to the regular meeting of the permitting board. Such application shall include all of the requirements pertaining to this Ordinance plus the following applicable information:

- 1) A site plan developed by a Professional Land Surveyor, Professional Engineer, or a Certified Architect showing the proposed use and all pertinent information for that use along with 14 additional copies.
- 2) Any other information deemed pertinent for the application by the Zoning Enforcement Officer or the permitting board.

Upon receiving such application, the Zoning Enforcement Officer shall give notice of a legislative hearing on the application in the same manner as is required for the hearing on an amendment to this Ordinance.

8.2.3 The permitting board shall consider the application and after a public hearing may grant or deny the Special Use Permit requested. In considering any application for a Special Use Permit hereunder, the Planning Board shall utilize quasi-judicial processes as set forth in 11.4.4 below. The Special Use Permit, if granted, shall include such approved plans as may be required. In granting a Special Use Permit, the Planning Board shall make such findings as required in this Article.

8.2.4 A Special Use Permit shall expire one year after the date of issuance if the work authorized by the approval has not been substantially commenced. If after commencement the work or activity allowed under a Special Use Permit is discontinued for a period of 12 months after commencement, the Special Use Permit 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 a Special Use Permit that has expired shall thereafter be performed until a new development approval has been secured.

8.2.5 The Planning Board shall have the power to hear and decide upon applications to permit the proper integration into the community of uses which may be suitable only in specific locations in a district or only if such uses are designated or laid out on the site in a particular manner.

A. In granting a Special Use Permit, the permitting board shall make written findings that the specific provisions of this Ordinance are fulfilled with due regard to the nature and state of all adjacent structures and use and the district within which same are located. The permitting board shall also make written findings that the following general requirements are met:

1. The use requested is among those listed as an eligible Special Use in the district in which the subject property is located.
2. The requested Special Use Permit is either essential or desirable for the public convenience or welfare.
3. The requested permit will not impair the integrity or character of the surrounding or adjoining districts, nor will be detrimental to the health, morals or welfare of the community.
4. The requested permit will be in conformity with all officially adopted land development plans.

5. Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.
- B. When denying a Special Use Permit, the permitting board shall make written findings that the specific provisions of this Ordinance are not fulfilled with due regard to the nature and state of all adjacent structures and use and the district within which same are located. The permitting board shall also make written findings that at least one of the following general requirements are not met:
1. The use requested is among those listed as an eligible Special Use in the district in which the subject property is located.
 2. The requested Special Use Permit is either essential or desirable for the public convenience or welfare.
 3. The requested permit will not impair the integrity or character of the surrounding or adjoining districts, nor will be detrimental to the health, morals or welfare of the community.
 4. The requested permit will be in conformity with all officially adopted land development plans.
 5. Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.
- C. The Planning Board may approve or deny any application for a Special Use Permit. In approving the permit, the permitting board may attach conditions thereto as may be necessary to accomplish the objectives herein set forth. Such conditions may contain time limitations, or may require that prerequisites be met before commencing the activity for which the permit is sought. Conditions may be of a continuing nature.
- D. A Special Use Permit issued pursuant to this Ordinance expires one year after the date of issuance if the work authorized by such permit has not been substantially commenced.
- 8.2.6** In granting the permit, the permitting board may designate such conditions in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance. All such additional conditions shall be entered in the minutes of the meeting at

which the permit is granted and also shall be entered on the certificate of the Special Use Permit or on the plans submitted therewith.

- 8.2.7** If the permitting board denies the permit, the board shall enter the reason for its action in the minutes of the meeting at which the action is taken.
- 8.2.8** In the event of failure to comply with the plans approved by the permitting board or with any other conditions imposed upon the Special Use Permit, the permit shall thereupon immediately become void and of no effect.
- 8.2.9** In addition to any other requirements of this Article regarding the approval or disapproval of an application for a Special Use Permit, the approvals and disapprovals set forth in this Section shall be communicated by the officer or board making the determination who shall in turn 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. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. 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.

ARTICLE IX RESERVED

ARTICLE X ADMINISTRATION AND ENFORCEMENT

10.1 Zoning Enforcement Officer

An administrative official hereinafter referred to as the Zoning Enforcement Officer, appointed by the Board of County Commissioners of Lenoir County, shall administer and enforce the provisions of this Ordinance, and he may be provided the assistance of such other persons as the Board of Commissioners deems necessary. The Zoning Enforcement Officer may delegate in writing the authority to perform inspections, review applications, and issue Certificates of Zoning Compliance to such assistants. In the performance of such functions, said assistants shall be responsible to the Zoning Enforcement Officer, and he shall be responsible for their proper execution of such delegated functions.

