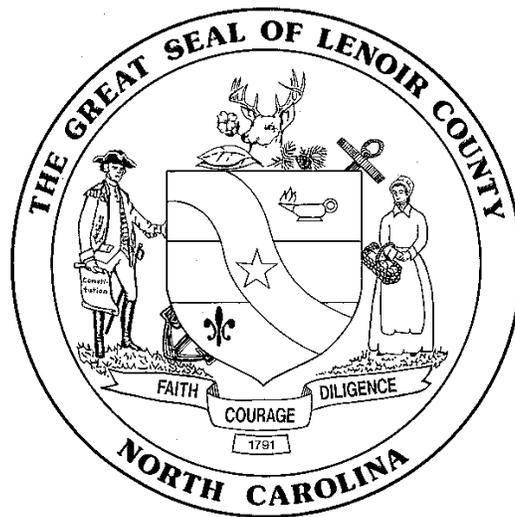


Zoning Ordinance

Lenoir County, NC



February 2003

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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 153A, Part 3, Section 153A-340 through 153A-347, 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 Part 3 of Chapter 153A 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

This Ordinance shall apply to all lands within Lenoir County, North Carolina, except for those areas within incorporated municipalities and their extraterritorial jurisdiction. The provisions of this Ordinance shall govern the development and use of land and structures within Lenoir County, except for bona fide farms as provided for by NC General Statutes 153A-340.

1.5 Effective Date

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 ___ day of _____ 2003.

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, as a special exception, 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. If any portion of the territory subject to County jurisdiction under this Ordinance shall be annexed by a municipality, or taken into a municipality's jurisdiction by act of the North Carolina General Assembly, or in accordance with NC General Statutes 160A Article 4A or 160A-360, County regulations and powers of enforcement shall remain in effect until:

- A. The municipality has adopted regulations for said annexed or extraterritorial area; or
- B. A period of sixty (60) days has elapsed following the effective date of annexation or extension of extraterritorial 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.

1.8 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.

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

In case any structure is erected, reconstructed, altered, repaired or maintained, or any structure or land is used in violation of this Ordinance, the Zoning Enforcement Officer or any appropriate authority of the County or any adjacent, nearby, or neighboring property owner who would be affected by such violation in addition to other remedies may institute injunction, mandamus or other appropriate action in proceeding to prevent the occupancy of such building, structure or land.

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

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. Land used for farm purposes including the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market. Under the North Carolina statutes, farm buildings are exempt from zoning requirements unless they provide sleeping facilities. If the structure has sleeping facilities for tenant workers or other housing for someone living and working on the farm, the applicant is exempt from zoning requirements, but, the structure must be inspected per the State building code requirements for housing. If the structure is for residential purposes not related to the farm or housing for farm workers, all requirements for subdivision, zoning, and inspections must be followed. Likewise,

manufactured homes for migrant workers located on a bona fide farm are not subject to appearance criteria *but* must be inspected per the State Building code requirements for housing.

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, 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.

Dwelling Unit. One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided therein. Units in dormitories, hotels, motels, shelters for the homeless, or other structures designed for transient residents are not dwelling units.

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 meeting the North Carolina Uniform Residential Building Code, as amended, with support and supervisory personnel that provides room and board, personal care and habilitation services for adults in a family environment for six or fewer resident handicapped persons, pursuant to NC General Statutes 168-21 and 22, as amended.

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 (by whatever name it is called, other than ‘Family Care Home’ as defined by this Ordinance), with support and supervisory personnel that provides room and board, personal care or habilitation services in a family environment.

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.

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, Demolition. 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 document adopted by the Lenoir County Board of Commissioners that establishes a growth strategy for Lenoir County. The plan includes both text and map that together identify and outline policies to guide growth and development in Lenoir County.

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 dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code; (ii) is composed of one 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; and (iii) exceeds forty (40) feet in length and eight (8) feet in width.

Manufactured Home, Class A. A dwelling unit that: (i) is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended; (ii) 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; (iii) meets or exceeds the construction standards of the U. S. Department of Housing and Urban Development; and (iv) 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 dwelling unit constructed with one or more components which are prefabricated and which meets the construction requirements of the North Carolina Uniform Residential Building Code as amended.

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.

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.

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.

Subdivision. A "subdivision" shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets. **All subdivisions of land must also comply with Lenoir County's Subdivision Ordinance.**

Special Use Permit. A permit issued either by the Planning Board or the Board of Commissioners that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance as well as any additional requirements imposed by the Planning Board or the Board of Commissioners, respectively.

