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SUBDIVISIONS**

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## Article I. In General

### 16-1. Short title.

This chapter shall be known and may be cited as the "Subdivision Regulations."

### 16-2. Definitions.

(A) For the purposes of this chapter, the following words and phrases shall have the meanings respectively assigned to them by this section:

**Building Setback Line.** A line parallel to the front property line in front of which no structure shall be erected.

**Dedication.** A transfer by the owner of a right to use land for stated purposes. Dedication is made by written instrument and is completed with an acceptance by the Town or its designee.

**Double-Frontage Lot.** A continuous (through) lot of the same depth as the width of a block containing two tiers of lots and which is accessible from both of the parallel streets upon which it fronts.

**Easement.** A grant by the property owner for use, by the public, a corporation, or persons of a strip of land for specified reasons.

**Extraterritorial Jurisdiction (ETJ).** The land lying outside of the corporate limits of the town, yet subject to the planning and zoning ordinance of the town. The ETJ is identified on the Official Map of the Town of North Wilkesboro.

**Gated Residential Development.** A residential subdivision with a gate placed across the entrance street(s) at the outer periphery of the development in order to restrict access.

**Group Project.** A development comprising two or more buildings, such as a group of apartments, and the land is not subdivided into the customary streets and lots.

**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 the word "plot" or "parcel."

**Official Maps or Plans.** Any maps or plans officially adopted by the board of commissioners as a guide for the development of the town and surrounding area

**Planning Board.** The Planning Board of the Town of North Wilkesboro.

**Planning Director.** The Planning Director of the Town of North Wilkesboro.

**Reservation.** A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

**Reverse-Frontage Lot.** A continuous (through) lot which is accessible from only one of the parallel streets upon which it fronts.

**Street.** A dedicated and accepted public right-of-way for vehicular and pedestrian circulation.

**Street, Arterial.** A federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one area or region to another; a thoroughfare. Also referred to as a major thoroughfare.

**Street, Collector.** A public way designed primarily to connect minor streets with arterial streets and/or to provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

**Street, Minor Residential.** Those streets whose primary function is to provide direct access to residential property.

**Street, Minor Non-Residential.** Those streets whose primary function is to provide direct access to commercial/industrial property.

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

**Street, Rural.** A street designed for and located in non-urban and non-urbanizing areas as classified by the town.

**Street, Urban.** A street designed for and located in urban or urbanizing areas as classified by the town.

**Street, Parallel Frontage Road.** A public or private street adjoining or parallel to an arterial street designed to provide access to abutting property in place of the arterial.

**Street, Private.** An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor is it intended to be maintained by the public.

**Street, Public.** A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of North Wilkesboro or the State of North Carolina.

**Street Line.** The outer boundary of a street right-of-way.

**Street Orientation.** The direction of the architectural front façade of a building in relation to the street.

**Street Right-of-Way.** Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of North Wilkesboro or Wilkes County, if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has

been approved or is subsequently approved by the Town of North Wilkesboro; or has otherwise been established as a public street prior to the adoption of this ordinance.

**Subdivider.** Any person who subdividers or develops any land deemed to be a subdivision as herein defined.

**Subdivision.** A subdivision includes 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; provided, however, that the following shall not be included within this definition:

- (1) The combination or recombination of portions of parcels platted and recorded prior to the effective date of this ordinance, or portions of lots platted in compliance with this ordinance after its effective date, where the total number of lots is not increased and the resultant lots are equal to the standards of this ordinance and the appropriate zoning classification.
- (2) The division of land into parcels greater than ten acres where street right-of-way dedication or reservation is not involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way.
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where street right-of-way dedication or reservation is not involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification.
- (5) The division of land into plots or lots for use as a cemetery.
- (6) Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this ordinance.

**Subdivision, Major.** A subdivision not otherwise exempt from these regulations that involves any of the following:

- (1) The creation of any new public street or street right-of-way, or improvements to an existing street.

- (2) A future public school, park, greenway, or open space site shown in any adopted plan or policy document.

- (3) The extension of any needed right-of-way or easement for the water or sewer system operated by the Town of North Wilkesboro.

- (4) The installation of drainage improvements through one or more lots to serve one or more other lots.

- (5) The installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site.

**Subdivision, Minor.** A subdivision that is not otherwise exempt from the provisions of this ordinance and that does not meet the criteria for the definition of a major subdivision.

**Subdivision Administrator.** The Planning Director or his appointee shall serve to administer the subdivision ordinance.

**Technical Advisory Committee (TAC).** An ad hoc committee appointed by the Planning Director and composed of the Fire Chief, Police Chief, Public Works Director, Public Utilities Director, and any administrative staff deemed necessary by the Planning Director to serve as a review body that will insure conformance to all town standards for development.

**Thoroughfare.** See *Street, Arterial*.

**Thoroughfare Plan.** The most recent map adopted by the town board which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation.

**Town Board.** The Board of Commissioners of the Town of North Wilkesboro.

**Town Manager.** The Town Manager of the Town of North Wilkesboro.

**Variance.** An action requesting consideration for relief from the strict enforcement of the standards of the ordinance where special circumstances or unusual considerations may exist on the parcel of land.

**(B) Rules of construction.**

For the purposes of these regulations, the following rules of construction apply.

- (1) These regulations will be construed to achieve the purposes for which they are adopted.

- (2) In the event of any conflict in limitations, restrictions, or standards applying to a project, the provision more consistent with the North Wilkesboro Zoning Ordinance shall apply.

- (3) The words "shall", "must", and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.

(4) The word “may” is permissive in nature except when used in the negative.

(5) References to “days” will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.

### **16-3. Authority for chapter.**

This chapter is enacted by the board of commissioners pursuant to authority contained in Article 19, Chapter 160A, of the General Statutes of North Carolina.

### **16-4. Territorial applicability of chapter.**

These regulations shall govern all subdivisions of land within the corporate limits and the one-mile perimeter extraterritorial jurisdiction of the town, as now or hereafter established.

### **16-5. Purpose of chapter.**

The purpose of these regulations is to establish procedures and standards for the development and subdivision of real estate within the corporate limits and extraterritorial jurisdiction of the town in an effort to, among other things, insure proper legal description, identification, monumentation and recordation of real estate boundaries; further the orderly layout and appropriate use of the land; provide safe, convenient, and economic circulation of vehicular traffic; provide adequate building sites which are readily accessible to emergency vehicles; assure the proper installation of streets and utilities; promote the eventual elimination of unsafe or unsanitary conditions because of undue concentration of population; and help conserve and protect the physical and economic resources of the town and its environs.

### **16-6. Conflicts with zoning ordinance.**

In the event of conflict between any provision of this chapter and the zoning ordinance, the more stringent requirement shall prevail.

### **16-7. Exceptions.**

The standards and requirements of this chapter may be modified by the planning board in the case of a plan or program for a complete group development, which, in the judgment of the board, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and

achievement of the plan.

### **16-8. Variances.**

Where, because of topographical or other conditions peculiar to the site, strict adherence to the provisions of the regulations of this chapter would cause an unnecessary hardship, the planning board may recommend, and the board of adjustment may authorize, a variance, if such variance can be made without destroying the intent of this chapter. Any variance thus authorized is required to be entered in writing in the minutes of the planning board and of the board of adjustment and the reasoning on which the departure was justified set forth.

### **16-9. Procedure to amend chapter.**

This chapter may be amended from time to time by the board of commissioners as herein specified, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the planning board for review and recommendation. The planning board shall have forty-five days within which to submit its report. If the planning board fails to submit a report within the specified time, it shall be deemed to have approved the amendment.

### **16-10. Enforcement, Violations, and Penalties**

#### *1. General*

a. It shall be the duty of the Planning Director to enforce these requirements as Subdivision Administrator and to bring to the attention of the Town Attorney or his designated agent any violations of these regulations.

b. No owner, or agent of the owner, of any parcel of the land located in a proposed subdivision shall transfer or sell any part of the parcel before a final plat of the subdivision has been approved by the Planning Board or Subdivision Administrator in accordance with the provisions of the regulations and filed with the Register of Deeds of Wilkes County

c. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the municipality have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.

*2. Violations and Penalties.* Any person who violates any of these regulations shall be guilty of a

Class III misdemeanor and subject to a fine of not more than \$500 as pursuant to the provisions of Section 14-4 of the General Statutes of the State of North Carolina.

3. *Civil Enforcement.* Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described above.

