

ARTICLE IV. SUBDIVISION AND INFRASTRUCTURE

4.1 Authority

This chapter is enacted by the board of commissioners pursuant to authority contained in Article 19, Chapter 160D-801, of the General Statutes of North Carolina.

4.2 Applicability

- A. 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 in Town Code Chapter 1, General Provisions 1-7, Extraterritorial jurisdiction.
- B. This chapter shall apply to all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within the definition of a subdivision as outlined in NCGS 160D-802:
 - 1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town of North Wilkesboro.
 - 2. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
 - 3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
 - 4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town of North Wilkesboro, as contained herein.
 - 5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

4.3 Purpose

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.

4.4 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.

4.5 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.

4.6 Specifications for preliminary and final plats.

The preliminary and final plats shall depict or contain the information indicated in Appendix B, Required Information on Preliminary and Final Plats, of this chapter. 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 one hundred feet to one inch and shall be drawn on a sheet size acceptable to the Register of Deeds of Wilkes County.

4.7 Recombination of land.

- A.** A recombination of existing parcels shall be approved by the Administrator, subject to the following:
 1. The total number of lots is not increased;
 2. The resultant lots are equal to the standards of this chapter or all resulting lots more closely conform to the minimum lot size standards in this chapter (i.e. - moving in the direction of conformity);
 3. All the metes and bounds boundaries of the affected lots are shown;
 4. All lot boundaries changed or eliminated by requested combination are indicated by dashed lines;
 5. The title block contains the word "recombination";
 6. Structures on the affected lots are shown and the requested recombination does not violate setback requirements of the Article 2 of this chapter;
 7. The recombination plat is signed by all property owners if either the number of lots is reduced or different owners for different lots are involved in the recombination;
 8. The recombination plat is signed and sealed by a registered surveyor;
 9. The recombination plat is certified by the Administrator; and
 10. The recombination plat conforms to all laws and ordinances for the recordation of maps.

4.8 Lot boundary adjustments.

The 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.

4.9 Permanent reference points.

The Standards of Practice for Land Surveying in North Carolina, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, shall apply when installing permanent monuments.

4.10 Improvements—Within town limits.

Approval of the final plat shall be subject to the developer having guaranteed, to the satisfaction of the town, the installation of such improvements. The Town of North Wilkesboro reserves the right to inspect, reject, stop or otherwise cease the construction of all structures, 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.

A. Intent of Specifications.

The intent of these specifications is to prescribe minimum requirements for street and right-of-way 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 developer. Satisfactory completion of these improvements will qualify streets and rights-of-way in the town to be accepted for maintenance by the town.

B. 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.

1. Major Arterials

- a. **Right-of-Way.** All new major arterial streets shall meet NCDOT specifications. 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.
- b. **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 or when said improvements are required to be installed in accordance with an approved Traffic Impact Analysis (TIA). 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 Administrator, 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.

2. Minor Arterial.

- a. **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.

- b. 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.

3. Major and Minor Collector

- a. Right-of-Way. Dedicated by the developer.
- b. Improvement. Constructed by the developer.

4. Town Streets and Lanes.

- a. Right-of-Way. Dedicated by the developer.
- b. Improvements. Constructed by the developer.

5. All public streets must be constructed to comply with all applicable town or NCDOT 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.

6. 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.

C. 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 chapter unless and until the town manager has determined and certified in writing that:

- 1. The dedication or reservation does not result in the deprivation of a reasonable use of the original tract;
- 2. 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 chapter. 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.

D. Grading for Streets.

All other streets shall be graded to their full pavement width 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 services director or town consulting engineer. All earthwork in relation to roads shall conform to NCDOT Standard Specification, latest edition.

E. Pavement.

1. 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.
2. Pavement composition must be in accordance with the standards as specified in the NCDOT Subdivision Roads Minimum Construction Standards, latest edition.

F. Street Markers and Barricades.

1. 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.
2. 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.
3. Alternatives to the standard design for street markers may be submitted by the developer for consideration by the planning board.
4. If an alternative design is approved by the planning board, responsibility for the installation, maintenance, and replacement of nonstandard street markers remains with the developer and subsequently with the homeowners.
5. If maintenance and replacement of nonstandard street markers is not provided by the developer or homeowners, the town shall install standard street markers as replacements are needed.
6. All standard street markers will be maintained and replaced by the town once initial installation has been completed by the developer.
7. 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 chapter.
8. Design, material and installation of the barricades must be in accordance with the Town of North Wilkesboro standards.