10.2 Powers and Duties of the Zoning Enforcement Officer

- 10.2.1** All questions arising in connection with the enforcement of the provisions of this Ordinance shall be presented to the Zoning Enforcement Officer. The Zoning Enforcement Officer has power to grant Certificates of Zoning Compliance for uses and structures found to be in compliance with the provisions established herein.

- 10.2.2** The Zoning Enforcement Officer shall not grant Special Use Permits or Variances, and shall not have the power to interpret the Zoning Ordinance provided herein. Questions of interpretation shall be determined by the Planning Board in considering appeals from decisions, orders, or other action of the Zoning Enforcement Officer.
- 10.2.3** When the Zoning Enforcement Officer finds that any of the provisions of this Ordinance are being violated, he shall take corrective action as authorized in Section 1.10 above.
- 10.2.4** The Zoning Enforcement Officer shall maintain accurate records of all Certificates of Zoning Compliance issued, as well as applications and their associated documentation. Copies of said certificates shall be furnished to any person for a fee as estimated by the Lenoir County Fee Schedule. All such certificates constitute public records and may be inspected at the office of the Zoning Enforcement Officer during normal business hours.
- 10.2.5** Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof and giving adequate description of the violation shall be filed with the Zoning Enforcement Officer. He shall record properly such complaint, and take action thereon as provided in this Ordinance.

10.3 Certificate of Zoning Compliance Requirements

- 10.3.1** No person shall commence or proceed with development, as defined in Article 1 above, without first securing a Certificate of Zoning Compliance issued by the Zoning Enforcement Officer or his designee stating that the proposed development conforms with the requirements of this Ordinance. . No building permit will be issued until the applicant has secured a Certificate of Zoning Compliance.

Any approval or disapproval of an application for Zoning Compliance made pursuant to this Section shall be communicated by the Administrator who shall in turn 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. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. 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.

- 10.3.2** Temporary certificate of Zoning Compliance may be issued by the Zoning Enforcement Officer, or his designee, for a period not to exceed six (6)

months duration, during alteration or construction for partial occupancy of a building pending completion. Such temporary certificate shall bear the dates of issue and expiration of the certificate, which shall be clearly marked "TEMPORARY", and shall stipulate and require such conditions and safeguards as will protect the safety of the occupants and the public. Similar permits shall be required of temporary structures for bazaars, carnivals, circuses, revivals, construction site offices, subdivision sales offices and similar activities utilizing temporary or portable structures.

- 10.3.3** Certificates issued on the basis of plans, applications and other documents and approved by the Zoning Enforcement Officer constitute authorizations for the use, arrangement or construction set forth in these documents only. Any use, arrangement or construction which is found upon inspection to be at variance with that authorized shall constitute a violation of this Ordinance and shall be punishable upon conviction in accordance with Article I.

10.4 Application and Issuance of Certificates

- 10.4.1** Certificates of Zoning Compliance shall be issued by the Zoning Enforcement Officer or designee on the basis of conformance with this Ordinance:

- A. Reserved
- B. The location of said lot relative to adjacent rights-of-way;
- C. Reserved
- D. The nature of the proposed use of the building or land including the extent and location of the use on the lot;
- E. Reserved
- F. Approval of water supply and sewage disposal by authorized official (See Section 13.5); and
- G. Any other information which the Zoning Enforcement Officer needs for consideration in enforcing the provisions of this Ordinance.

- 10.4.2** If the proposed building or use conforms to the provisions of this Ordinance, a Certificate of Zoning Compliance shall be issued to the applicant by the Zoning Enforcement Officer or his/her designee indicating the approval of the Zoning Enforcement Officer. A copy of the Certificate of Zoning Compliance shall be filed in the office of the Zoning

Enforcement Officer. A Certificate of Zoning Compliance shall expire one year after the date of issuance if the work authorized by the Certificate has not been substantially commenced. If after commencement the work or activity allowed under a Certificate is discontinued for a period of 12 months after commencement, the Certificate shall immediately expire.

10.5 Water Supply and Sewage Disposal

10.5.1 Approval. No application for a Certificate of Zoning Compliance or Special Use Permit shall be approved unless the proposed methods of water supply and sewage disposal have been approved by the Lenoir County Health Department or the NC Department of Environment, Health, and Natural Resources if well and septic tanks are to be used. If water and sewer service will be provided by a municipality, sanitary district, County, or other governmental agency, approval must be obtained by said unit of government.