## **Article II. Procedures for Procuring Approval**

### **16-11. Approval of subdivision plats required; effect of noncompliance.**

From and after the date of filing of a copy of this ordinance with the Register of Deeds of Wilkes County, no subdivision plat of land within the platting jurisdiction, as defined in Article I, Section 16-2 shall be filed or recorded until it shall have been submitted and approved by the Planning Board or the Subdivision Administrator of the Town of North Wilkesboro, and such approval entered in writing on the plat. The Register of Deeds, upon receipt of a copy of this ordinance, shall not thereafter file or record a plat of a subdivision of land located within the platting jurisdiction, as defined herein, without the approval of such plat as required herein. No street shall be accepted and maintained by the Town nor shall any street lighting, water or sewer be extended to or connected with any subdivision of land, nor shall any permit be issued by an administrative agent or department of the Town of North Wilkesboro for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat is required to be approved unless and until the requirements set forth in this ordinance have been complied with and the same has been approved.

### **16-12. Approval not acceptance.**

The approval of a plat by the Planning Board shall not be deemed to constitute or affect the acceptance by the Town of North Wilkesboro or the public of the dedication of any street or other real property, lake, pond, creek, open space, public utility line, or other facility shown upon the plat.

### **16-13. Simplified procedure for review of a minor subdivision.**

A minor subdivision, as defined in Article I, Section 16-2, shall be reviewed and approved by a simplified procedure. Any person who proposes a minor

subdivision must first consult with the Planning Director to ensure the understanding of the requirements for the approval of a final plat. After consulting with the Planning Director, the subdivider may proceed with the preparation of the final plat in accordance with the requirements of Article II, Section 16-20 of this ordinance. The Planning Director may approve the final plat but may also refer the final plat to the Planning Board.

### **16-14. Procedure for review of major subdivisions.**

A major subdivision shall be defined as a proposed subdivision which cannot qualify as a minor subdivision and has no acreage, parcel, or lot limitations but requires any public and/or private infrastructure necessary to support the proposed development.

**16-15. General procedures for review** include the following in sequential order: sketch plan submittal and review; preliminary plat submittal and review; and final plat submittal and review.

### **16-16. Sketch plan requirements.**

The subdivider may submit a sketch plan and a sketch vicinity map of the proposed subdivision to the Planning Director. The sketch plan shall be drawn at a minimum scale of 200 feet to one inch and shall include the tentative street layout, approximate right-of-way width, lot arrangements, the locations of existing water and sewer lines, existing structures, water courses, total acres, approximate number of lots, adjoining streets, north point, tract boundary, and proposed use of land.

### **16-17. Preliminary plat submission and review.**

The procedure for obtaining preliminary plat approval is as follows:

a) All major subdivisions (excluding those which qualify as major based solely upon size and having no public and/or private infrastructure) shall require review by the Technical Advisory Committee in addition to the Planning Board. Construction or installation of improvements may not begin until after preliminary plat review and approval by the Planning Board.

b) The subdivider shall submit 16 copies of the preliminary plat to the Planning Director at least 14 days prior to a regularly scheduled meeting of the Planning Board. Preliminary plats shall meet the specifications in Article II, Section 16-21 of this ordinance.

c) The preliminary plat shall be reviewed for the entire tract or parcel of land which is to be, or which has been, subdivided.

**16-18. Prior to submission of the preliminary plat** to the Planning Board, the preliminary plat shall be reviewed by the Technical Advisory Committee (TAC). The Technical Advisory Committee's function is to insure conformance of the proposed development with the Town's various ordinances and development standards. The Planning Director shall serve as chairman of the Technical Advisory Committee. Other staff members and individuals may be called on to provide input to the committee, as the Planning Director deems necessary.

a) The Technical Advisory Committee shall review the plans for development and report its findings to the Planning Director prior to the Planning Board meeting.

b) All meetings of the Technical Advisory Committee shall be open to the public.

c) Following review by the Technical Advisory Committee, all papers and data pertinent to the plat shall be transmitted to the Planning Board.

d) If the Planning Director determines that the land to be subdivided warrants special consideration because of topographical or other conditions peculiar to the site, the subdivider shall submit, upon request, a separate topographic map of the site with a contour interval deemed necessary by the board. The topographic map cannot be used as the same preliminary plat for the subdivision because of the difficulty of interpreting all of the information required on one document.

e) Before acting on the preliminary plat, the Planning Board may request a report from any person or agency directly concerned with the proposed development, such as the district highway engineer, Wilkes County Health Department, NC Department of Health, Environment, and Natural Resources, the superintendent of schools, and any other officials or agencies deemed necessary. Such report shall certify compliance with or note deviations from the requirements of this ordinance and include comments on other factors which bear upon the public interest.

f) The Planning Board shall review the preliminary plat at its next regularly scheduled meeting and shall recommend approval, conditional approval subject to minor modifications, or disapproval. If the Planning Board recommends disapproval of the preliminary plat, the reasons for such recommendations shall be stated in writing and references shall be made to the specific regulations with which the preliminary plat does not comply. The applicant shall then have the right of appeal to the Zoning Board of Adjustment within 30 days of the rendered decision. If approval is recommended subject to modifications, specific references shall be made of the preliminary plat stating the nature of the regulatory noncompliance and possible modifications.

g) Upon receipt of the preliminary plat on appeal, the Zoning Board of Adjustment shall hold a public hearing in accordance with the provisions of G.S. 160A-364. The Board of Adjustment shall then review the plat at its next regularly scheduled meeting and decide approval, conditional approval subject to minor modifications, or disapproval. If the Zoning Board of Adjustment decides disapproval, the reasons for such action shall be stated in writing, and specific references shall be made to regulations with which the preliminary plat does not comply. The appealing body of the Zoning Board of Adjustment shall be the Superior Court of Wilkes County.

h) Failure of the Planning Board to act on the preliminary plat within 60 days after submission of a complete preliminary plat application shall be deemed as a basis for appealing to the Town Board for approval or disapproval.

i) Approval of the preliminary plat shall be effective for a period not to exceed two years and shall thereafter expire and be considered null and void, unless a petition for an extension of time is submitted to and subsequently approved by the Planning Board prior to the two-year limit.

**16-19. Same-Filing fee.**

At the time of submission of the preliminary plat the subdivider shall pay, to the Finance Officer or his designee, a filing fee as listed in the current fee

schedule of the Town.

**16-20. Final plat submission and review.**

In accordance with Article II, Section 16-11 of this ordinance, no street shall be accepted and maintained by the Town, nor shall any street lighting, water, or sewer be extended to or connected with any subdivision of land as defined herein, nor shall any permit be issued by an administrative agent or department of the Town for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat is required to be approved unless and until the final plat has been approved by the Planning Board of the Town of North Wilkesboro. The procedure for obtaining final plat approval is as follows:

a) Upon approval of the preliminary plat by the Planning Board or approval by appeal from the Zoning Board of Adjustment, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of Article II, Section 16-21 of this ordinance. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein.

b) The subdivider shall submit 15 copies of the final plat to the Planning Director at least 14 days prior to a regularly scheduled meeting of the Planning Board. A recordable mylar shall also be provided. If the plat is prepared using digital technology, an additional copy must be submitted in an electronic format satisfactory to the Town. Other reproducible copies shall be submitted if deemed appropriate by the Planning Director.

c) The final plat may, at the discretion of the Planning Board, be reviewed in separate phases provided that the requirements for submission and review of final plats have been met for each final plat phase.

d) The final plat shall be prepared by a professional land surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 as amended, and as set forth in the Standards of Practice for Land Surveying in North Carolina, and in Section 16-20 of this ordinance.

e) The following signed certificates shall be shown on the original and all copies of the final plat:

1. Certificate of ownership and dedication.

I hereby certify that I am (we are) the owner(s) of the property shown and described hereon, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.

Date	Owner(s)

2. Certificate of survey and accuracy.

State of North Carolina, Wilkes County  
I, \_\_\_\_\_, certify that this plat was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (and actual survey made under my supervision) (Deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (other); that the precision of the survey before adjusting was one part in \_\_\_\_\_ as calculated by latitudes and departures; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; and that this map was prepared in accordance with G.S. 47.30, as amended. Witness my original signature, registration number and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20 \_\_\_\_\_.

	Professional Land Surveyor
Official Seal	
	Registration Number

3. Certificate of Notary.

I, \_\_\_\_\_, a Notary Public of the County and State aforesaid, certify that (name of r surveyor) personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this the \_\_\_\_\_ day of \_\_\_\_\_ (year).