Structure. Anything constructed, erected, or placed.

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 dimensional requirements of the Zoning Ordinance by the Planning Board when strict enforcement of this Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

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

After the effective date of this Ordinance all new construction or use of land shall conform to the use for the zoning district in which the use is to be located.

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 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.

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 Amendment of the Official Zoning Map is effected after the same fashion as amendment to the text of the Ordinance, and is subject to the same procedural and substantive requirements. Procedures for amending the text 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.

4.3 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.

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)

TABLE OF PERMITTED USES

| 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 |

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

| PERMITTED USES | R - RURAL | C - COMMERCIAL | I - INDUSTRIAL |
|--|------------------|-----------------------|-----------------------|
| Coal Sales & Storage | | S | S |
| Construction Storage | S | P | P |
| 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 | 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 | S | |
| 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 |

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² See Ordinance Regulating Junkyards and Automobile Graveyards.

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 S = Special Use Permit Required

TABLE OF PERMITTED USES

| 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 |
| 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 | 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 |
| 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, Demolition, (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 |
| Nursing Home | P | 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

| PERMITTED USES | R - RURAL | C - COMMERCIAL | I - INDUSTRIAL |
|--|------------------|-----------------------|-----------------------|
| Office | P | P | S |
| Office Supplies and Equipment Sales and Service | S | P | S |
| 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 |
| 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 |

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

| 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 |
| 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 |
| Unified Business Development | S | P | S |
| 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 |
| 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
 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 The owner or owners of all property included in the petition for a Special Use Permit 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 it in this Article. Upon receiving such application, the Zoning Enforcement Officer shall give notice of a public 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. The Special Use Permit, if granted, shall include such approved plans as may be required. The Special Use Permit shall become null and void if construction has not begun within a one (1) year period from the date the use was allowed by the permitting board or when the land involved changes ownership before construction is begun. In either case, the

applicant must refile for such a use. In granting the permit, the permitting board shall make such findings as required in this Article.

- 8.2.4** 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
 - C. The Planning Board may approve or deny any appeal 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. In any case, where the conditions of a Special Use Permit have not been or are not being complied with, the Zoning Enforcement Officer shall give the permittee notice of intention to revoke such permit at least ten (10) days prior to the permitting board's review thereon. After conclusion of the review, the permitting board may revoke such permit. Furthermore, failure to comply with conditions attached to a Special Use Permit shall be deemed a violation of this Ordinance, and shall be punishable upon conviction as provided in this Ordinance.
 - E. In any case where a Special Use Permit has not been exercised or consummated within the time limit set by the permitting board, or within one (1) year if no such specific limit was established, then

without further action, the permit shall be null and void. "Exercised and consummated" as set forth in this section shall mean that binding contracts have been let for the construction of the principal structures; or in the absence of contracts that the principal structure is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed. When construction is not a part of the use, "exercised and consummated" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

- 8.2.5** 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. All specific conditions shall run with the land and shall be binding on the original applicants for the Special Use Permit, their heirs, successors and assigns.
- 8.2.6** 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.
- 8.2.7** 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. No building permits for further construction or certificates of occupancy under this Special Use Permit shall be issued, and all completed structures shall be regarded as nonconforming uses, subject to the provisions of Article III of this Ordinance, provided, however, that the Board of County Commissioners shall not be prevented from thereafter rezoning said property for its most appropriate use.

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 by notifying the person or persons responsible for such violations in writing, indicating the nature of the violations and ordering the corrective action necessary, including but not necessarily limited to the following:

- A. Ordering discontinuance of illegal use of land or structures.
- B. Ordering removal of illegal construction, alterations, and additions or changes to structures.
- C. Ordering the discontinuance of illegal work being performed on land and/or structures.
- D. Ordering any other action, including criminal prosecution, authorized by this Ordinance to insure compliance with or prevent violation of its provisions.

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 It shall hereafter be unlawful to construct, erect, extend, move or enlarge any use of land and/or structures (except farm structures) until a Certificate of Zoning Compliance has been issued by the Zoning Enforcement Officer or his designee stating that the proposed structure and/or use conforms with the requirements of this Ordinance. Failure to obtain such certificate where required shall be a violation of this Ordinance and punishable upon conviction as provided for in Article I. No building permit will be issued until the applicant has secured a Certificate of Zoning Compliance.

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. Said certificate is valid for a period of twelve (12) months after the date of issue. If the applicant fails to exercise the activity authorized by the certificate within that time, the certificate shall be null and void without further action, and application must be made for a new certificate.