G. 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.

H. 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.

1. Water Supply System.

- a. Water mains properly connected with the community water supply system or with an alternate supply approved by the department of environmental health 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.
- b. 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 Town of North Wilkesboro's Public Services Director, with consultation of the appropriate town, county, and state agencies, and shall conform to accepted standards of good practice for municipal water systems.

2. Sanitary Sewers.

- a. 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.
- b. In addition, when a subdivision is located within two hundred 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.
- c. When, at the discretion of the Public Services Director, lots cannot be connected with a sewerage system or meet the requirements listed in Town Code 18, Water, Sewers and Sewage, they must contain adequate area for the installation of approved septic tank and disposal fields.

I. Stormwater Drainage System.

The developer shall provide a stormwater water drainage system constructed to the standards of the North Carolina Department of Transportation, as reflected in "Guidelines for Drainage Studies and Hydraulic Design" subject to review by the public services director. Additionally the North Carolina Department of Environment Control's "Stormwater Design Manual" may be utilized as a best practice guidance document.

1. The minimum peak flow reducing stormwater control requirements shall provide control measures necessary to control velocities of flow from stormwater management facilities to a level which will not cause erosion or other velocity related problems at the exit of all stormwater management facilities and downstream. In addition, stormwater control measures shall be provided to limit the two-year and ten-year developed peak discharge rates to pre-developed peak discharge rates. The design of these facilities shall be based on standard engineering practice.
2. 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:
 - a. The installation of peak flow reducing stormwater control facilities would have insignificant effects on reducing downstream flood peaks;

- b. Peak flow reducing stormwater control facilities are not needed to protect downstream developments; or
 - c. The town determines that peak flow reducing stormwater 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.
 - 3. 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.
 - 4. For all stormwater control facilities, a hydrologic-hydraulic study shall be performed showing how the drainage system will function with and without the proposed facilities.
 - 5. Stormwater 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.
 - 6. Stormwater control facilities shall be prepared by a qualified licensed North Carolina professional engineer, using engineering industry standards and practices.
 - 7. 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 North Carolina Department of Environment Quality's "Erosion and Sediment Control Planning and Design Manual" and as updated. Additionally an erosion control permit shall be applied for and secured through the North Carolina Department of Environmental Quality.
 - 8. No stormwater shall be channeled or directed into a sanitary sewer.
 - 9. Where feasible, the developer shall connect to an existing storm drainage system.
 - 10. 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.
 - 11. Stormwater drainage courses shall comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act of 1973, G.S. Ch. 113A, and the NC Administrative Code Title 15, Chapter 4.
 - 12. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one foot in each one hundred feet of horizontal distance.
 - 13. 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.
 - 14. In all areas of special flood hazards, all subdivisions shall have adequate drainage provided to reduce exposure to flood damage.
- J. **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:
- 1. **Material and Construction.**

- a. Sidewalks shall be constructed to NCDOT standards, except where the sidewalk crosses a driveway it shall be six inches thick.
- b. Other materials may be approved by the town but if other materials are used then such sidewalk must be installed in a satisfactory manner and meet the town's approval.
- c. The surface of the sidewalk shall be steel trowel and light broom finished and cured with an acceptable curing compound.
- d. Tooled joints shall be provided at intervals of five feet and expansion joints at intervals of not less than one hundred feet.
- e. The sidewalk shall have a lateral slope of one-fourth inch per foot.
- f. All sidewalks shall comply with federal, state, and ADA requirements.

2. Location

- a. Approval of sidewalk construction plans must be obtained from the Town of North Wilkesboro as part of the subdivision review process.
- b. The town will review and comment on the location of the required facilities at the time of plan review.
- c. Except in unusual circumstances, sidewalks shall be located six feet from the back of the curb.
- d. 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.

K. 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 and shall not be of an invasive species.

4.11 Exemptions for required street improvements.

Single-family residential subdivisions with a minimum lot size of five acres and where each lot has a minimum of two hundred feet of public street frontage shall be exempt from the curb and gutter and sidewalk requirements of this chapter. Such subdivisions shall provide a street graded to the full width of the right-of-way and the ten-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.