	_____ Notary Public
Official Seal	
	My Commission Expires _____

4. Certification of the approval of the installation and construction of streets, utilities, and other required improvements, if applicable.  
I hereby certify (1) that streets, utilities, and other required improvements have been installed in an acceptable manner and according to Town specifications and standards in the subdivision entitled \_\_\_\_\_ or (2) that a guarantee of the installation of the required improvements in an amount or manner satisfactory to the Town of North Wilkesboro has been received.

_____ Public Works Director	_____ Date
_____ Public Utilities Director	_____ Town Clerk

5. Certificate of Subdivision Administrator for all major and minor subdivision plats.  
Approved for recording by the Town of North Wilkesboro, N.C Subdivision Administrator pursuant to Chapter 16 of the Town of North Wilkesboro Code of Ordinances. This plat shall be recorded within thirty days of this date.

_____ Subdivision Administrator	_____ Date
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6. Certificate of approval of recording plat and acceptance of dedications.  
I, \_\_\_\_\_, the Town Clerk of the Town of North Wilkesboro, North Carolina, do hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, the Planning Board/Board of Commissioners of the Town of North Wilkesboro approved this plat for recording and that the Town Board of the Town of North Wilkesboro accepted the dedication of the streets, easements, rights-of-way and public parks and other sites for public purposes as shown hereon, but assume no responsibility to open or maintain same until, in the opinion of the

Town Board of the Town of North Wilkesboro, it is in the public interest to do so.

_____ Date	_____ Town Clerk
(Seal)	

7. Certificate of approval by plat review officer.  
I, \_\_\_\_\_, Review Officer for Wilkes County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

_____ Review Officer for Wilkes County	_____ Date
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8. NCDOT Construction Standards Certification for all plats outside the town limits involving new street right-of-way and any plat inside Town Limits which changes a State system street:

I, (District Engineer), do certify that the streets as indicated herein, are approved by the North Carolina Division of Highways and will be accepted to the State system at such time as density warrants.

_____ District Engineer	_____ Date
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f) The Planning Board shall review the final plat and shall take formal action to approve or disapprove. If the action is to disapprove the final plat, the reasons for such action shall be stated and specific references shall be made to the regulations with which the final plat does not comply.

g) The subdivision administrator shall sign the certificate upon approval of the Planning Board.

h). After approval of the final plat by the Planning Board, the plat shall be recorded by the Town after receipt of all applicable recording fees from the applicant. The plat shall not be returned to the developer after final plat approval.

i) If the Planning Board fails to act on the final plat by the second regularly scheduled meeting after its submission, the subdivider may seek approval of the



final plat at the next regularly scheduled meeting of the Town Board. The plat shall not be returned to the developer after final plat approval and all applicable fees are paid.

**16-21. Specifications for preliminary and final plats.**

The preliminary and final plats shall depict or contain the information indicated in Appendix A of this ordinance. An "X" indicates that the information is required. Preliminary and final plats shall be clearly and legibly drawn at a scale of not less than 100 feet to one inch and shall be drawn on a sheet size acceptable to the Register of Deeds of Wilkes County.

**16-22. Recombination of land.**

Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision, subject to approval by the Subdivision Administrator, by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

a) Such an instrument shall be presented to the Subdivision Administrator for consideration of approval. The Subdivision Administrator may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.

b) Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as the final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described in such plat.

c) When lots have been sold, the plat may be vacated in the manner provided in this section only by written approval of all owners of the lots in such plat.

**16-23. Lot boundary adjustments.**

The subdivision administrator may approve minor lot boundary adjustments by written certificate. The same procedure, rules and regulations shall apply as prescribed herein for an original subdivision; except, that lot sizes may be varied on an approved plat after recording; provided, that

(a) No new lots are created.

(b) Drainage easements or rights-of-way shall not be changed.

(c) Street alignment and block sizes shall not be changed.

(d) The character of the area shall be maintained.

**Article III.**

**Installation of Permanent Reference Points and Improvements**

**16-24. Permanent reference points.**

Prior to the approval of the final plat, permanent reference points shall have been placed in accordance with G.S. 39-32.1, 39-32.2, 39-32.3, and 39-32.4, as amended.

1. *Monuments.* With each block of a subdivision at least two monuments designated as control corners shall be installed. The surveyor shall install additional monuments if required. All monuments shall be constructed of concrete and shall be at least four inches in diameter or square and not less than three feet in length. Each monument shall have imbedded in its top, or attached by a suitable means, a metal plate of noncorrosive materials and marked plainly with the point and the surveyor's registration number. A monument shall be set at least 24 inches in the ground with at least six inches exposed above the ground unless this requirement is impractical.

2. *Property markers.* A steel or wrought iron pipe or the equivalent not less than 1/2 inch in diameter and at least 30 inches in length shall be set at all corners where practical or where the ground will allow, except those located by monuments.

**16-25. Improvements—Within town limits.**

Approval of the final plat shall be subject to the subdivider having guaranteed, to the satisfaction of the Town, the installation of said improvements. The Town of North Wilkesboro reserves the right to inspect, reject, stop or otherwise cease the construction of all service facilities or improvements in the event the same are not being constructed in accordance with the plans, specification standards, policies, or other requirements of the Town.

1. *Intent of specifications.* The intent of these specifications is to prescribe minimum requirements for street improvements to be undertaken by the developer within the Town of North Wilkesboro or if annexation of the subdivision to the Town is desired or required by the subdivider. Satisfactory completion of these improvements will qualify streets

in the Town to be accepted for maintenance by the Town.

**2. Street improvement responsibility.** In order to facilitate the provision of street rights-of-way and necessary improvements, the following sections establish responsibilities for the installation of streets and related improvements for each class of street.

a) *Major arterials.*

1) *Right-of-way.* For new major arterial streets, the developer is responsible for the dedication of up to NCDOT standards. Along existing major arterial streets, any development which requires specific improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.

2) *Improvements.* Installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet vehicular and/or traffic needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be responsible. The developer has the option, after consultation with the town manager, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new major arterial streets or extensions of major arterial streets must limit access points to public streets or specifically approved street type entrances.

b) *Minor arterial.*

1) *Right-of-way.* For new minor arterial streets the developer is responsible for the dedication of up to NCDOT standards. Along existing streets any development which requires improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.

2) *Improvements.* Installed by the public in accordance with a schedule of public street improvements, except where specific improvements are required to meet the vehicular and/or pedestrian access needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the town manager, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new minor arterial streets or extensions of minor arterial streets must limit access points to public streets or specifically approved street type entrances.

c) *Major and minor collector.*

- 1) *Right-of-way.* Dedicated by the developer.
- 2) *Improvement.* Constructed by the developer.

d) *Town streets and lanes.*

- 1) *Right-of-way.* Dedicated by the developer.
- 2) *Improvements.* Constructed by the developer.

e) All public streets must be constructed to comply with all applicable town or state requirements. Public improvements will be made in accordance with adopted plans, programs, and budgets. It shall not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector unless those improvements are scheduled and funded in accordance with public policies and programs.

f) Minimum standards for private streets shall meet minimum standards set forth by the North Carolina Department of Transportation. All private streets

shall be designed by a registered professional engineer or land surveyor. Final construction quality shall be certified by a professional engineer licensed to practice in North Carolina.

**3. Responsibility for State roads.** No dedication or reservation of right-of-way for a new street or highway within a corridor for a street or highway on a plan established and adopted pursuant to G.S. 136-66.2 for a street or highway that is included in the Department of Transportation's "Transportation Improvement Program" will be required by the provisions of this ordinance unless and until the Town Manager has determined and certified in writing that;

a) The dedication or reservation does not result in the deprivation of a reasonable use of the original tract; and

b) The dedication or reservation is either reasonably related to the traffic generated by the proposed subdivision or use of the land remaining in the original tract, or the impact of the dedication or reservation is mitigated by measures provided in this ordinance. For these purposes the term "original tract" will mean all contiguous land owned by the applicant. The ability of the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant is deemed to be a measure which mitigates the impact of the dedication or reservation.

**4. Grading.** All other streets shall be graded to their full pavement width back to back of curb, and for an additional five feet on each side of the pavement width. Finished grade, cross section and profile shall be approved by the Public Works Director or Town Consulting Engineer. Due to special topographical conditions, deviation from the above will be allowed only for hillside subdivisions or as a variance by the Zoning Board of Adjustment. (See also Article I, Section 16-8)

All earthwork shall conform to NCDOT Standard Specification, latest edition.

**5. Pavement base.** Pavement composition must be in accordance with the standards as specified in the NCDOT Subdivision Roads Minimum Construction Standards, latest edition.

