



TOWN OF WILKESBORO SUBDIVISION ORDINANCE

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Town of Wilkesboro Subdivision Ordinance Table of Contents

Article I. Purpose, Authority, Jurisdiction, Legal Provisions	2-5
1.1 Purpose.....	2
1.2 Authority.....	2
1.3 Jurisdiction and Applicability.....	2
1.4 Severability.....	2-3
1.5 Compliance with Ordinance.....	3
1.6 General Procedure for Plat Approval	3
1.7 Statement by Owner	3
1.8 Fees for Filing, Review, and Approval	3
1.9 Issuance of Building Permits on Subdivision Lots.....	3
1.10 Enforcement and Penalties for Violation.....	3-4
1.11 Streets and Public Utilities.....	4
1.12 Effective Date.....	5
Article II. Definitions and Word Interpretation.....	6-11
2.1 Word Interpretation Section	6-11
Article III. Decision Making and Administrative Bodies.....	11-12
3.1 Subdivision Administrator.....	11-12
3.2 Planning Board.....	12-13
3.3 Town Board of Commissioners.....	13
3.4 Technical Review Committee.....	13
3.5 Appeals.....	13-14
3.6 Modifications.	14
3.7 Amendments.....	14-15
Article IV. Subdivision Approval Procedures	15-18
4.1 Approval Necessary	15
4.2 General Review Criteria	15-17
4.3 Subdivision Plat Submittal Requirements.....	17
4.4 Review Process for Minor Subdivisions.....	17
4.5 Review Process for Major Subdivisions.....	17-19
Article V. Subdivision Development Requirements	19-38
5.1 General.....	19
5.2 Suitability of Land.....	19-20
5.3 Subdivision Design Requirements.....	20-32
5.4 Required Subdivision Improvements on the Ground.....	32-37
5.5 Financial Guarantee in Lieu of Immediate Installation of Required Improvements for Approval of Final Plat.....	37-38
Appendix A. SUBDIVISION PLAT CHECKLIST.....	39-41
Appendix B. SUBDIVISION CERTIFICATES.....	42-44

Article 1

Purpose, Authority, Jurisdiction, Legal Provisions

1.1 Purpose

The purpose of these subdivision regulations is to guide and regulate the subdivision of land within the Town of Wilkesboro and its extraterritorial planning jurisdiction, for sale or building development, in order to insure the public health, safety, and welfare, and to provide for the sound use of land. The regulations included herein are designed to insure adequate planning of street systems; to avoid overcrowding of land, prevent fire, panic, and other dangers; insure that water and sewage systems be safe and adequate; to prevent flood damage; to facilitate an orderly use of land; to insure the proper legal description and monument of subdivided land; and to encourage the proper management of Wilkesboro's natural resources.

It is expressed for the purpose of this Ordinance to provide for, in addition to the above, the protection of water resources in Wilkesboro, through the use, alone or in combinations, of buffer zones, varying lot sizes, slope restrictions, vegetation, or other equally effective techniques. Innovative techniques on the part of the developers are encouraged where these techniques can be shown to be as effective as the specific requirements of the Ordinance.

1.2 Authority

The Town of Wilkesboro hereby establishes and adopts these regulations governing the subdivision of land pursuant to the authority granted it by the General Statutes of North Carolina, Chapter 160A, and Articles 371-376.

1.3 Jurisdiction and Applicability

These regulations shall govern each and every subdivision or re-subdivision of land within the Town of Wilkesboro corporate limits and within the Town's extraterritorial jurisdiction. Any subdivision for which a preliminary plat has been approved by Wilkes County prior to being subject to the Wilkesboro Subdivision Ordinance may have the option to be developed in its entirety in accordance with the Wilkes County Subdivision Ordinance provided completion of the subdivision occurs within two years from the date of approval. Any subdivision for which a preliminary plat has been submitted to Wilkes County, but not approved prior to becoming subject to the Wilkesboro Subdivision Ordinance, shall comply with Wilkesboro ordinance standards.

- 1.4 **Severability**
If any section, paragraph, subdivision, clause, or provision of this ordinance is adjudged invalid by a court of competent jurisdiction, such adjudication will apply only to such section, paragraph, subdivision, clause, or provision so adjudged and the remainder of this ordinance will be deemed valid and effective.
- 1.5 **Compliance with Ordinance.**
All plats for the subdivision of land must conform to the requirements of this ordinance, and be submitted in accordance with the procedures and specifications established herein. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will not exempt the transaction from compliance with this ordinance. No utility shall be extended nor any permit be issued by an administrative agent of the Town of Wilkesboro for the construction of any building or other improvement upon any land for which a plat is required until the requirements of this ordinance have been met and the final plat approved.
- 1.6 **General Procedure for Plat Approval.**
After the effective date of this Ordinance, no subdivision plat of land within the Town’s jurisdiction shall be filed or recorded in the Office of the Wilkes County Register of Deeds until it has been submitted and approved as set forth in Section 4 of this Ordinance.
- 1.7 **Statement by Owner.**
The owner of land within the jurisdiction of this Ordinance, whose land is shown on a subdivision plat submitted for recording, shall himself, or through his authorized agent, sign a notarized statement on that plat stating that the land shown thereon is within the subdivision regulation jurisdiction of the Town of Wilkesboro, North Carolina.
- 1.8 **Fees for Filing, Review, and Approval.**
From time to time the Town Board of Commissioners shall establish a schedule of fees for plat filing, review, and approval, which must be paid upon plat submission.
- 1.9 **Issuance of Building Permits on Subdivision Lots.**
No zoning permit, building permit, fire permit, or certificate of occupancy shall be issued for any lot which was created by subdivision after the effective date of this Subdivision Ordinance without having first been approved in accordance with this Ordinance and recorded at the Wilkes County Register of Deeds Office and, where applicable, an Improvements Permit has been issued by the Wilkes County Health Department.