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 from Actions of the Zoning Enforcement Officer

10.6.1 If the Certificate of Zoning Compliance is denied, the applicant may appeal the action of the Zoning Enforcement Officer to the Planning Board.

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 authorize, upon appeal in specific cases, such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. The Board is also responsible for acting upon appeals 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

Members shall be appointed to the Planning Board by the Lenoir County Board of Commissioners. 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.

- 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 The Planning Board shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and arrange for the attendance of witnesses. All meetings shall be open to the public.

11.3.2 The Planning Board shall keep accurate minutes of its meetings, 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 (4/5), which is 80%, of the members of the Board present shall be necessary to reverse any order, decision, requirement, or determination of the Zoning Enforcement Officer. The concurring vote of the majority of the Board members present shall be

necessary to decide in favor of the applicant any matter upon which it is required to pass under the provisions of this Ordinance. Every decision of the Planning Board shall be subject to review by the Lenoir County Superior Court by proceedings of the nature of certiorari.

- 11.3.4** On all appeals, and other matters brought before the Board, the Board shall inform the appellant parties in writing of the Board's decision and reasons therefor.

11.4 Responsibilities, Duties and Powers

11.4.1 Variances. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, the Planning Board is empowered, in passing upon appeals in specific cases, to vary or modify any of the regulations or provisions of this Ordinance relating to the construction or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

- A. Variances from the provisions of this Ordinance may be granted only upon appeal from a decision, action, determination, or order of the Zoning Enforcement Officer. Such application of appeal shall be filed with the Zoning Enforcement Officer and shall demonstrate substantially the following:
1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which do not exist or prevail generally among other lands, structures, or buildings in the same district.
 2. Literal enforcement of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this Ordinance.
 3. The hardship is not the result of the applicants own actions taken subsequent to the effective date of this Ordinance.
 4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or building in the same district.
 5. Relief, if approved, will not cause substantial detriment to the public welfare or impair the purposes and intent of this Ordinance.
- B. Furthermore, the Planning Board must make such findings of fact as substantiate all of these requirements. In considering applications for variances from provisions of this Ordinance,

demonstration of financial disadvantage alone shall not constitute conclusive evidence of unnecessary hardship.

- C. In granting a variance, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this Ordinance. Departure from or violation of any of these conditions or safeguards shall be deemed a violation of this Ordinance, and shall be punishable upon conviction as provided in Article I.
- D. Unless otherwise specified at the time the variance is granted, the variance applies to the subject property and not to the applicant. Consequently, the variance is transferable to any future owner of the subject property, but cannot be transferred by the applicant to a different site.
- E. A variance applies for an indefinite period of time unless otherwise specified at the time the variance is granted, except that when a variance has not been exercised or consummated within one (1) year after the date upon which it is granted, the variance may be canceled upon written notice to the owner of the subject property.

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 be submitted to the Lenoir County Zoning Enforcement Officer, and shall be addressed to the Lenoir County Planning Board, except where otherwise stated in this Ordinance. Appeals may be initiated by citizens or agencies of the County.

- A. The Zoning Enforcement Officer shall transmit all pertinent records of such appeal to the secretary of the Planning Board not more than fourteen (14) days following receipt of such appeal.
- B. The Planning Board shall fix a time and place for hearing and appeal. The time set for hearing of an appeal shall not exceed forty-five (45) days from the date on which such appeal was filed with the Zoning Enforcement Officer.
- C. The Zoning Enforcement Officer shall notify, by first class mail, the adjoining property owners who own property within two hundred (200) feet of the subject property.
- D. The Planning Board shall submit to the appellant, in written form, the decision of the Board. Such written notice of the Board's action shall be sent to the appellant not more than seven (7) days following the date of the public hearing. Such letter shall describe the reason or reasons for the Board's action.

- E. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Planning Board that, based on the records of the case in questions, a stay would cause imminent damage to life or property, in which circumstances proceedings shall not be stayed otherwise than by an order of the Lenoir County Superior Court.
- F. Appeals from decisions of the Planning Board may be filed in courts of record having original jurisdiction in such matters.