**6. Pavement.** Pavement composition must be in accordance with the standards as specified in the NCDOT Subdivision Roads Minimum Construction Standards, latest edition. Pavement width shall be

measured from edge of pavement to edge of pavement.

**7. Installation of utilities.** After grading is completed and approved and before any base is applied, all of the underground work (water mains, gas mains, etc.) and all service connections shall be installed completely and approved throughout the length of the road and across the flat section.

a) *Water supply system.* Water mains properly connected with the community water supply system or with an alternate supply approved by the department of health services shall be constructed in such a manner as to serve adequately, for both domestic use and fire protection, all lots shown on the subdivision plat.

The size of water mains, the location and types of valves and hydrants, the amount of soil cover over the pipes and other features of the installation shall meet the standards of the Town of North Wilkesboro and shall be approved by the Planning Board, with consultation of the appropriate Town, county, and state agencies, and shall conform to accepted standards of good practice for municipal water systems.

b) *Sanitary sewers.* Connection to Town sewer systems shall be mandatory for all subdivisions within Town limits. The cost of installation shall be the responsibility of the developer. In addition, when a subdivision is located within 200 feet of a public sewerage system or an approved private system, sanitary sewers shall be installed in such a manner as to adequately serve all lots with connection to the public system; regardless if the development is in Town limits or the ETJ and at the expense of the developer. When, at the discretion of the Utilities Director, lots cannot be connected with a sewerage system or are outside of the 200 foot provision, they must contain adequate area for the installation of approved septic tank and disposal fields.

c) *Oversize water or sewer mains.* In the event the Town of North Wilkesboro determines that it is necessary for the orderly development of the Town to install larger size water mains or sanitary sewer facilities than are necessary to serve the subdivision requesting approval, the Town may require the developer to install larger mains with the difference in cost of the large size facilities over and above the cost of the facilities required to serve the subdivision shall be paid by the Town of North Wilkesboro.

**8. Stormwater drainage system.** The subdivider shall provide a stormwater water drainage system

constructed to the standards of the North Carolina Department of Transportation, as reflected in "Handbook for the Design of Highway Surface Drainage Structures," subject to review by the Public Works Director.

(a) The minimum peak flow reducing storm water control requirements shall provide control measures necessary to control velocities of flow from storm water management facilities to a level which will not cause erosion or other velocity related problems at the exit of all storm water management facilities and downstream. In addition, storm water control measures shall be provided to limit the 2-year and 10-year developed peak discharge rates to pre-developed peak discharge rates. The design of these facilities shall be based on standard engineering practice.

(b) The above requirements, or portions thereof, may be waived by the Town if it can be shown by engineering calculations which are acceptable to the Town that one of the following exists:

- (1) the installation of peak flow reducing storm water control facilities would have insignificant effects on reducing downstream flood peaks; or
- (2) peak flow reducing storm water control facilities are not needed to protect downstream developments; or
- (3) the Town determines that peak flow reducing storm water management facilities are not needed to control developed peak discharge rates and installing such facilities would not be in the best interest of local citizens or the Town.

(c) The above requirements, or portions, thereof, may not be waived if the Town determines that not controlling downstream flood peaks would increase known flooding problems, or exceed the capacity of the downstream drainage system.

(d) For all storm water control facilities, a hydrologic-hydraulic study shall be performed showing how the drainage system will function with and without the proposed facilities.

(e) Storm water design plans that are incidental to the design of developments shall be prepared by a qualified licensed North Carolina Professional Engineer,

Surveyor or Landscape Architect. Storm water control facilities shall be prepared by a qualified licensed North Carolina Professional Engineer, using acceptable engineering standards and practices.

(f) During the preparation of the subdivision or any other development project and installation of improvements, appropriate measures shall be taken to prevent erosion and damaging siltation on the property and on adjoining land or water areas in accordance with the "Rules and Regulations for Erosion and Sediment Control" published by the North Carolina Sedimentation Control Commission.

(g) No stormwater shall be channeled or directed into a sanitary sewer.

(h) Where feasible, the subdivider shall connect to an existing storm drainage system.

(i) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.

(j) Stormwater drainage courses shall comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act, G.S. 143-34.12; ch. 113A, art. 4; and the NC Administrative Code Title 15, Chapter 4.

(k) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one foot in each 100 feet of horizontal distance.

(l) All dams or impoundments within the subdivision must comply with the NC Dam Safety Law of 1967 and the NC Administrative Code Title 15, Subchapter 2K.

(m) In all areas of special flood hazards, all subdivisions shall have adequate drainage provided to reduce exposure to flood damage.

**9. Sidewalks.** For all major subdivisions, sidewalks are required along both sides of all residential streets. Sidewalks shall be constructed within the street right-of-way and installed as follows:

a) *Material and construction.* Sidewalks shall be constructed to NCDOT standards, except that where the sidewalk crosses a driveway it shall be six inches thick. Other materials may be approved by the Town but if other materials are used then said sidewalk must be installed in a satisfactory manner and meet

the Town's approval. The surface of the sidewalk shall be steel trowel and light broom finished and cured with an acceptable curing compound. Tooled joints shall be provided at intervals of five feet and expansion joints at intervals of not less than 100 feet. The sidewalk shall have a lateral slope of 1/4 inch per foot.

b) *Location.* Approval of sidewalk construction plans must be obtained from the Town of North Wilkesboro as part of the subdivision review process. The town will review and comment on the location of the required facilities at the time of plan review. Except in unusual circumstances, sidewalks shall be located six feet from the back of the curb. If existing public street right-of-way is not available, the developer will be required to construct the sidewalk outside the street right-of-way on a permanent easement.

c) *Compliance.* All sidewalks shall comply with federal and state requirements.

#### **10. Street markers and barricades**

a) Standard street markers must be installed by the developer at one corner of all street intersections, including private streets, before any zoning or building permits may be issued for buildings or residences along those streets. The design, material, location and installation of the signs must be in accordance with standards specified by the Town of North Wilkesboro unless an alternative design is approved. Alternatives to the standard design for street markers may be submitted by the developer for consideration by the Planning Board. If an alternative design is approved by the Planning Board, responsibility for the installation, maintenance, and replacement of non-standard street markers remains with the developer and subsequently with the homeowners. If maintenance and replacement of non-standard street markers is not provided by the developer or homeowners, the town shall install standard street markers as replacements are needed. All standard street markers will be maintained and replaced by the town once initial installation has been completed by the developer.

b) Barricades must be installed at the end of all dead-end streets except cul-de-sac streets, which have been improved with a permanent turnaround, as required by this ordinance.

Design, material and installation of the barricades must be in accordance with the Town of North Wilkesboro standards.

**11. Plant cover on slopes.** All cut and fill banks exposed by grading shall be planted with grass, legume, vine, or other suitable plant material to prevent erosion. These plantings must be of a native species indigenous to the area.

**12. Curb and gutter.** Combination curb and gutter, shall be required and be installed in accordance with the standards set forth in the North Carolina Department of Transportation, Division of Highways, Subdivision Roads Minimum Construction Standards, latest edition. The Planning Board at its discretion may permit valley-type curbs on local, cul-de-sac, and hillside streets within subdivisions.

#### **16-26. Guarantee of improvements.**

a) In lieu of requiring the completion, installation and inspection of all or any part of the required improvements as described in Article III Section 16-25 (2 through 12) prior to final plat approval, the Town may enter into a contract with the subdivider whereby the subdivider shall agree to complete all required improvements.

b) Once the agreement is signed by both parties and the security required herein is provided, the final plat may be approved if all other requirements of this chapter are met.

1. Cash or equivalent security. The subdivider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, with the town. The use of any instrument other than cash shall be subject to the approval of the town. The amount of the deposit shall be equal to an amount 110% of the estimated cost as approved by the Subdivision Administrator, of installing all required improvements. The initial cost estimate shall be the responsibility of the subdivider but the approval of the final cost estimate shall be made by the Subdivision Administrator. The Subdivision Administrator may refuse to accept a financial guarantee in an amount less than \$10,000 where, in his opinion, the present and/or potential administrative cost of accepting such guarantee could result in a loss of money to the Town.

2. Governmental Guarantee. In any case where a required improvement is to be provided by this state or any local government other than the Town, the subdivider may provide, in lieu of the types of financial guarantee as provided for above, a letter from the appropriate state or local government

official guaranteeing the installation of the improvement in the required manner and within the time allotted. However, in any case where the cost of such improvement exceeds \$10,000 as determined by the town, such governmental guarantee shall be in the form of an approved Project Budget Ordinance where local government is to be the provider and an equivalent document where the state is to be the provider.