1.10

Enforcement and Penalties for Violation.

- (A)** After the Effective Date of this Ordinance, any person who, being the owner or authorized agent of the owner of any land located within the territorial jurisdiction of this Ordinance, thereafter subdivides his or her land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of plat showing a subdivision of the land before the plat has been properly approved under the terms of this Ordinance and recorded in the Wilkes County Register of Deeds Office shall be guilty of a misdemeanor. Violators of this Ordinance shall be subject, upon conviction, to a fine of not more than fifty dollars (\$50.00) or imprisonment of not more than thirty (30) calendar days, as provided by G.S. 14-4.
- (B)** The violation of any provision of this Ordinance shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each calendar day a violation exists, which may be recovered by the Town in a civil action in the nature of a debt if the offender does not pay the penalty within five (5) days after he has been cited for violation of this Ordinance.
- (C)** Any provision of this Ordinance may also be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be an acceptable defense to application of the Town for equitable relief that there is an adequate remedy at law.
- (D)** Any provision of this Ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such provision occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful conditions upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from the buildings on the property; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement.

The Town shall have a lien on the property for the cost of executing the order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all cost of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the appropriate Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

- (E) The provisions of this Ordinance may be enforced by any one, all or combination of the remedies authorized and prescribed by this Section.
- (F) Except as otherwise specifically provided, each and every calendar day of continuing violation of any provision of this Ordinance shall be a separate and distinct offense.
- (G) The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this Section
- (H) The Zoning Administrator shall not issue zoning permits for property in violation of this Ordinance.

1.11

Streets and Public Utilities.

No Street shall be maintained by the Town, nor shall any street dedication be accepted for ownership and maintenance in any

subdivision by virtue of enactment of this Ordinance. Pursuant to North Carolina General Statute 160A-374, approval of a plat required under this Ordinance shall not be deemed to constitute or effect acceptance by the Town of the dedication of any street or other ground, public utility or other public facility shown on the plat. Rather such acceptance, if and when granted, will be separate Ordinance or similar action on the part of the Board of Commissioners.

1.12 Effective Date

These regulations shall become effective upon the date of their adoption by the Town Board of Commissioners of the Town of Wilkesboro

Article 2 Definitions and Word Interpretation

2.1 Word Interpretation Section.

For the purpose of this ordinance, certain words shall be interpreted as follows:

- Words used in the present tense include the future tense.
- Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording clearly indicates otherwise.
- The word “person” includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual.
- The word “used for” shall include the meaning “designed for”.
- The word “structure” shall include the word “building”.
- The word “lot” shall include the words “plots”, “parcel” and “tract”.
- The words “shall”, “must”, or “will” are always mandatory and not merely directory.
- The word “he” shall include the word “she”.
- The word “may” is directory and not mandatory.
- The work “day” shall mean a normal business day unless otherwise specified.

- The word “Town” and the like denote the Town of Wilkesboro.
- All words not specifically defined herein shall be assigned their customary definitions.

Unless otherwise stated, the following words shall, for the purpose of this ordinance, have the following definitions. Words used in the singular shall be understood in the plural.

Administrator, Subdivision. Responsible for the administration of the subdivision ordinance. This person is normally part of the planning department.

Alley. A vehicular way used for providing service access along rear or side property lines of lots which are also served by one of the listed street types defined herein. An alley may be accepted for public maintenance only if it serves a broad public function. Residential alleys will generally remain private.

Appeal. An action requesting reversal or modification of an interpretation or decision made by town staff or administrative agent in the application of these regulations.

Block. A piece of land bounded by streets or roads.

Build-To-Line. A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front of the building elevation must be erected; intended to create an even building façade line on a street. The build-to line is established on the final plat.

Building Face. The dominant structural plane of the elevation of any side of the building. For example, the building face of a two-story dwelling with one-story porch is considered to be the two-story elevation of such structure.

Building Setback Line. A line extending through a lot which is parallel to the front property line and between which and such line no building shall be erected.

Cluster Development. A tract of land planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations, and in accordance with an approved site plan. The development on the tract is limited by the overall density or intensity, rather than minimum lot dimensions. Cluster development permits more efficient development by creating lots with gross land areas smaller than those required for conventional lot-by-lot development, yet maintains application of normal lot density standards to the subdivided tract as a whole by requiring that land area saved by the lot size reductions can be reserved as permanent open space.

Common Open Space. That area within a development that is not covered with a structure or impervious surfaces, which has been set aside for resource protection, amenities, and/or buffers (including water quality buffers on streams and required land use buffers), and that may be held by the developer, property owners' association, or non-profit entity. Buffers and building setbacks that are privately held on individual lots are not included in the open space calculation. Stormwater control devices, including swales and ponds, recreation areas, reserved right-of-way, and easements for above ground activities or utilities are not considered open space. Common open space shall be designated as such on the preliminary and final plans.

Dedication. A gift, by the owner, of land for a specified purpose, or purposes. Because a transfer of property is entailed, dedication must be made by written instrument and is completed with an acceptance.

Easement. A grant by the property owner for use by the public, a corporation, or person(s) of a strip of land for specified purposes.

Lot. A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such access ways, parking area, yards, and open spaces required in these regulations.

Lot, Corner. A lot located at the intersection of two or more streets, or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than 135 degrees.

Lot, Double Frontage. A lot having frontage and access on two or more public streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three or more streets.

Lot, Flag or Panhandle. An irregularly shaped lot where the buildable portion of the lot is connected to its required street frontage by a narrow strip of land.