10.6 Appeal of Administrative Decisions

- 10.6.1 Appeals of decisions made by staff under this Ordinance shall be made to the Planning Board. Appeals shall be heard by the Planning Board using the quasi-judicial processes set forth below.
- 10.6.2 Standing. - Any person who has standing or the County may appeal an administrative decision to the Planning Board. An appeal is taken by filing a notice of appeal with the Clerk to the Board. The notice of appeal shall state the grounds for the appeal.
- 10.6.3 Time to Appeal. - The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 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 Section (b) above by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- 10.6.4 Record of Decision. - The official who made the decision shall transmit to the Planning 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.
- 10.6.5 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 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 shall not be 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 the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or County 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.

ARTICLE XI PLANNING BOARD

11.1 Purpose and Intent

The Planning Board is established to hear and decide upon appeals concerning the interpretation and administration of this Ordinance. The Board may approve variances from the terms of this Ordinance as allowed herein. The Board is also responsible for acting upon applications for Special Use Permits unless the Special Use Permit is specified to be issued only by the Board of Commissioners.

11.2 Appointment and Terms of Office

All appointments to the Planning Board shall be made by the Board of County Commissioners. The Board of County Commissioners may establish reasonable procedures to solicit, review, and make appointments. Planning Board members shall be appointed to a three (3) year term and may be appointed to serve two-three year terms for a maximum of six (6) years. However, any membership appointment made by the Board of Commissioners to fulfill an unexpired term of another planning board member shall not impede the member fulfilling the unexpired term from being appointed to a one or two – three year term. Official membership shall be appointed geographically by Planning Districts as follows: six (6) member appointed by Planning District(s) who reside outside any municipal boundaries in Lenoir County; one (1) at-large member who resides outside any of the municipal boundaries in Lenoir County. All members appointed to the Planning Board under this Ordinance shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26.

- A. The Chair shall preside at all meetings, appoint all standing and temporary committees, and shall exercise full voting rights at his or her discretion on any matters under consideration.
- B. The Vice-Chair shall preside at meetings in the absence of the Chair.

11.2.1 Appointment of Alternate Members. The Board of Commissioners shall appoint two (2) alternate members of the Planning Board in the same manner as regular members and at regular times for appointment. Such alternates shall serve for terms of three (3) years, and shall, while attending any meeting of the Board and serving in the absence of any regular member, have and exercise all the powers and duties of that member.

11.3 Proceedings of the Planning Board

11.3.1 Rules of procedure that are consistent with the provisions of this Ordinance may be adopted by the Board of County Commissioners for the Planning Board. In the absence of action by the Board of County Commissioners, the Planning Board is authorized to adopt its own rules of procedure that are consistent with the provisions of Chapter 160D. A copy of any adopted rules of procedure shall be maintained by the Clerk to the Board of Commissioners and shall be posted on the County's website. Meetings of the Planning Board shall be held pursuant to a schedule adopted pursuant to law. Special or emergency meetings of the Planning Board may be held in accordance with the provisions of Chapter 143 of the North Carolina General Statutes. All meetings shall be open to the public.

11.3.2 The Planning Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and findings and other official actions, all of which shall be public record and be filed in the office of the Zoning Enforcement Office

11.3.3 The concurring vote of four-fifths of the Planning Board shall be necessary to grant a variance. 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. For the purposes of this Subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under Section 11.4.5 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. An appeal of a decision of the Planning Board shall be made to superior court in accordance with Article 14 of 160D.

11.3.4

11.4 Responsibilities, Duties and Powers

11.4.1

When unnecessary hardships would result from carrying out the strict letter of a requirement of this Ordinance, the Planning Board shall vary the requirement of this Ordinance upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the requirement. 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.

No change in permitted use may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Such conditions may include but shall not be limited to: surety, performance, or maintenance bonds, affidavits, covenants, or other legal instruments, as will assure conformity to and achievement of the plan.

In considering a variance, the Planning Board shall follow quasi-judicial processes as set forth in Section 11.4.4 below

11.4.2 Special Uses. The Planning Board shall have the power to hear and decide upon applications for Special Use Permits as specified in Article VIII of this Ordinance.

11.4.3 Appeals. All Appeals from the enforcement and interpretation of this Ordinance, including appeals for variance from the terms of the requirements set forth, shall follow the process and procedure set forth in Section 10.6 above.