ARTICLE XII AMENDMENTS

12.1 Amending the Ordinance

The County Board of Commissioners may amend the text regulations and zoning map according to the following procedures:

12.1.1 The following action shall be taken:

- A. **Initiation of Amendments:** Proposed amendments may be initiated by the County Commissioners, Planning Board or by one (1) or more interested parties.
- B. **Application:** An application for any amendment shall contain a description of the proposed zoning regulation or district boundary to be applied. Such application shall be filed with the Zoning Enforcement Officer not later than fourteen (14) days prior to the Planning Board meeting at which the application is to be considered.
- C. **Fees:** A fee, as established by the County fee schedule, shall be paid to the County of Lenoir, North Carolina, for each application for an amendment to cover the costs of advertising and other administrative expenses involved.

12.2 Action by the Planning Board

12.2.1 **Planning Board Consideration.** The Planning Board shall consider and make recommendations to the County Commissioners concerning each proposed zoning amendment. The Planning Board may hold separate public hearings or may sit concurrently with the public hearings held by the County Commissioners.

12.3 Action by the County Commissioners

12.3.1 **Notice and Public Hearing.** No amendment shall be adopted by the County Commissioners until after public notice and hearing. Notice of Public Hearing shall be published once a week for two (2) successive calendar weeks in the local newspapers, said notice to be published for the first time no less than ten (10) nor more than twenty-five (25) days prior to

the date fixed for said hearing. Public notice may also be posted on the property concerned indicating the proposed change and date of public hearing.

12.3.2 Action by County Commissioners. Before taking such lawful action as it may deem advisable, the County commissioners shall consider the Planning Board's recommendation of each proposed zoning amendment. If no recommendation is received from the Planning Board within thirty (30) days after the public hearing, the proposed amendment shall be deemed to have been approved by the Planning Board.

12.3.3 Resubmission of a Denied Petition. A denied petition may not be resubmitted within six (6) months of its previous denial.

ARTICLE XIII STATUTORY VESTED RIGHT

13.1 Purpose

The purpose of this Article is to implement the provisions of G.S. 153A-344.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.

13.2 Definitions

As used in this Article, the following terms shall have the meaning indicated:

13.2.1 Approval Authority. The approval authority under this Article shall be the Lenoir County Board of Commissioners.

13.2.2 Site Specific Development Plan. 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.

13.2.3 Zoning Vested Right. A right pursuant to G.S. 153A-344.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

13.3 Establishment of a Zoning Vested Right

13.3.1 A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the approval authority of a site specific development plan, following notice and public hearing.

- 13.3.2** The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.
- 13.3.3** Notwithstanding subsection 13.3.1 and 13.3.2, approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
- 13.3.4** A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
- 13.3.5** The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the County, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this chapter.
- 13.3.6** A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

13.4 Approval Procedures and Approval Authority

- 13.4.1** Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.
- 13.4.2** Notwithstanding the provisions of subsection 13.4.1, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the approval authority following notice and a public hearing as provided in G.S. 153A-323 and Chapter 160A, Article 19.
- 13.4.3** In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of

application, on a form to be provided by the County, that a zoning vested right is being sought.

13.4.4 Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. 153A-344.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."

13.4.5 Following approval or conditional approval of a site specific development plan, nothing in this Article shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

13.4.6 Nothing in this Article shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the Lenoir County Zoning Ordinance.

13.5 Duration

13.5.1 A zoning right that has been vested as provided in this Article shall remain vested for a period of two (2) years unless specifically and unambiguously provided otherwise pursuant to subsection 13.5.2. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

13.5.2 Notwithstanding the provisions of subsection 13.5.1, the approval authority may provide that rights shall be vested for a period exceeding two (2) years but not exceeding five (5) years where warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of investment, the need for or desirability of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific development plan is approved.

13.5.3 Upon issuance of a building permit, the expiration provisions of G.S. 153A-358 and the revocation provisions of G.S. 153A-362 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

13.6 Termination

A zoning right that has been vested as provided in this Article shall terminate:

- 13.6.1** At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
- 13.6.2** With the written consent of the affected landowner;
- 13.6.3** Upon findings by the Lenoir County Board of Commissioners, by ordinance after notice and a public 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 development plan;
- 13.6.4** Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the County, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
- 13.6.5** Upon findings by the Lenoir County Board of Commissioners, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or
- 13.6.6** Upon the enactment or promulgation of a State or Federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority 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 a hearing.

13.7 Limitations

Nothing in this Article is intended or shall be deemed to create any vested right other than those established pursuant to G.S. 153A-344.1.

13.8 Repealer

In the event that G.S. 153A-344.1 is repealed, this Article XIII, Statutory Vested Right, shall be deemed repealed and the provisions hereof no longer effective.

*Official Zoning Map of
Lenoir County, NC
February 3, 2003*