Lot of Record. A lot which is part of a subdivision, described by plat or by metes and bounds which has been recorded in the office of the Wilkes County Register of Deeds prior to the adoption of this ordinance.

Lot, Zoning. A parcel or contiguous parcels of land which is indicated by the owner at the time of application for a building or zoning permit as being land which is proposed for development under a single development plan.

Open Space. Land used for recreation, natural resource protection, amenities, and protection of important rural and town vistas and/or buffer yards. Open space may

include, but is not limited to lawns, walkways, active recreation areas, playgrounds, wooded areas, and greenways. Open space shall be designated on the preliminary and final plats.

Planning Area. The land located within the boundaries of the most recently adopted Wilkesboro zoning map, and generally consistent with the town's extraterritorial jurisdiction. (ETJ)

Planning Board. The Planning Board of the Town of Wilkesboro

Plat. A surveyed map or plan of a parcel which is to be, or has been subdivided.

Private Driveway. A vehicular access way serving two (2) or fewer lots, building sites, or other division of land not intended for public ingress or egress.

Sidewalk. Public pedestrian way of concrete within the public road right-of-way separated from the vehicular travel way by a landscaped area no less than five feet wide.

Street. A right-of-way for vehicular travel.

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 a 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, 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 recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Wilkesboro or the State of North Carolina.

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 Wilkesboro, if so authorized; or has been dedicated for public travel by the recording of a plat or subdivision which has been approved or is subsequently approved by the Town of Wilkesboro; or has otherwise been established as a public street prior to adoption of this ordinance.

Structure. Anything constructed, erected, or placed on the land, at grade or below grade. It includes, but is not limited to, buildings, signs, load bearing walls, docks, columns, pools, and parking areas.

Subdivider. Any person or persons, firm or corporation subdividing land within the jurisdiction of this ordinance.

Subdivision. A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other division 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 10 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 no more than three lots, where street right-of-way dedication or reservation is not involved and where 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) The division of land for the use of water or sanitary sewer pumping stations.
- (7) Proceedings to partition interest 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 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.
- (6) The division of land into five (5) or more lots where new right-of-way may or may not be created.

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. A minor subdivision should have five or fewer lots.

Technical Review Committee. The Technical Review Committee shall meet as needed to review all preliminary and final subdivision plats as required by the Subdivision Ordinance. This committee shall be comprised of the following members:

1. Town Manager
2. Designated Town Engineer
3. Planning Director
4. Fire Department Representative
5. Public Works Department Representative
6. Water Treatment Plant Representative
7. Waste Water Treatment Plant Representative
8. Police Department Representative
9. NCDOT Representative

The Technical Review Committee shall review the plans for adherence to the Subdivision Regulations with regard to land subdivision, streets, utilities and location, ingress and egress point(s), open space, etc.

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 Engineer. A North Carolina registered Engineer chosen by the Town of Wilkesboro to provide engineering services to the Town.

Article 3

Decision Making and Administrative Bodies

3.1 Subdivision Administrator.

In addition to any authority granted to the Planning Director by other ordinances of the Town of Wilkesboro, the Planning Director and the employees under his or her direction, and such agent as may, from time to time, be designated by the Board of Commissioners to administer the subdivision ordinance will have the following duties with these regulations:

- (A) To review all requests for subdivision within the town’s jurisdiction and decide whether such requests meet the requirements, intent and goals of this article. If such requirements and intent, are met staff shall approve or recommend approval of the request. If such requests do not meet the requirements, intent and goals of this article and adopted plans, staff shall deny or recommend denial of the request.
- (B) To review and provide comments on requests for modifications.
- (C) To maintain files and other public records related to the administration and enforcement of these regulations.
- (D) To recommend and prepare amendments to the text of these regulations.
- (E) To accept and file petitions for modifications.
- (F) To accept and file notices of appeal of an administrative interpretation or decision.
- (G) To interpret the provisions of these regulations.
- (H) To coordinate all local, state, and other appropriate agency review and comment on all subdivisions proposed under these regulations.
- (I) To establish such procedures as necessary and proper for the administration of their responsibilities under these regulations.

- (J) To approve for recordation in the Wilkes County Register of Deeds those divisions of land which, according to the definition of subdivision in Section 2, are not subject to the requirements of this ordinance.
- (K) Chair the Technical Review Committee (TRC) and call TRC meetings as necessary.
- (L) To review sketch plans and preliminary plans along with the TRC as needed.
- (M) Approve final plats for major subdivisions if no significant changes have occurred since approval of the preliminary plat.
- (N) Approve preliminary and final plats for minor subdivisions.
- (O) To give Planning Board/Board of Commissioners an update of all subdivision(s) to come before the Town of Wilkesboro in a monthly report.

3.2 Planning Board.

In addition to any authority granted to the Planning Board by other ordinances of the Town of Wilkesboro, the Planning Board shall have the following powers and duties in accordance with these regulations.

- (A) To hear and make advisory recommendations on proposed amendments to the text of these regulations; to propose, as needed amendments to change the text of these regulations.
- (B) To hear requests for approval of preliminary plats for major subdivisions.
- (C) To hear requests for approval of final plats, if significant changes have been made to the approved preliminary plat.
- (D) To hear requests for approval of final plats for major and minor subdivisions at the request of the Subdivision Administrator.
- (E) To hear and decide requests for modifications from sub-dividers.

In all of these matters, the Planning Board may approve the request, deny the request, or approve the request with conditions relating to the intent and standards of this ordinance.

3.3 Town Board of Commissioners.

In addition to all other authority reserved to the town board by other ordinances, the Town Board of Commissioners shall have the following powers and responsibilities in accordance with these regulations.