11.4.4 Quasi-judicial proceedings

- (a) Process Required. – The Planning Board shall follow quasi-judicial procedures as directed in this Ordinance, and in any event in determining appeals of administrative decisions and variances.
- (b) Notice of Hearing. - Notice of evidentiary hearings conducted pursuant to Chapter 160D shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this Ordinance. In the absence of evidence to the contrary, the County may rely on the County tax listing to determine owners of property entitled to mailed notice. 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 County 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 Planning 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 meeting of the Planning Board without further advertisement.
- (c) Administrative Materials. - The Planning Director shall transmit to the Planning Board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the Planning 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. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. 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.
- (d) Presentation of Evidence. - The applicant, the County, and any person who would have standing to appeal the decision shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Planning Board.

- (e) 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 Planning Board. The Planning 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. Objections based on jurisdictional issues may be raised for the first time on judicial review.
- (f) Appearance of Official New Issues. - 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. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. 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.
- (g) Oaths. - The chair of the Planning 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 Planning Board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.
- (h) Subpoenas. - The Planning Board making a quasi-judicial decision under Chapter 160D through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the County, and any person with standing 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. 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 Planning Board. 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.
- (i) Voting. - The concurring vote of four-fifths of the Planning Board shall be necessary to grant a variance. 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. 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.

- (j) Decisions. - The Planning Board shall determine contested facts and make its decision within a reasonable time. 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. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. 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. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. 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.

11.4.5 Conflict of Interest

- (a) Board of County Commissioners. – A County Commissioner shall not vote on any legislative decision regarding a development regulation under 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 Commissioner.
- (b) Planning Board. - Members of the Planning Board shall not vote on any advisory or legislative decision regarding a development regulation under 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.
- (c) Administrative Staff. - No staff member shall make a final decision on an administrative decision regarding a development regulation under this Ordinance 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. 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.

No staff member shall be financially interested or employed by a business that is financially interested in a mobile home park subject to regulation under Chapter 160D unless the staff member is the owner of the land or building involved. 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.

- (d) **Quasi-Judicial Decisions.** – When the Planning Board is exercising quasi-judicial functions pursuant to this Ordinance, Planning Board members 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.
- (e) **Resolution of Objection.** - If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- (f) **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.

ARTICLE XII AMENDMENTS

12.1 Amending the Ordinance

Hearing with Published Notice. - Before adopting, amending, or repealing any provision of this Ordinance, the Board of Commissioners shall hold a legislative hearing. 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.

No amendment to this Ordinance or the Official Zoning Map of Lenoir County 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 County. For purposes of this prohibition, "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, or (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.

12.2 Notice of hearing on proposed zoning map amendments.

12.2.1 Mailed Notice. - The owners 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. For the purpose of this Section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing.

12.2.2 Optional Notice for Large-Scale Zoning Map Amendments. - The first-class mail notice required under Subsection (12.2.1) 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 (12.2.1) of this Section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601, 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 (12.2.1) of this Section.

- 12.2.3** **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. The notice shall be posted within the same time period specified for mailed notices of the hearing. 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.

-12.3 Citizen comments.

If any resident or property owner in the County submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the clerk to the Board of Commissioners 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 Board of Commissioners. 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.

12.4 Planning board review and comment.

- 12.4.1** **Zoning Amendments.** - All proposed amendments to this 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 act on the amendment without the Planning Board report. The Board of Commissioners are not bound by the recommendations, if any, of the Planning Board.

- 12.4.2** **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. 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, 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. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Planning Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

- 12.4.3** **Separate Board Required.** - Notwithstanding the authority to assign duties of the Planning Board to the Board of County Commissioners as provided by Chapter 160D, the review and comment required by this Section shall not be assigned to the Board of County Commissioners and must be performed by a separate board.

. – 12.5 Board of County Commissioners Statement.

- 12.5.1** **Plan Consistency.** - When adopting or rejecting any zoning text or map amendment, the Board of County Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of County Commissioners that at the time of action on the amendment the Board of County Commissioners was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map 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. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Board of County Commissioners statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

- 12.5.2** **Additional Reasonableness Statement for Rezoning.** - When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;

(iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Board of County Commissioners statement on reasonableness may address the overall rezoning.

- 12.5.3** Single Statement Permissible. - The statement of reasonableness and the plan consistency statement required by this Section may be approved as a single statement.