**16-27. Duration of financial guarantees.**

a) The duration of a financial guarantee shall be of a reasonable period to allow for completion and acceptance of such improvements. In no case shall the duration of the financial guarantee for improvements be less than one year or upon completion and acceptance; whichever is longer.

b) All subdivisions whose public improvements are not completed and accepted at least 30 days prior to the expiration of the financial guarantee shall be considered to be in default, unless the guarantee is extended with the consent of the Subdivision Administrator to a future date not to exceed six months.

**16-28. Default.**

a) Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as specified in the guarantee agreement, the Town may take all or any portion of the guarantee fund up to the amount needed to complete the improvements based on an estimate by the Town. The Town at its discretion may expend such portion of the funds as deemed necessary to complete all or any portion of the required improvements. The Town shall return to the subdivider any funds not spent in completing the improvements.

b) Default on a project does not release the subdivider from liability/responsibility for the completion of the improvements.

**16-29. Release of guarantee security.**

The Town shall release the security posted after the improvements are completed and approved by the town. The Town may provide a one-time release of not to exceed 50% of the security after the completion and approval of not less than 50% of the improvements as determined by the Subdivision Administrator.

**16-30. Certification of completion and warranty.**

For subdivisions with public improvements, a certificate of completion and warranty shall be

submitted to the Town Manager (on a form provided by the planning department) stipulating the following:

1. All improvements required by the Town of North Wilkesboro's ordinance have been completed;
2. Said improvements are in compliance with the minimum standards specified by Town ordinance for construction;
3. The subdivider knows of no defects from any cause and that he will warrant all improvements against defects in materials and workmanship for a period of three years after the certificate of completion and warranty is executed.
4. In the event any defects are discovered in materials or workmanship in any required improvements during the warranty period, the subdivider will, at his expense, replace and/or repair said defects to the satisfaction of the Town.

**16-31. Exemptions for required street improvements**

1. Single family residential subdivisions with a minimum lot size of five acres and where each lot has a minimum of 200 feet of public street frontage shall be exempt from the curb and gutter and sidewalk requirements of this ordinance. Such subdivisions shall provide a street graded to the full width of the right-of-way and the 10-foot utility easements with pavement and side ditch sections as specified for its classification. When determining street frontage, lots with full frontage on cul-de-sacs may be excluded.
2. A variance from the requirements for curb and gutter and sidewalk may be approved by the Zoning Board of Adjustment in the following circumstances:

a) The project involves the extension or construction of a residential street to provide conformity to the existing neighborhood; or

b) The variance is in accordance with the provisions provided by the Zoning Ordinance.

Any exception to the requirements of the Subdivision Ordinance meeting the criteria of the above circumstances shall be considered upon written application by the developer detailing the purpose and justification(s) for the request. A report summarizing the request shall be submitted to the Zoning Board of Adjustment by the Subdivision Administrator or Public Works Director for consideration and approval or disapproval as the case

may be. Deletion of the infrastructure improvements cannot substantially impair the purposes of the requirements as set forth in the Subdivision Ordinance.

#### **Article IV. Underground Utility Services**

##### **16-32. Defined.**

For the purposes of this article, the term “utilities services” shall include electricity, telephone, telegraph, community antenna, CATV, water and gas transmission and distribution systems.

##### **16-33. When required—Penalty for violations.**

(a) The extension of existing utility services into new areas shall be placed underground.

(b) Utility services in all public and private housing developments shall henceforth be installed underground. “Housing developments” shall be defined as any land development whereby a land subdivision map is placed on public record or land is subdivided into four or more lots.

(c) Utility services in urban renewal areas shall be placed underground.

(d) Any person who violates any of these regulations shall be guilty of a Class III misdemeanor and subject to a fine of not more than \$500 as pursuant to the provisions of Section 14-4 of the General Statutes of the State of North Carolina. The imposition of one penalty for any violation of this section shall not excuse the violation or permit it to continue. Each day that a violation of such section continues after notice from the town clerk or a duly authorized agent of the town, shall constitute a separate offense.

##### **16-34. Undergrounding in connection with civic improvements—Variances from provisions of article—Depth of services.**

(a) In support of projects of civic improvement, including, but not restricted to, street widening, street paving, street realignment, provisions for open space, etc., utility services shall be relocated underground.

(b) In situations where the movement of utility services underground is demonstratively impractical, variances from the provisions of this article may be granted by the Zoning Board of Adjustment.

(c) When utility services are placed underground,

they shall be of sufficient depth to eliminate exposure and to adequately protect the same from shallow excavations.

##### **16-35. Aboveground poles.**

(a) No poles for electric, telegraph, telephone or other purposes shall be placed on any street without a permit being obtained from the Town.

(b) No permit shall be issued for the erection of poles on any street in contravention of the provisions of Section 16-33, or where there exists a line of poles on such street for the purpose of supporting electric, telephone or telegraph wires.

(c) Whenever any electric, telephone or telegraph company shall desire to place lines or wires along any particular street upon which it does not have a line of poles, but upon which street there exists a line of poles owned by another company, then such companies may maintain their wires upon the same poles; provided, that such placement or maintenance shall not violate the provisions of Section 16-33.

#### **Article V. Minimum Standards of Design**

##### **16-36. Exceptions.**

The following planning and design standards shall be complied with and no higher standard may be required by the Planning Board, except where because of exceptional and unique conditions of topography, location, shape, size, drainage or other physical features of the site, or because of the special nature and character of surrounding development, the minimum standards specified herein would not reasonably protect or provide for public health, safety, or welfare. Any higher standard required shall be reasonable and shall be limited to the minimum additional improvements necessary to protect the public health, safety or welfare.

##### **16-37. General requirements.**

*1. Streets to conform to major thoroughfare plans.*

The plat of a subdivision shall conform to the land use plan and zoning ordinance of the Town and meet the requirements of the thoroughfare plan for North Wilkesboro as approved by the Planning Board and adopted by the Town Board and the North Carolina Department of Transportation.

*2. Continuation of adjoining street system.*

The proposed street layout shall be coordinated with the existing street system of the surrounding area.

Where possible, proposed streets shall be the extension of existing streets. Whenever connections to existing or proposed streets on adjoining property are required, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the existing or proposed street is expected. In addition, the Planning Board may require temporary turnarounds to be constructed at the end of such streets pending their extension. The Board may require extension or connection where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons.

### *3. Street access to adjoining properties.*

Where, in the opinion of the planning board, it is desirable to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property, and a temporary turnaround shall be provided.

### *4. Reserve strips prohibited.*

There shall be no private streets or reserve strips platted in any subdivision. Private streets shall be approved for Gated Residential Developments; in which case, all provisions of Article VIII must be met.

### *5. Large Tracts or Parcels.*

Where land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further resubdivision.

### *6. Restriction of access.*

When a subdivision fronts on an arterial street or highway, the planning board may require a frontage road to provide frontage for lots fronting on the arterial street or highway.

### *7. Street names.*

Proposed streets, which are obviously in alignment with others existing and named, shall bear the assigned names of the existing streets. In no case shall the names for proposed streets duplicate or be phonetically similar to existing street names both in Town and in Wilkes County.

*8. Lots.* All lots shall meet or exceed the minimum lot frontage requirements for the zoning district in which it is located.

## *9. Recreation and open space.*

1) Recreation and Open Space Suitability Criteria: The Planning Board shall be authorized to reject or accept offers of land dedication considering the following criteria:

- (a) it shall not be encumbered with any substantial structure;
- (b) it shall not be devoted to use as a roadway, parking area or sidewalk;
- (c) it shall be left in its natural or undisturbed state if wooded, or, if disturbed, shall be properly vegetated and landscaped to create an area that is capable of being used and enjoyed for informal and unstructured recreation;
- (d) it shall be legally and practicably accessible to the residents of the development or to the general public; and
- (e) it shall be topographically and physically suitable for the purposes intended as determined by the Parks and Recreation Director or the Planning Board.

2) Dedication Requirement:

Every person or corporation who submits a major subdivision proposal shall be required to designate an adequate amount, and safe location of recreational areas according to the concentration of residential occupancy. Only usable land areas will be considered as recreational areas. Unless otherwise expressly stated herein, 1,500 square feet of land area shall be reserved for acceptance of dedication by the Town of North Wilkesboro, Homeowners Association or other approved entity for each dwelling unit permitted within a subdivision, based on the zoning designation of the property or other limitations on density that are enforceable by the Town. Bylaws and restrictive covenants of the Homeowner's Association must be submitted prior to final plat approval.