- (A) To hear and decide proposed amendments to the text of these regulations.
- (B) To hear and decide appeal/modification requests of sub-dividers.

3.4 Technical Review Committee.

- (A) To meet as needed to review technical aspects of sketch plans and preliminary plats.
- (B) To make technical recommendations to the Planning Board on plat approval requests.

3.5 Appeals.

- (A) **Authority.** The Planning Board shall decide petitions for appeals from an interpretation or decision made by the Subdivision Administrator or TRC committee member from the requirements of these regulations. Any reversal, modification or affirmation of an interpretation thus authorized will be entered in writing in the minutes of the Planning Board with the justification set forth.
- (B) **Initiation.** A petition for an appeal of an administrative interpretation or decision may be initiated by any person aggrieved or by any officer or department of the Town of Wilkesboro. A petition for an appeal may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.
 - (1) **Filing a Notice of Appeal.** A notice of appeal, in the form prescribed by the Planning Director, must be filed with the Planning Department within ten days of the day an administrative interpretation or decision is issued. The notice filed with the Planning Department must be accompanied by a non-refundable filing fee as established by the Town of Wilkesboro Board of Commissioners. Failure to timely file such notice and fee will constitute a waiver of any rights to an appeal under this article. The

filing of such notice will require the officer whose action is appealed to transmit to the Town Manager all administrative papers, records, and other information regarding the subject matter of the appeal.

- (2) **Standards for granting an appeal.** The Planning Board may decide to reverse or modify the decision or interpretation under appeal upon finding an error in the application of these regulations on the part of the officer rendering the decision or interpretation.

3.6 Modifications.

The Planning Board may modify the requirements of this article where, because the size or shape of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this article would cause an unusual and unnecessary hardship to the subdivider. In granting modifications, the Board may require such conditions as will secure, insofar as practicable, the objectives or requirements modified. In no case however, shall the Board, acting pursuant to this section, modify the terms or the requirements of this Zoning Ordinance, Watershed Ordinance or the Flood Hazard Ordinance. Violation of any condition shall constitute a violation of this article. A modification granted as part of a plan approval shall have the same duration as the plan approval.

3.7 Amendments.

- (A) The planning staff from time-to-time and at the request of the Town of Wilkesboro Board of Commissioners, Planning Board or any interested citizen shall prepare certain improvements to the text of the subdivision ordinance to correct errors, update or modify the requirements, or otherwise improve the operation of the ordinance in regulating the subdivision of land.
- (B) Amendments to this ordinance may only be enacted pursuant to public notice and public hearings on the proposed amendments. Notice of such public hearing shall be published once per week for two successive weeks in a newspaper of general circulation in the Town of Wilkesboro. The notice shall be first published not less than ten days nor more than twenty-five days prior to the date fixed for the hearing. The notice shall indicate the date, time, and place of the hearing and shall include a statement of the substance of the proposed amendment.
- (C) All text amendments must be referred to the Planning Board for a recommendation prior to final action by Board of Commissioners.

Failure of the Planning Board to act within forty-five days following the public hearing will be deemed to constitute an affirmative recommendation on the proposed amendment. An action to defer a recommendation for cause will constitute an action plan for the purpose of this article.

Article 4

Subdivision Approval Procedures

4.1 Approval Necessary

Subsequent to the effective date of this ordinance, no land in the Town of Wilkesboro planning jurisdiction shall be subdivided, or re-subdivided and offered for sale, gift, and exchange or in any other way conveyed until a plat thereof has been approved as herein provided. No plat shall be recorded by the Wilkes County Register of Deeds until this approval has been submitted to and approved by the Town of Wilkesboro in accordance with these regulations.

4.2 General Review Criteria

The following statements provide general criteria and policies to be used in the design, review, and approval of any subdivision under the jurisdiction of this ordinance. The Planning Department will make the initial determination as to whether the proposed subdivision is exempt from the requirements of this ordinance. Questions of interpretation of any of these provisions should be discussed with the Subdivision Administrator or designated administrative agent at the earliest possible time in the development of a subdivision proposal.

- (A) Existing land use in the area.
- (B) The number and pattern of lots created.
- (C) Current use of the tract to be subdivided.
- (D) Topography of the tract to be subdivided. In sloping terrain, streets will generally parallel contours of the land insofar as practicable, to avoid steep grades and the concentration of surface of storm water runoff. Variations are allowed to meet design objectives for the development and/or to calm vehicular speeds;
- (E) Soil types.
- (F) Improvements anticipated.

- (G) Consistency with adopted public plans and policies. All subdivision of land approved under these regulations shall be consistent with the most recently adopted public plans and policies for the area in which it is located. This includes general policy regarding development objectives for the area as well as specific policy or plans for public facilities such as streets, parks, and open space, schools, and other similar facilities. Plans and policies for the community are on file in the offices of the Town of Wilkesboro.
- (H) Conformity. All proposed subdivisions shall be planned so as to facilitate the most advantageous development of the entire neighboring area. In areas with established development, new subdivisions shall be planned to protect and enhance the stability, environment, health, and character or neighboring areas. The geometry of streets and intersections and the location of street connections will be assessed to minimize the detrimental effects of high volume, high-speed neighborhood through traffic. This assessment will consider the location of large-scale traffic generating uses, as well as the adopted thoroughfare plan and the land development plan.
- (I) Access Between Adjoining Properties. To the maximum extent practicable, all streets shall connect to create a comprehensive network of public areas which allows free movement of automobiles, bicyclists, and pedestrians.
- (J) Mature Trees and Natural Vegetation. Streets and development sites shall be designed to protect and preserve, to the greatest extent practicable, stands of mature trees and other areas of significant natural vegetation. Minor adjustments of street alignment on the ground is permitted to achieve this objective, so long as standard drainage requirement continue to be met and the actual location of the street on the ground is reflected on the final plat or an amended plat.
- (K) Access to Parks, Schools, etc. Streets and sidewalks shall be designed to assure convenient access to parks, greenways, playgrounds, schools, and other places of public assembly.
- (L) Traffic Measures. Methods to discourage high volume, high speed through traffic shall consider street geometry, intersection design, and other traffic calming measures.