ARTICLE XIII PERMIT CHOICE AND VESTED RIGHTS

13.1 Findings

County approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. It is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation.

13.2 Permit Choice

If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

13.3 Vested Rights

Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

- (1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.
- (2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.
- (3) A site-specific vesting plan pursuant to Article XIV.
- (4) A multi-phased development pursuant to Subsection 13.6 of this Section.
- (5) A vested right established by the terms of a development agreement authorized by Article 10 of 160D.

The establishment of a vested right under any subdivision of this Subsection does not preclude vesting under one or more other subdivisions of this Subsection or

vesting by application of common law principles. A vested right, once established as provided for in this Section or by common law, precludes any action by the County that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating County enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

13.4 Duration of Vesting

Upon issuance of a development permit, the statutory vesting granted by Subsection 13.3 of this Section for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this Section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. For the purposes of this Section, a permit is issued either in the ordinary course of business of the County or by the applicable governmental agency as a court directive.

Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this Section, once established, 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 Planning Board 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.

13.5 Multiple Permits for Development Project

Subject to Subsection 13.4 of this Section, where multiple County development permits are required to complete a development project, the development permit applicant may choose the version of each of the County land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this Subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

13.6 Multi-Phased Development

A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for

the initial phase of the multi-phased development. A right which has been vested as provided for in this Subsection remains 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.

13.7 Continuing Review

Following issuance of a development permit, the County may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.

13.8 Process to Claim Vested Right

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Zoning Enforcement Officer or other officer designated this Ordinance who shall make an initial determination as to the existence of the vested right. The decision of the Zoning Enforcement Officer may be appealed under Section 10.6. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under Section 10.6, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

13.9 Miscellaneous Provisions

The vested rights granted by this Section run with the land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and G.S. 136-131.2 in which case the rights granted by this Section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this Section precludes 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.

13.10 Definitions

As used in this Section, the following definitions apply:

- (1) Development. - As defined in G.S. 143-755(e)(1).
- (2) Development permit. - As defined in G.S. 143-755(e)(2).
- (3) Land development regulation. - As defined in G.S. 143-755(e)(3).
- (4) Multi-phased development. - A development containing 25 acres or more that is both of the following:
 - a. Submitted for development permit approval to occur in more than one phase.
 - b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 5(a), 50(b), 51(a), (b), (d).)

ARTICLE XIV VESTED RIGHTS-SITE-SPECIFIC VESTING PLANS

14.1 Site-Specific Vesting Plan

A site specific development plan is a plan which has been submitted to Lenoir County under the provisions of the Lenoir County Zoning Ordinance by a land owner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

A site-specific vesting plan consists of a plan submitted to the County in which the applicant requests vesting, describing with reasonable certainty on the plan 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 preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by the County. Unless otherwise expressly provided by the County, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting 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. What constitutes a site-specific vesting plan under this Section that would trigger a vested right shall be finally determined by the County pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval. 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.

14.2 Establishment of Vested Right

A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this Section. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site-specific vesting plan, including any amendments thereto.

14.3 Approval and Amendment of Plans

If a site-specific vesting plan is based on an approval required by this Ordinance, the County shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under

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-602 shall be held.

The County may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. The County shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval. A site-specific vesting plan is deemed approved upon the effective date of the County's decision approving the plan or another date determined by the Board of Commissioners upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the County as follows: any substantial modification must be reviewed and approved in the same manner as the original approval.

14.4 Continuing Review

Following approval or conditional approval of a site-specific vesting plan, the County may make subsequent reviews and require subsequent approvals by the County to ensure compliance with the terms and conditions of the original approval, provided that these reviews and approvals are not inconsistent with the original approval. The County may, pursuant to Section 1.10 (d), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

14.5 Duration and Termination of Vested Right

14.5.1 A vested right for a site-specific vesting plan remains 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.

14.5.2 Notwithstanding the provisions of Section 14.5.1, the County may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the County and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with Subsection 14.5.1 of this Section.

14.5.3 Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this Section is outstanding.