4.12 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 Section 4.17 prior to final plat approval, the town may enter into a contract with the developer whereby the developer shall agree to complete all required improvements, this does not include repairs or maintenance after completion.
- 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. The following

performance guarantees shall be acceptable (Performance guarantees associated with erosion control and stormwater control measures require review by the applicable NCDEQ regional office and are not subject to the provisions of this section):

1. Surety bond issued by any company authorized to do business in this State.
 2. Letter of credit issued by any financial institution licensed to do business in this State.
 3. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
 4. The amount of the performance guarantee shall be equal to an amount one hundred twenty-five (125) percent of the estimated cost of installing all required improvements. The initial cost estimate shall be the responsibility of the developer but the approval of the final cost estimate shall be made by the Administrator. The developer shall have the option to post one type of a performance guarantee as provided for in section B, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.
- C. 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 developer 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 ten thousand dollars 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.
- D. Duration of performance guarantees.**
1. The duration of a performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.
 2. For an extension of the performance guarantees a developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the General Statutes of North Carolina 160D-804.1 (3) shall include the total cost of all incomplete improvements.
- E. Default.**
1. Upon default, meaning failure on the part of the developer 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 developer any funds not spent in completing the improvements.

2. Default on a project does not release the developer from liability/responsibility for the completion of the improvements.

F. Release of guarantee security.

The town shall release the performance guarantee including letters of credit or escrowed funds after the improvements are completed and approved by the town. When required improvements that are secured by a bond are completed to the specifications required by the town or are accepted by the town, the town will provide written acknowledgement that the required improvements have been completed and accepted within thirty days.

G. 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. Such improvements are in compliance with the minimum standards specified by town ordinance for construction;
3. The developer 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 developer will, at his expense, replace and/or repair such defects to the satisfaction of the town.

4.13 Underground Utility Services

A. 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.

B. When required—Penalty for violations.

1. The extension of existing utility services into new areas shall be placed underground. However burying power shall not be required if the development meets all of the following criteria:
 - a. The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
 - b. The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

2. 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.
3. Utility services in urban renewal areas shall be placed underground.
4. 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 five hundred dollars as pursuant to the provisions of Section 4.20 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 Administrator or a duly authorized agent of the town, shall constitute a separate offense.

C. Undergrounding in connection with civic improvements.

1. 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.
2. When utility services are placed underground, they shall be of sufficient depth to eliminate exposure and to adequately protect the same from shallow excavations.

D. Above ground poles.

1. No poles for electric, telegraph, telephone or other purposes shall be placed on any street or public easement or right-of-way without a permit being obtained from the town.
2. No permit shall be issued for the erection of poles on any street in contravention of the provisions of Section 4.20 of this chapter, or where there exists a line of poles on such street for the purpose of supporting electric, telephone or telegraph wires.
3. 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 4.20 of this chapter.

4.14 Minimum Standards of Design

A. 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.

B. 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 adopted plans and policies of the Town, including but not limited to the thoroughfare plan for North Wilkesboro.

2. Continuation of Adjoining Street System.

- a. The proposed street layout shall be coordinated with the existing street system of the surrounding area.
- b. Where possible, proposed streets shall be the extension of existing streets.
- c. 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. A sign shall be placed stating that this road is intended for future extension.
- d. In addition, the planning board may require temporary turnarounds to be constructed at the end of such streets pending their extension.
- e. The planning 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.

Proposed streets shall be extended by dedication to the boundary of adjacent properties at the intervals specified by zoning district, minimum block lengths, and/or any other required dimensions of this Ordinance, 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 Section 4.24 must be met.

5. 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.

6. 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(s) and in Wilkes County.

7. Lots.

All lots shall meet or exceed the minimum requirements for the zoning district in which it is located and all applicable standards of this Ordinance.

8. Recreation and Open Space.

a. Recreation and Open Space Suitability Criteria.

The planning board shall be authorized to reject or accept offers of land dedication considering the following criteria:

- (1) It shall not be encumbered with any substantial structure;
- (2) It shall not be devoted to use as a roadway, parking area or sidewalk;
- (3) 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;
- (4) It shall be legally and practicably accessible to the residents of the development or to the general public;
- (5) It shall be topographically and physically suitable for the purposes intended as determined by the parks and recreation director or the planning board.

b. 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, one thousand five hundred square feet of land area shall be reserved for acceptance of dedication by the Town of North Wilkesboro, homeowner's 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.

c. Fees-in-Lieu

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 one thousand five hundred square feet buildable land per dwelling unit within the subdivision may be paid in lieu of dedication.

d. 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:

- (1) The Administrator and the parks and recreation 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;
- (2) 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.

9. Contour Map

A contour map shall be provided if requested by the Administrator and/or the technical review committee. The contour interval required will depend upon topographic and drainage characteristics.