4.3 Subdivision Plat Submittal Requirements.

Please review appendix A for subdivision plat submittal requirements.

4.4 Review Process for Minor Subdivisions.

- (A) Five (5) copies of the sketch Plan/preliminary plan prepared according to the requirements of Section 4.2 and Appendix A must be submitted to the Planning Department for review.
- (B) Following review of the sketch/preliminary plan by the Subdivision Administrator and other necessary town departments or state agencies, the Subdivision Administrator shall return a copy of the sketch/preliminary plan with comments to the subdivider.
- (C) The subdivider shall then make the necessary revisions to the plan before submitting five (5) copies (two of which shall be printed on mylar suitable for recordation) to the Subdivision Administrator for review.
- (D) The Subdivision Administrator shall approve or disapprove the final plat within 30 days from the date the final plat is received. If disapproved, the reasons for disapproval must be stated in writing for the subdivider. The subdivider may appeal the decision to the Planning Board at its next regular meeting. If appealed, the Planning Board shall have final approval authority.

4.5 Review Process for Major Subdivisions.

- (A) **Sketch Plan.**

Prior to submitting a preliminary plan for approval, the subdivider shall submit twelve (12) copies of a sketch plan prepared in accordance with the requirements of Section 4.2 and Appendix A to the Wilkesboro Planning Department for review by the Subdivision Administrator and the Technical Review Committee. A technically deficient sketch plan shall be returned to the subdivider with comments.
- (B) **Neighborhood Notice and Meeting.**

Prior to submitting a preliminary plan, the subdivider shall conduct a neighborhood information session about any proposed development containing 10 or more lots. The Planning Department shall be invited to attend the meeting and shall make town meeting facilities available for the subdivider's use. The subdivider shall notify in writing via first class mail all property owners directly adjacent to, across a public or private right-of-way from, and within 200 feet of the parcel seeking subdivision at least 10 days prior to the meeting. To ensure participation by working

neighbors, meetings should begin after 5pm on weeknights or be held on weekends.

Upon submittal of a preliminary plan for major subdivisions containing 6-9 lots, the Planning Department shall send an informational notice to property owners across a public right-of-way from, and within 200 feet of the parcel seeking subdivision at least 10 days prior to the Planning Board meeting at which the request will first be considered.

(C) Preliminary Plan.

A completed application checklist shall be submitted along with applicable review fees other required information such as construction drawings and twelve (12) copies of the preliminary plan of a proposed subdivision to the Planning Department. The Subdivision Administrator shall forward a copy of the preliminary plan to members of the Technical Review Committee (TRC) which shall meet and have 30 (thirty days) to review and comment on the plan. The TRC shall forward all comments and recommendations to the subdivider. If subsequent corrections or changes are necessary, the Subdivision Administrator shall have twenty (20) days to review the revised plan. Following review of the plan by the TRC and when the required revisions have been made by the subdivider, the Subdivision Administrator shall request additional copies of the preliminary plan and place the request on the agenda of the next regularly scheduled meeting of the Planning Board.

The Planning Board shall consider the preliminary plan request and may approve the request, approve the request with conditions, or deny the request. If a preliminary plan request is denied, the Planning Board shall furnish a written notice of the denial and the reasons for the denial upon request of the subdivider.

Preliminary plan approval shall be valid for two years. The Planning Board may extend the approval for a period up to six months from the date when the preliminary subdivision plan would otherwise expire if it concludes that: the preliminary plan has not yet expired, the property owner or agent has proceeded with due diligence and in good faith, and conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six months upon the same findings. This paragraph shall be applicable to all preliminary plans approved since the adoption of this ordinance.

(D) Final Plat.

The final plat of a proposed subdivision shall be submitted, with five (5) copies, one digital copy, and a completed checklist to the Subdivision

Administrator for final approval. If deemed necessary, the Subdivision Administrator will take the final plat to the Planning Board for final approval.

Prior to approval of the final plat, the subdivider shall complete all the required improvements specified in Section 5 or provided the town with an approved financial guarantee in lieu of completing the required improvements. The approval of the final plat of subdivision shall not be deemed to constitute or effect the acceptance by the Town, the public dedication of any street or other ground, public utility line or other public facility shown on the plat. Application for such acceptance, where appropriate, may be made to the Town Board of Commissioners subsequent to the filing and recordation of the plat.

After the approval of the final plat, the plat shall be returned to the subdivider. Approval of the final plat shall be subject to the condition that the plat is filed and recorded in the office of the Register of Deeds within thirty (30) days of the date of the final plat approval. Only after filing and recordation of the approved final plat may the subdivider sell lots.

(E) Certificates of Approval.

Please review Appendix B for the required certificates of approval.

Article 5 Subdivision Development Requirements

5.1 General.

Each subdivision shall contain the improvements specified in this Section, which shall be installed in accordance with the requirements of this Ordinance and paid for by the subdivider. Land shall be dedicated and reserved in each subdivision as specified in this Section. Each subdivision shall also adhere to the minimum standards of design established by this Section.