3) Fees-in-Lieu:

- (a) Where lands suitable in scale, character or location are not available within the subdivision as determined by the Town, or at the election of the developer, an amount equal to the current valuation for property tax purposes of 1,500 square feet buildable land per dwelling unit within the subdivision may be paid in lieu of dedication.
- (b) If the value cannot be agreed upon by the subdivider and the Town of North Wilkesboro, an appraisal board consisting of



one appraiser selected by the Town of North Wilkesboro at its own expense, one appraiser selected by the subdivider at his expense, and a third selected by the other two for which the expense shall be shared equally, shall determine the value. If the three appraisers selected are unable to unanimously agree upon value, then value will be determined by taking the average of the three values set by each appraiser, which amount shall then be binding on all parties.

4) **Alternative Compliance:** As an alternative to land dedication, fees in-lieu or a combination thereof, developers of planned residential developments may provide equivalent recreation or open space facilities for common use and enjoyment under neighborhood or community association ownership or management, subject to the following findings and conditions:

(a) The Planning Director shall analyze the character, location and scale of the proposed facilities to determine whether they are in accord with all regulations and standards officially adopted and in effect; and

(b) The Town Attorney shall provide an opinion as to the legal sufficiency of devices for assuring that the lands shall be held, improved and maintained for the purposes set forth in perpetuity.

*10. Contour map.* A contour map shall be provided if requested by the Planning Board and/or the Technical Advisory Committee. The contour interval required will depend upon topographic and drainage characteristics and shall be specified by the Planning Board.

*11. Flood damage control.* All subdivision proposals shall be consistent with the need to minimize flood damage.

*12. Protection of utilities from flooding.* All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

*13. Use of land in flood hazard areas.* Land within the floodway, as defined by the National Flood Insurance Rate Maps and adopted for the Town of North Wilkesboro, shall not be platted for residential occupancy or building sites. Land outside the floodway, but subject to flooding, may be platted for residential occupancy provided each lot contains a building site that may reasonably lend itself to construction of a floor level above the elevation of

the 100-year flood, as defined by the North Wilkesboro Flood Damage Prevention Ordinance. Fill shall not be used to raise land in the floodway.

#### **16-38. Public Streets.**

For town maintained streets, the North Carolina Department of Transportation, Division of Highways, Subdivision Roads Minimum Construction Standards, latest edition, shall serve as a minimum guideline for design. In addition, standards as set forth in the Town of North Wilkesboro Zoning Ordinance and this article of the subdivision regulations shall control. The town may impose additional standards or waive one or more required standards whenever, in its opinion, such standards are necessary to ensure public safety and the integrity of the public street system or, conversely, the waiver of such standards will not result in a degradation of public safety or the integrity of the public street system.

#### **16-39. Alleys.**

For alleys, whether public or private, the North Carolina Department of Transportation, Division of Highways, Traditional Neighborhood Development (TND) Guidelines, latest edition, shall serve as a minimum guideline for design. In addition, standards as set forth in the Town of North Wilkesboro Zoning Ordinance and this article of the subdivision regulations shall control. The town may impose additional standards or waive one or more required standards whenever, in its opinion, such standards are necessary to ensure public safety and the integrity of the public street system or, conversely, the waiver of such standards will not result in a degradation of public safety or the integrity of the public street system.

#### **16-40. Suitability of land.**

Land which is found to be unsuitable for subdivision due to flooding, bad drainage, steep slopes, rock formations and other features likely to be harmful to the safety, health and general welfare of the future occupants or to the community shall not be subdivided unless adequate methods approved by the planning board are formulated by the developer for meeting the problems created by the subdivision of such land.

**16-41. Intersections.** Angles at intersections of street center lines shall meet the design standards of the North Carolina Department of Transportation.

a) Intersections with a major thoroughfare shall be at least 800 feet apart measured from center line to center line, wherever possible.

b) Property lines at street intersections shall be rounded with a minimum radius of 20 feet. Where a street intersects a state highway, the design standards of the state department of transportation shall apply.

**16-42. Cul-de-sacs.** Cul-de-sacs (streets designed to be permanently closed at one end) must be terminated by a vehicular turnaround design as determined by the North Carolina Department of Transportation, Division of Highways, Subdivision Roads Minimum Construction Standards, latest edition. However, this requirement may be waived where topographical or other unusual conditions exist.

**16-43. Half-Streets.** The dedication of half streets at the perimeter of a new subdivision is prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the subdivider. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development.

**16-44. Blocks.**

The length, width, and shape of blocks shall be reasonably designed to provide for the following: Adequate building sites for the proposed use, vehicular and pedestrian circulation including control of traffic. The maximum and minimum length of blocks shall be as follows:

a) *Length.* Block lengths shall not exceed 1,500 feet nor be less than 500 feet. Where deemed necessary by the Planning Board, a pedestrian crosswalk of at least ten feet in width may be required. Minimum block lengths shall not apply to cul-de-sacs.

**16-45. Lots.**

The size, shape, and orientation of non-residential lots shall be such as the Planning Board deems appropriate for the type of development and use contemplated. Residential lots shall comply with the following requirements:

a) Each lot shall have frontage on a street as required by Section 19-21 of the North Wilkesboro Zoning Ordinance.

b) The lot size, width, depth, front, side and rear yard setbacks depend upon the requirements of the zoning

district. For further details refer to the North Wilkesboro Zoning Ordinance. Additional lot area may be required when public water and sewer is not provided.

c) Each building lot shall contain a building site not subject to flooding as defined in the Town's Flood Damage Prevention Ordinance and outside the limits of any existing easement or building setback lines.

d) Prior to the construction of any driveway or other connection within the right-of-way of a public street, a permit must be secured from the North Carolina Department of Transportation or the Town of North Wilkesboro, for a state or a local road respectively. However, in a residential major subdivision, access to individual lots from streets constructed as part of the subdivision shall be reviewed and approved at the time each building permit is issued and individual driveway permits will not be required on a lot-by-lot basis.

e) Side lot lines shall, as nearly as practicable, be at right angles or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than sixty degrees.

**16-46. Building setback lines.**

The minimum setback from property lines shall be not less than the specified provisions of the town zoning ordinance; except when the division of land is contained in an officially recognized community development area with residential structures to be rehabilitated, developed or redeveloped by the town or by a private developer. In such case, the building setback line may be in keeping with the building setback lines pre-existing at the time of designation of the community development area.

**16-47. Easements.**

Utility and other easements shall be provided as follows:

(a) Utility easements centered on rear or side lot lines shall be provided where deemed necessary by the town clerk and shall be not less than twenty feet in width, ten feet on each side.

(b) A crosswalk easement of at least ten feet in width shall be provided if required by the planning board.

(c) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or

construction, or both, as will be adequate for the purpose.

(d) Lakes, ponds, creeks and similar areas within the town will be accepted for maintenance only if such acceptance is recommended by the planning board and approved by the board of commissioners.

**16-48. Buffers.** Whenever a residential subdivision is located adjacent to an office, institutional, commercial or industrial use which does not have a buffer, or property zoned for these uses, and a buffer is not required between these and the subdivision, the subdivider shall provide a buffer as specified in Article XII, Section 19-91 of the Town of North Wilkesboro Zoning Ordinance. The width of the buffer shall be in addition to the lot area required by the Town of North Wilkesboro Zoning Ordinance. The buffer shall become part of the lot on which it is located, or in the case of commonly owned property, shall be deeded to the homeowners association.

**16-49. Street lights.**

Street lighting shall be required for all subdivisions and must conform to the Lighting Ordinance of the Town of North Wilkesboro and shall be installed by the developer.

**16-50. Fire Hydrants.**

Fire hydrants shall be required for all major subdivisions and shall be placed no more than 1,000 feet apart. All hydrants shall be approved by the Town of North Wilkesboro Fire Department and installed by the developer.

**Article VI.  
Group Projects**

**16-51. Regulations.**

In the case of two or more buildings to be constructed on a plot of ground of at least two acres not subdivided into the customary streets and lots and which will not be so subdivided, then the developer shall submit his plans to the Planning Board for their reviews and recommendations, so that the application will be in harmony with the character of the neighborhood; provided, that:

(a) Such uses are limited to those permitted within the zoning district in which the project is located. In no case shall the planning board authorize in the project a use prohibited in the district in which the project is located.

(b) The overall intensity of land use is no higher, and the standard of open space is no lower, than that permitted in the district in which the project is located.