10. Flood Damage Control.

All subdivision proposals shall be consistent with the need to minimize flood damage.

11. 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.

12. Use of Land in Flood Hazard Areas

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

C. Public streets

1. 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.
2. In addition, standards as set forth in the Town of North Wilkesboro Zoning Ordinance and this article of the subdivision regulations shall control.
3. The town may impose additional standards or waive one or more required standards whenever, from the Technical Review Committee's 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.

D. Alleys

For alleys, whether public or private, the North Carolina Department of Transportation, Division of Highways, Traditional Neighborhood Development (TND) Street Design 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, from the Technical Review Committee's 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.

E. 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.

F. Intersections

Angles at intersections of street center lines shall meet the design standards of the North Carolina Department of Transportation.

1. Intersections with a major thoroughfare shall be at least eight hundred feet apart measured from center line to center line, wherever possible.
2. Property lines at street intersections shall be rounded with a minimum radius of twenty feet. Where a street intersects a state highway, the design standards of the state department of transportation shall apply.

G. Cul-de-sac.

Cul-de-sac (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.

H. 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 developer. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development.

I. 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. Block lengths shall not exceed one thousand five hundred feet nor be less than five hundred 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.

J. Lots.

The size, shape, and orientation of nonresidential 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:

1. Each lot shall have frontage on a street as required by Section 6.6 of the North Wilkesboro Zoning Ordinance.
2. 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.
3. 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.
4. 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.

5. 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.

K. 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 preexisting at the time of designation of the community development area.

L. Easements.

Utility and other easements shall be provided as follows:

1. Utility easements centered on rear or side lot lines shall be provided where deemed necessary by the town public services director and shall be not less than twenty feet in width, ten feet on each side.
2. A crosswalk easement of at least ten feet in width shall be provided if required by the planning board.
3. 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.
4. 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.

M. 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 developer shall provide a buffer as specified in the Town of North Wilkesboro's Zoning Ordinance Article IX Landscaping Fences and Walls, Section 9.4 Buffer Areas. 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.

N. Street lights.

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

O. Fire hydrants.

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

4.15 Group Projects

In the case of two or more buildings to be constructed on single lot 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.

4.16 Cluster Development

A. 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.

- B.** 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.

C. Development procedure.

1. 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.
2. 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.
3. 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(F) of this chapter.

4. Common land for open space or recreational use created by this procedure shall be set aside for the following land uses only:
 - a. Private recreational facilities, such as golf courses or swimming pools;
 - b. Historic building sites or historical sites, parks and parkway areas, playgrounds, extensive areas with tree cover, areas having natural features worthy of scenic preservation;
 - c. Access, sanitary and utility service uses.

D. 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 preliminary plan, their recommendation shall be accompanied by a report, to be submitted with the final plat, to the board of adjustment to grant the special use permit. The board of adjustment shall state the reasons for approval of the application and specific evidence and facts showing that the preliminary community unit plan meets the following conditions:

1. The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to the plan submitted.
2. The use complies with all regulations and standards of this chapter and the zoning ordinance, or an application for rezoning shall be submitted to the planning board at the time of the preliminary plan is reviewed.
3. The use will not substantially injure the value of adjoining property, or the use is a public necessity.
4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located.
5. Public water and sewer service are available in adequate capacity, if needed.
6. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area in which it is located.
7. 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.

E. 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:

1. 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 developer 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.
2. 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.

4.17 Gated Residential Developments

- A. 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.
- B. 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.

4.18 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 chapter 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, open spaces, 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 developer for the benefit of all residents of the subdivision although not required by this chapter, 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 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 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 fifty percent 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.
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 planning 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 planning board reserves the right to deny approval of final subdivision plats temporarily if it finds that the restrictions and covenants do not properly address issues of ownership, management and maintenance of common areas.

4.19 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. Such 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.

4.20 Maintenance agreement.

- A. Prior to the approval of a final plat, the developer shall submit to the town evidence that the developer 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 developer and/or any duly incorporated and active homeowners' association. Accordingly, any maintenance bond accepted by the town per Section 16-26 of this chapter 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 fifteenth 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 such repairs, it may after notice of hearing published as provided in this chapter, 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 in this section.

- C. The developer 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 developer shall provide documentation from Wilkes County Emergency Management, North Wilkesboro's Police and Fire Department and the Wilkes County Sheriff's Office that proposed entry gates and access procedures meet all county standards for access by emergency and law enforcement vehicles.
- D. The developer 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.