5.2 Suitability of Land.

- (A) Land suitability shall be determined by an investigation of site conditions including but not limited to flood prone areas, wetlands, soil drainage, drainage patterns, topography, historic sites and unique natural areas such as the habitat of rare and endangered species or geologic

formations that may be listed by the North Carolina Heritage Program or North Carolina Natural Areas Advisory Committee.

- (B) Land which has been determined by the Planning Board or Board of Commissioners on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.
- (C) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by a structural engineer and a soils expert determine that the land is suitable for the proposed development.
- (D) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (E) All subdivision proposals shall have public utilities and facilities such as sewer, gas electrical and water systems, if available, located and constructed to minimize flood damage.
- (F) Each lot not intended for permanent open space or recreation area shall contain a suitable building site.

5.3 Subdivision Design Requirements.

(A) Design Requirements for Streets.

- (1) For town maintained streets and streets that are located in the Town of Wilkesboro Extra Territorial Zoning Jurisdiction that will be maintained by NCDOT or the Town of Wilkesboro, the *North Carolina Department of Transportation, Division of Highways, Subdivision Roads Minimum Construction Standards, January 2000*, as amended shall serve as a minimum guideline for design. In addition, standards as set forth in the Town of Wilkesboro Zoning Ordinance and this section of the subdivision regulations shall control.
- (2) **Utilities, Street Lights and Storm Drainage Within Streets.** Utilities, street lights, sidewalks, storm drainage and other such facilities to be placed within the street right-of-way shall be placed in accordance with Town of Wilkesboro requirements.
- (3) **Coordination with Existing Street System.** The proposed street

layout shall be coordinated with the existing street system of the surrounding area and with the Town of Wilkesboro Thoroughfare Plan. Where possible, proposed streets shall be an extension of existing streets.

- (4) **Right-of-Way Required.** The width of right-of-way required for proposed subdivisions shall generally be consistent with that of existing streets that are being extended, but in no case shall right-of-way widths be less than the following:

Street Type	Feet
Arterial Street	100
Collector Street	70
Local Street	60
Marginal Access Street	50
Cul-de-sacs	100

- (5) **Additional Right-of-Way May be Required.** These standards represent the normally required right-of-way for standard streets. Additional right-of-way may be necessary in the area of interchanges, intersections, cut/fill areas, or areas where horizontal or vertical alignments must be improved and will be determined on a case-by-case basis. When a subdivider elects to establish a roadway divided with a center landscaped strip or median, the right-of-way width must be increased by at least the proposed width of the center strip or median.
- (6) Along existing streets, neither right-of-way dedication nor reservation is required unless:
 - (a) An existing street has a right-of-way less than sixty (60) feet wide and will provide access to the subdivision, in which case a right-of-way up to thirty (30) feet on each side of the centerline may be required to be dedicated; or
 - (b) An existing street will provide access to the subdivision and the volume of traffic projected to be generated by the subdivision necessitates intersection and/or other improvements, in which case dedication of right-of-way sufficient for the subdivision developer to make intersection and/or other improvements to serve said subdivision may be required.

- (7) **Dedication of Right-of-Way for Planned Arterials Required.** Whenever a tract of land to be subdivided includes any part of a planned arterial or extension of an existing arterial street shown on the adopted thoroughfare plan, and whenever a right-of-way for such a street has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the arterial street must be platted in the location and to the width specified in the plan. The subdivider is responsible for the dedication and/or reservation of the right-of-way in accordance with the provisions of this section. The entire right-of-way (that which has been reserved and that which has been dedicated) must be shown as such on the final plat. All measurements involving minimum lot standards under this ordinance and under the zoning ordinance will be made at the edge of the full right-of-way.
- (8) **Cul-de-sacs.** Cul-de-sacs (streets designed to be permanently closed at one end), may not be longer than 550 feet (measured to the center of the turnaround) unless a modification is granted by the Planning Board or Board of Commissioners during the plat approval process. Cul-de-sacs must be terminated with a circular right-of-way not less than 90 feet in diameter for curb and gutter streets and not less than 100 feet for streets without curb and gutter. Cul-de-sacs shall not be used to avoid the extension of an existing street or to prohibit future connection to adjoining properties.
- (9) **Access to Adjacent Properties.** Where it is deemed desirable by the Planning Board or Board of Commissioners, proposed streets shall be extended by dedication to the boundary of such property and a temporary turn-around provided. Any such turn-around shall comply with the standards for cul-de-sacs, and upon further extension of street(s), the turn-around shall be removed and the adjacent property restored to its original state, to the maximum extent feasible.
- (10) **Street Off-Sets and Intersections.** Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall not be less than 150 feet. Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of

less than 400 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1000 feet.

(B) Design Requirements for Lots.

- (1) **General.** The shape and orientation of lots shall be appropriate to the location of the subdivision and the intended development. Commercial and industrial lots shall be of sufficient size to include off-street service facilities and off-street parking of all vehicles used by all patrons and employees.
- (2) **Required Street Frontage.** Each lot shall abut a publicly dedicated street. Each lot must abut the street or road with frontage of at least seventy (70) and thirty (35) feet in a turn around. Except where reverse frontage is desirable, double frontage lots should be avoided.
- (3) **Minimum Lot Size and Dimensional Requirements.** All lots shall conform to each and all of the requirements of the Town of Wilkesboro Zoning Ordinance for the zoning district in which they are located.
- (4) **Panhandle Lots and Other Irregularly Shaped Lots.** Panhandle lots and other irregular shaped lots may be approved in cases where such lots would (1) not be contrary to the purpose of this Ordinance, (2) heighten the desirability of the subdivision, and (3) where necessary, enable a lot to be served by a public water and waste disposal system. All panhandle lots shall have a minimum road frontage width of thirty (30) feet thereby providing access to the lot. The length of said access shall not exceed two hundred (200) feet. Said access shall not be used to determine lot area or minimum lot width or building setback lines.
- (5) **Side Lot Lines.** 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 (60) degrees.
- (6) **Driveway and Street Connections.** Prior to the construction of any driveway, new street 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 Wilkesboro, for a state or 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.