- 14.5.4 A right vested as provided in this Section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

14.6 Subsequent Changes Prohibited; Exceptions

- 14.6.1 A vested right, once established as provided for in this Section, precludes any zoning action by the County which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:

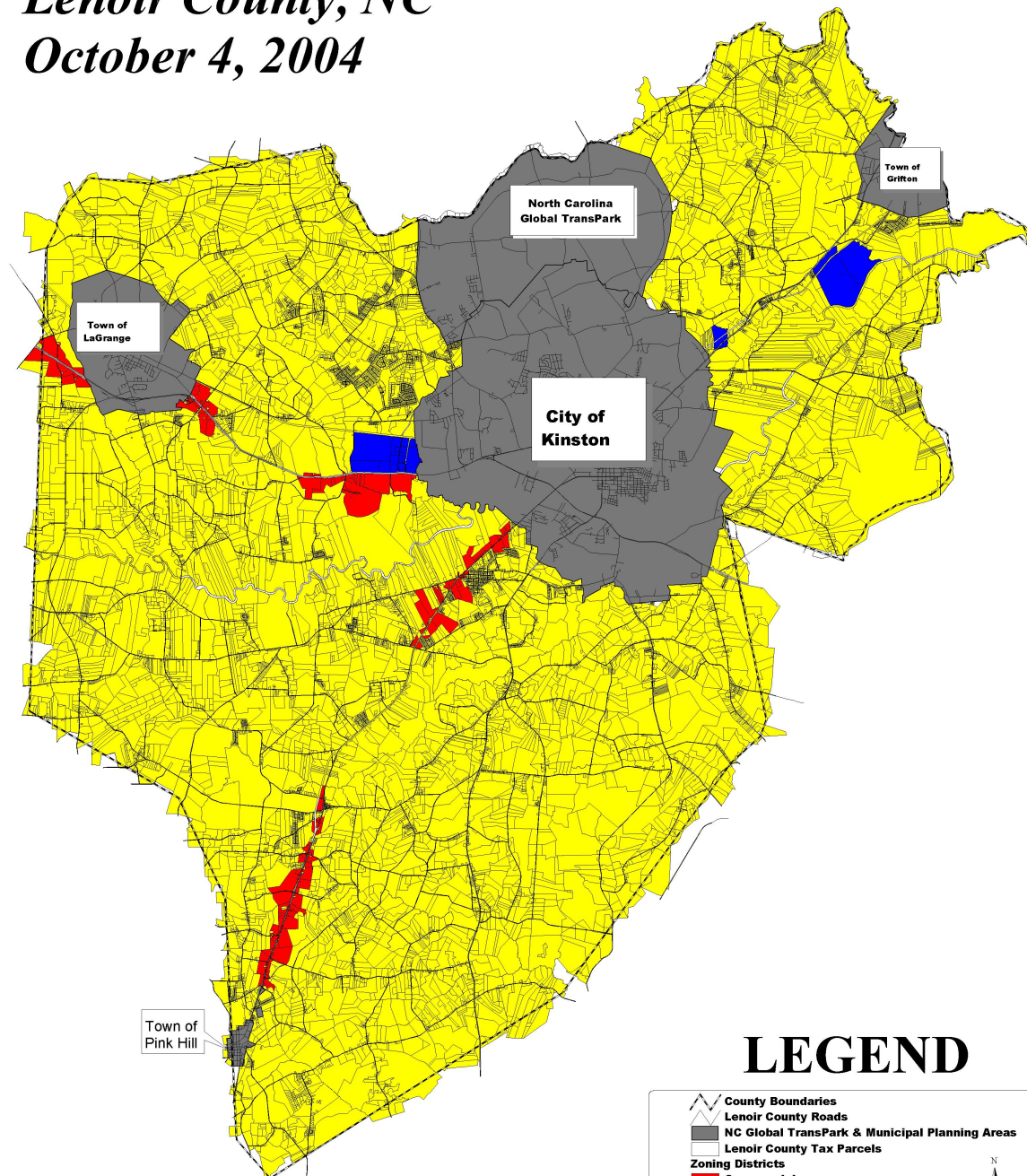
- a. With the written consent of the affected landowner.
- b. Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan.
- c. 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 consulting fees incurred after approval by the County, together with interest as provided under G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.
- d. Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the County of the site-specific vesting plan or the phased development plan.
- e. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, 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, by ordinance after notice and an evidentiary hearing.

- 14.6.2 The establishment of a vested right under this Section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by the

County, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this Section.

14.6.3 Notwithstanding any provision of this Section, the establishment of a vested right does not preclude, change, or impair the authority of the County to adopt and enforce development regulations governing nonconforming situations or uses.

Official Zoning Map of Lenoir County, NC October 4, 2004



LEGEND

- County Boundaries
- Lenoir County Roads
- NC Global TransPark & Municipal Planning Areas
- Lenoir County Tax Parcels
- Zoning Districts**
 - Commercial
 - Industrial
 - Rural