(c) The distance of every building from the nearest property line shall meet the front yard setback and side yard requirements of the district in which the project is located.

(d) The building heights do not exceed the height limits permitted in the district in which the project is located.

(e) If the property lies within or abuts upon a residential district, and is to be used for a nonresidential purpose, there shall be a densely planted buffer strip at least eight feet in height along the rear and/or side lot lines abutting the residential properties. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining residential lot.

**Article VII.  
Cluster Development**

**16-52. Purposes of article.**

The purpose of providing for the clustering of development and the resultant open space are to offer recreation at or near each home, to improve the appearance of the area through preservation of green space, to counter the undesirable effects of urban congestion and monotony, and to encourage group participation in community activities by all ages on a local "block" or neighborhood area basis in order to build community and personal stability and security. Local parks, recreation areas, and other open spaces in a planned neighborhood pattern are intended to conserve areas of natural beauty, to encourage cooperative relationships between neighbors, and to help promote the public health, safety, morals and general welfare.

The purpose of this article is to provide permissive voluntary ultimate subdivision procedure for all zoning districts having a minimum residential lot size of ten thousand square feet or more required for single-family use. This is to be accomplished by permitting the density of dwelling units contemplated by the minimum lot size requirements to be maintained on an overall basis when applied to specific tracts of land, and thereby provide for desirable and proper open space.

**16-53. Development procedure.**

(a) The developer of a subdivision may, subject to requirements of this article, vary the lot size within a subdivision from those sizes required in an applicable zoning district or in this chapter by complying with the procedures set forth in this article.

(b) The maximum number of lots that may be approved shall be computed by subtracting from the total gross area of the site, the area in easements, access areas, flood plains and any other area that is not developable, and then subtracting from the remainder a fixed percentage of twenty-five percent of the remainder for street right-of-way purposes.

(c) Under this development procedure, no lot shall be reduced in area by more than twenty-five percent of the required minimum lot area of an applicable zoning district or of this chapter, and in no case shall the individual lot size be less than seven thousand five hundred square feet; provided further, that such lots shall not contain a frontage less than the frontage required in an applicable zoning district or in Section 16-37(6).

(d) Common land for open space or recreational use created by this procedure shall be set aside for the following land uses only:

- (1) Private recreational facilities, such as golf courses or swimming pools.
- (2) Historic building sites or historical sites, parks and parkway areas, playgrounds, extensive areas with tree cover, areas having natural features worthy of scenic preservation.
- (3) Access, sanitary and utility service uses.

**16-54. Preliminary community unit plan.**

The owner or owners of any parcel of land may submit to the Town Planning Board a preliminary plan for the use and development of all the tract of land. If the Planning Board approves the plan, the preliminary plan, together with the recommendation of the Planning Board, shall be accompanied by a report, to be submitted with the final plat, stating the reasons for approval of the application and specific evidence and facts showing that the preliminary community unit plan meets the following conditions:

(a) That property adjacent to the area included in the plan will not be adversely affected.

(b) That the plan is consistent with the intent and purposes of this chapter to promote public health, safety, morals and general welfare.

(c) That land use areas on the plan coincide with the zoning districts on the official zoning map which permit the uses specified for each particular land use area; or that an application for rezoning be officially submitted in the appropriate form with the preliminary plan, or that the land use areas on the plan coincide with the general development plan for the area.

(d) That the area per family contained in the residential portion of the site shown on the plan, exclusive of that which is occupied by streets, easements, flood plains or other terrain features which render land unusable for development purposes, shall not be less than the individual lot area per family required in the zoning ordinance for the district in which the site is located or in this chapter, it being understood that upon submission and approval of a final plan by the planning board for any portion of the site shown on the preliminary plan, building permits and certificates of occupancy may be issued, even though the size of individual lots resulting from the plan do not conform in all respects to the district regulation of the district in which the site is located, or under this chapter.

**16-55. Final plat.**

Final plat approval procedure shall be as prescribed for all subdivisions in this chapter, with the exception that the following open land utilization documents shall be approved and executed prior to final approval:

(a) All open space whose acreage shall be utilized as common land, as hereinabove provided, shall be conveyed in fee simple title by warranty deed from the subdivider to trustees, who shall be provided for by trust indenture for each subdivision authorized under this development procedure, for the benefit, use and enjoyment of the lot owners, present and future, of such subdivisions for a term of years certain, which term shall be for at least a period of twenty-five years, after which period of time fee simple title shall be vested in such owners as tenants in common. The warranty deeds and subsection shall have attached thereto a written legal opinion prepared and signed by an attorney licensed to practice law by the State of North Carolina. Such opinion shall set forth the attorney's legal opinion as to the legal form and effect of such deeds and indentures. Such deeds and indentures shall be approved by the planning board and the board of commissioners and shall be filed with the register of deeds simultaneously with the recording of the final plat of the subdivision. The

final plat shall be submitted and approved as provided for in this chapter.

(b) The intent and purpose of subsection (a) of this section is to provide, as a condition for final approval of a voluntary alternate subdivision development, that the common land shall be set aside for the benefit, use and enjoyment of the subdivision lot owners, present and future, for a period of at least twenty-five years, and to further provide that thereafter such lands shall be held in common by such lot owners as tenants in common.

### **Article VIII. Gated Residential Developments**

#### **16-56. Purpose.**

A Gated Residential Development, where a gate is placed at the outer periphery of the development in order to restrict access, may be allowed to have private streets that are not owned and maintained by the Town or NCDOT.

All Gated Residential Developments must be developed in accordance with the regulations of this section, other applicable regulations of the Town of North Wilkesboro Subdivision Ordinance, and the North Wilkesboro Zoning Ordinance.

#### **16-57. Homeowners' Associations Required.**

New major subdivisions in which private streets are proposed or necessary shall establish a homeowners' association for the maintenance of improvements and common areas not dedicated to and accepted by a public authority for the purposes of maintenance. The homeowners' association shall be subject to the following:

(a) Improvements and common areas, that may be required by this Ordinance and that shall be maintained by the homeowners' association, include but are not limited to: streets not yet accepted into the public street system for maintenance by the Town or NCDOT, sidewalks, curbs and gutters, street lighting, and landscaped thoroughfare buffers.

(b) The homeowners' association also shall be responsible for maintenance of common improvements and common areas that are proposed by the subdivider for the benefit of all residents of the subdivision although not required by this ordinance, including but not limited to entry signs, monuments, perimeter walls, entry gates and gatehouses, clubhouses, ponds and lakes including dams and other associated structures, and parking areas and driveways serving common areas.

(c) The homeowners' association shall be organized and established as a legal entity prior to or as a part of the final plat approval and recording process.

(d) Membership in the homeowners' association shall be mandatory for each original purchaser of a residential lot within the subdivision and each successive purchaser of such lot.

(e) The homeowners' association shall be organized so that it has clear legal authority to maintain and exercise control over the required improvements, common areas and facilities not dedicated to and accepted by a public authority for the purposes of maintenance.

(f) The homeowners' association shall be responsible for the payment of premiums for liability insurance, local taxes, maintenance of recreational and other facilities located on the common areas, and payment of assessments for public and private capital improvements made to or for the benefit of the common areas. It shall be further provided that:

- 1) upon default by the homeowners' association in the payment to the governmental authority of an ad valorem tax levied against the common areas or assessments for public improvements to the common areas; and,
- 2) should such default continue for a period of six (6) months; then, each owner of a residential lot in the development shall become obligated to pay to the taxing or assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the governmental authority by the total number of residential lots in the development. If the sum is not paid by the owner within thirty (30) days following receipt of notice of the amount due, then the sum shall become a continuing lien on the real property of the then owner, his heirs, devisees, personal representatives and assigns of such lot, and the taxing or assessing governmental authority may either bring an action at law against the owner obligated to pay the same or may elect to foreclose the lien against the real property of the owner.

(g) The homeowners' association shall be empowered to levy assessments against the owners of residential lots within the development for the payment of expenditures made by the homeowners' association for the items set forth in the preceding

subparagraph and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the residential lot of the owner.

h) As a part of the final plat approval process, the developer shall submit to the Town the following documents for review:

- 1) Proposed Articles of Incorporation for the association. Such Articles of Incorporation shall provide for homeowners control when over 50% of the lots are sold.
- 2) Proposed bylaws of the association. Such bylaws shall provide for annual meetings of the association, election of officers and distribution of an annual financial accounting to members.
- 3) Proposed annual budget of the association showing monthly assessments. The monthly assessments must be set at a sufficient level to insure success of the association and necessary capital expenses.
- 4) Proposed restrictions and covenants for the common areas.