(7) Lots Subject to Flooding.

- (a) If any part of a proposed lot is subject to flooding, the subdivider shall make a determination of the crest elevation of the flood expected to be equaled or exceeded, on the average, of one time in one hundred years (the “100-Year Flood”) in accordance with generally accepted surveying/engineering practice, which is to be submitted with the seal and signature of a professional surveyor to the Town of Wilkesboro. This determination must reflect the actual conditions imposed by the completed subdivision, and must give due consideration to the effects of urbanization and obstructions.
- (b) No proposed building lot that is wholly or partly subject to flooding shall be approved unless there is established on the final plat a line representing an actual contour, as determined by field survey, at an elevation one foot above the 100-year flood crest. Such line shall be known and identified on the final plat as the building restriction floodline. In addition, a “*flood protection elevation*” for each lot subject to flooding shall be noted on the final plat as determined by the Town Engineer/surveyor based on the building restriction floodline, or for lots upstream of street crossings, the low elevation of the street plus one (1) foot, whichever is greater.
- (c) All habitable buildings or structures shall be located outside the building restriction floodline, or the lowest usable and functional part of the structure shall not be below the flood protection elevation. “Usable and functional part of the structure” shall be defined as being inclusive of living areas, basements, sunken dens, basement utility rooms, crawlspaces, attached carports, and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits and wiring, but shall not include water lines or sanitary sewer traps, piping and clean-outs; provided, openings serving the structure are above the flood protection elevation.

- (d) Where only a portion of a proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than one thousand two hundred (1,200) square feet. The usable lot area shall be determined by deducting from the total lot area the area of all yards and setbacks required by the applicable zoning district regulations and any remaining area of the lot lying below the building restriction floodline.
- (e) During the construction of a subdivision, the developer shall maintain the streambed of each stream, creek or backwash channel contiguous to the subdivision in an unobstructed state and shall remove from the channel and bank of the stream all debris resulting from the land development process, including logs, timber, junk and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized stormwater drains, culverts, bridges or erosion control devices will not be construed as obstructions in the stream. In areas of the town that are covered by the provisions of the floodway regulations, the floodway regulations will supersede the provisions of this ordinance regarding land within the regulated floodplain.

(C) Dedication of Land for and/or Fees in Lieu of Park, Recreation and Open Space Purposes.

(1) Dedication of Land.

- (a) **General Provisions.** Every subdivider who proposes a subdivision for land for residential purposes shall dedicate a portion of land or pay a fee in thereof, in accordance with this section, for public park, greenway, recreation, and open space sites to serve the recreational needs of the residents of the subdivision or the development.
- (b) **Amount of Land to be Dedicated.** At least one-thirty-fifth (1/35) of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plat or development.

The minimum amount of land which shall be dedicated for a public park, recreation, or open space site shall be no less than two (2) acres in size. When the area to be provided is less than two acres, the subdivider shall be required to make a payment in lieu of the dedication to be used for the acquisition or development of recreation, park, or open space sites which would serve the needs of the residents of the subdivision.

(c) **Nature of Land to be Dedicated.** Except as otherwise required by the Board of Commissioners at the time of preliminary plat approval, all dedications of land shall meet the following criteria:

- i. **Unity.** The dedicated land shall form a single parcel of land, except where the Board of Commissioners determines that two or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Board of Commissioners may require that such parcels be connected by a dedicated strip of land at least thirty (30) feet in width.
- ii. **Usability.** Two-thirds (2/3) of the dedicated land shall be useable for active recreation. Furthermore, lakes and other bodies of water may not be included in computing any of the dedicated land area.
- iii. **Shape.** The shape of the portion of dedicated land which is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of land is dedicated to accommodate such facilities. Land dedicated only for greenways need not follow the requirements of this sub-section.
- iv. **Location.** The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the subdivision.
- v. **Access.** Public access to the dedicated land shall be

provided either by adjoining public street frontage or by a dedicated public easement, at least thirty (30) feet wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks, and other improvements required along that street segment. Public access or dedicated walkways to greenway dedications only shall be at least twenty (20) feet wide.

- vi. **Topography.** The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire subdivision to be developed. In no case shall a slope on the usable portion of dedicated land exceed fifteen (15) percent.
- vii. **Landscaping.** Dedicated parks, recreation, and open space areas shall have a sufficient natural or manmade buffer or screen to minimize any negative impacts on adjacent residents.

(2) Payments of Fees in Lieu of Land Dedication.

- (a) **General.** The payment of fees, in lieu of the dedication of land under Subsection (C)(1) above, may occur at the request of the subdivider or developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, shall be made by the Board of Commissioners after having received a recommendation from the Planning Board and Parks and Recreation Board having evaluated the proposed dedication and the relationship such dedication would have with the Town's overall recreational needs.

The Planning Board shall have the right to approve any preliminary plat except for those plats that would require two acres or greater of land to be dedicated for recreational purposes. In those instances, preliminary plat approval and the decision to either accept land for

recreational purposes or fee in lieu of shall rest with the Board of Commissioners.

- (b) **Time of Payment.** The fees in lieu of dedication shall be paid prior to final plat approval by the Planning Board or Board of Commissioners.
- (c) **Amount of payment.** The amount of the payment shall be the product of:
 - 1. The number of acres to be dedicated, as required by subsection (C)(1) above;
 - 2. The assessed value for property tax purposed of the land being subdivided, adjusted to reflect its current fair market value at the time such payment is due to be paid.