(i) All proposed common areas shall be designated on the subdivision plat as common areas to be held in separate ownership for the use and benefit of residents occupying residential lots in the subdivision. Approval of these common areas by the Town Board as part of the final plat approval process requires submission by the developer of restrictions and covenants that will govern the ownership, management, and maintenance of the common areas. The Town Board reserves the right to conditionally deny approval of final subdivision plats if it finds that the restrictions and covenants do not properly address issues of ownership, management and maintenance of common areas.

#### **16-58. Exterior design.**

The design and layout of any gatehouse, entry gates, external fence, walls, and berms shall be located outside any public street right-of-way and shall be designed to blend in, to the greatest degree feasible, with the proposed development and be attractive to motorists and pedestrians from adjoining public streets. Gatehouses and entry gates shall be located outside any required buffer areas. Entry gates shall be setback sufficiently far from public street entrances to allow for stacking of at least three vehicles out of the public travel lanes. An additional setback between the point of the access control device and the entry gate shall be required to allow a vehicle which is denied access to safely turn around and exit onto a public street. Pedestrian access to the gated residential development shall be provided at its entrance outside of the vehicle travel lanes.

a) Entry gates shall have sufficient minimum gate widths and openings to allow safe passage of all vehicles permitted to use public roadways. Overhead barriers or obstructions shall not be allowed above entry gates. All gatehouses, entry gates, external fences and walls shall be subject to specific review and approval of the Town of North Wilkesboro Planning Board prior to the start of construction. Said review and approval shall include any signage and/or illumination integral to subdivision gatehouses, entry gates, external fences and walls.

(b) With the exception of the placement of a gate and guardhouse in a private street right-of-way, all private roads, traffic signs and markings shall meet all applicable minimum right-of-way, pavement, construction, and design standards for public roads as established by the North Carolina Department of Transportation (NCDOT). The Town of North Wilkesboro reserves the right to have streets inspected during the construction phase to insure that they are being built in accordance with all applicable Town and NCDOT standards. The developer of the subdivision shall bear all costs borne by the Town in association with such inspections.

#### **16-59. Maintenance agreement.**

(a) Prior to the approval of a final plat, the subdivider shall submit to the Town evidence that the subdivider has created a homeowners' association whose responsibility it will be to maintain common areas, private streets, curb and gutter and sidewalks within the subdivision. Such evidence shall include filed copies of the articles of incorporation, declarations, and homeowners' association bylaws.

(b) The maintenance and upkeep of any guardhouses or entry structures, and subdivision walls, fences, or berms located at the external periphery of the subdivision as well as internal streets, curb, gutter, and sidewalks shall be the sole responsibility of the subdivider and/or any duly incorporated and active homeowners' association. Accordingly, any maintenance bond accepted by the Town per Section 16-26 of this ordinance for a gated residential development subdivision shall be calculated using the construction costs of all facilities listed above (in addition to the cost of roads as provided in Section 16-26). The maintenance bond shall remain in place for two years following final plat approval of the Subdivision plat or until the Town Board is satisfied (in its own exclusive discretion) that the homeowners' association is controlled by individual lot owners other than the developer (one year, at a minimum, after a homeowners' association is incorporated and active), has made necessary

assessments for payment of maintenance of the roads and facilities, and has otherwise taken over the full responsibility of maintenance of such facilities and the private roads within the subdivision. The decision to release the bond shall rest entirely with the Town Board and shall be made based upon the homeowners' association financial ability to properly maintain these roads and common facilities. After the maintenance bond is released by the Town Board, the homeowners' association shall be required to submit to the Town, by the 15th of January of each calendar year, the names, addresses, and telephone numbers of all duly elected members of their board of directors as well as a copy of their annual financial statement showing, at a minimum, the amount of funds budgeted to maintain such facilities. In the event the Town Board, in its discretion, believes the homeowners' association is not making necessary repairs to the roadways or facilities (amenities) or is not making assessments necessary to cover the cost of said repairs, it may after notice of hearing published as provided in this Ordinance, and notice provided to each lot owner within the subdivision, as shown on the tax scrolls of Wilkes County as of January 1 of the prior year, require the homeowners' association to provide a maintenance bond as required in Section 16-26 of the Town of North Wilkesboro Subdivision Ordinance. This maintenance bond may be eliminated or reinstated at the discretion of the North Wilkesboro Town Board upon notice as set out above.

(c) The subdivider and homeowners' association shall guarantee access to all private streets by emergency and law enforcement vehicles. Access procedures must ensure immediate access through the entry gates for emergency and law enforcement vehicles responding to emergencies. Approach and departure areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area. The subdivider shall provide documentation from Wilkes County Emergency Management and Sheriff's Departments that proposed entry gates and access procedures meet all County standards for access by emergency and law enforcement vehicles.

(d) The subdivider and homeowners' association shall guarantee access to all private streets by Town of North Wilkesboro, Wilkes County agencies, State of North Carolina agencies, and all public utility companies. Town of North Wilkesboro, Wilkes County, and State of North Carolina officials and staff shall be permitted entry to the gated residential development to perform zoning, inspections and

other governmental regulatory activities. Public Utility company vehicles and personnel shall be permitted entry to the gated residential development to perform installation and maintenance activities of public utility infrastructure. A statement to this effect shall appear on or accompany the final plat

(e) If the homeowners' association fails to maintain reliable access for the provision of emergency or other public services, the Town may enter the gated residential development and open, disable or remove any gate or device, which is a barrier to access, at the sole expense of the homeowners' association. The declaration of covenants, conditions and restrictions and any other relevant documents of the homeowners' association shall include this provision.

## Appendix A

Information	Preliminary Plat	Final Plat
<b><i>Title Block:</i></b>		
Property designation	X	X
Name and address of owner of record	X	X
Name of subdivision	X	X
Location (township, county, state)	X	X
Date(s) of survey	X	X
Graphic scale and written scale	X	X
Name, address, registration number, and seal of registered land surveyor	X	X
Wilkes County property identification number (PIN)	X	
<b><i>Streets:</i></b>		
Proposed streets	X	X
Existing and platted streets on adjoining properties and in the proposed subdivision	X	X
Rights-of-way, location and dimensions	X	X
Grades	X	
Street names	X	X
<b><i>Utilities:</i></b>		
Utility and other easements of record on and adjacent to the subdivision	X	X
Sanitary sewers, location and size	X	X
Storm sewers, culverts, and other drainage facilities, drainage easements, if any	X	X
Water lines, location and size	X	X
Fire hydrants	X	
Street lights	X	
Plans for individual water supply and sewage disposal systems, if any	X	
<b><i>Site Calculations:</i></b>		
Acreage in total tract to be subdivided	X	X
Total number of lots	X	X



Linear feet in streets	X	X
Area of each lot in square feet	X	X
Lot lines, with approximate bearings and distances, and lot and block numbers	X	
Sufficient data to determine readily and reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, whether curved or straight, and including north point. This should include the radius, central angle, and arcs or chords of all curved streets, and curved property lines. All dimensions should be to the nearest 1/100 of a foot and angles to the nearest minute.		X
<b>Other Details:</b>		
Vicinity map showing the relationship between the proposed subdivision and surrounding area	X	X
Exact boundaries of the tract to be subdivided, shown with bearings and distances as required by G.S. 47-30, as amended	X	X
Names of owners of record of all adjoining land and all existing property boundaries which intersect the perimeter of the tract being subdivided	X	X
Topographic map, if requested	X	
North Arrow	X	X
The zoning classifications of the tract to be subdivided and all adjoining property	X	
Wooded areas, marshes, rock outcrops, ponds or lakes, streams, and any other natural features affecting the site	X	
The location of the flood hazard (100- and 500-year), floodway and floodway fringe areas	X	X
The calculated built-upon area permitted for each building lot, taking into account permanently preserved open space (WATERSHED LOTS ONLY).	X	X
Existing buildings or other structures, railroads, and bridges on the land to be subdivided and land immediately adjoining	X	
Minimum building setback lines	X	X
Proposed parks, school sites, or other public open spaces	X	X
City limits, if applicable	X	X
Location of control corners	X	X
The accurate location and description of all monuments, reference markers and property and lot corners		X
A copy of the proposed erosion control plan.	X	
Any other information considered by the subdivider, the planning board, and/or the Town Board to be pertinent to the review of the plat	X	X
All certifications required in sections 20-e(1) through 20-e(8) of this ordinance		X