Procedures for determining the amount are as follows:

- 1. An appraisal of the land in the development shall be performed by a professional land appraiser selected by the developer from an approved list maintained by the Subdivision Administrator. The appraisal shall not be done prior to submission of the preliminary plat. The cost of the appraisal shall be borne by the developer.
- 2. Professional land appraiser refers to a land appraiser who, in the opinion of the Subdivision Administrator, has the expertise and/ or certification to perform an adequate appraisal.

(3) **Procedures.**

- (a) At the time of filing a preliminary plat, the subdivider shall designate thereon the area or areas to be dedicated pursuant to Section (C). If the subdivider desires to make a payment in lieu of the dedication of land, a letter to that effect shall be submitted with the preliminary plat. The Board of Commissioners reserves the right to refuse to accept dedication of parcels for public-park, recreation, or open space.
- (b) Where a dedication of land is required, such dedication shall be shown on the final plat when submitted, and such

plat shall be accompanied by an executed general warranty deed conveying the dedicated land to the Town. Where a payment in lieu of dedication is approved by the Board of Commissioners or Planning Board, such payment will be made before the final plat is signed and recorded.

(4) **Provisions of Equivalent Facilities under Neighborhood or Community Home Owners Association of Management.**

The Town encourages neighborhood or homeowner associations or management to construct, operate, and maintain private parks and recreation. The construction, operation, or maintenance of such private facilities shall not, however, diminish or eliminate the responsibility and obligations of the subdivider under subsection (C)(1), et seq.

(5) **Greenways.**

Greenways may be credited against the requirements of Section (C) provided that such greenways are part of the Town's or County's greenway plan and dedicated to public use.

(D) Easements and Public Dedications.

- (1) To provide for electric, cable, telephone and gas service, community antenna television distribution systems, water and sewer lines and other such facilities within the subdivision, appropriate utility easements shall be provided on the final plat. The locations of such easements shall be determined by the Subdivision Administrator and based upon the approved construction plans. In addition, storm drainage easements may be required in order to carry the storm drainage improvements located outside street rights-of-way.
- (2) In any case where it is necessary for town forces to enter the property proposed for subdivision for purposes of public facilities construction prior to the recording of the final plat, the subdivider shall furnish the town an easement for such purposes in a form acceptable to the town.
- (3) To allow for planned, orderly growth of the town's utility systems, the subdivider shall be required to dedicate general public utility easements of sufficient width and placement to accommodate town utility extensions. Such easements shall be platted to the

property line of the subdivision. Generally, a utility easement of not less than ten (10) feet in width shall be provided to the side and rear of each lot and in other locations where deemed necessary. Lots in Minor Subdivisions are exempt from this requirement upon certification that they may be serviced by existing utilities along the public rights-of-way. Wider easement widths may be required if determined necessary by the Subdivision Administrator after consultation with all private and public utility company(ies) involved.

- (4) Easements may be required across residential lots as a condition of plat approval when such easements are deemed necessary by the town for provision of public streets and utilities to serve the proposed subdivision.
- (5) To ensure adequate drainage of the site, the subdivider shall dedicate public storm drainage easements of sufficient widths and placement when deemed appropriate by the town.
- (6) All property shown on the plat as dedicated for a General Public Utility Easement (GPUE) shall also be deemed to be dedicated for any public utility use authorized by the town.
- (7) Utility easements may be graveled for walking paths throughout the subdivision, if the topography lends itself to paths.

(E) Retention of Existing Vegetation.

The Town of Wilkesboro encourages the retention of existing vegetation to help assure a future environment in keeping with the current character of the Town. In particular, the retention of mature trees and large shrubs throughout all proposed minor and major subdivisions may enhance the approval process and will increase the desirability of such attractively – developed properties.

(F) Landscape Buffers Along Thoroughfares.

- (1) **Natural Buffer Required.** Where side or rear lot lines abut along a major, minor, or local thoroughfare as designated in the Town of Wilkesboro Thoroughfare Plan, the subdivider shall provide a natural buffer between the lot lines paralleling the thoroughfare and the thoroughfare road right-of-way. The natural buffer shall materially screen all principal and accessory uses from public view from thoroughfare. The buffer shall consist of natural plantings.

Any walls, fences or other constructed devices allowed within the buffer area by this Ordinance and/or the Town of Wilkesboro Zoning Ordinance shall be approved by the Zoning Administrator/Planning Director.

The subdivider is encouraged to propose the use of existing natural vegetation and/or topography or a combination of existing features as prescribed in this Section when the purpose and intent of this Section can be fully or partially met by utilizing such methods.

Such buffer shall be located on the property with the use with which it is associated or required, and shall materially screen the subject use from the view of the adjoining properties. When a natural buffer must be planted with new vegetation, a buffer strip at least ten (10) feet wide shall be planted. This strip shall be free of all encroachments by buildings, parking areas or impervious coverage.

- (2) New trees and shrubs within the buffer shall meet the following standards:
 - (a) Forty percent (40%) of the required trees within the buffer shall be large canopy trees.
 - (b) Twenty-five percent (25%) of all trees shall be evergreen.
 - (c) All trees shall have a minimum caliper of one and one-half (1 1/2) inches measured six (6) inches above ground, and the minimum height of all trees shall be six (6) feet at the time of planting.
 - (d) Shrubs shall be evergreen and at least three (3) feet tall when planted with the average height of six (6) feet in three (3) to four (4) years. However, twenty-five percent (25%) of the shrubs may vary from the above standard.
 - (e) All specifications for the measurement, quality, and installation of trees and shrubs shall be in accordance with the "American Standards for Nursery Stock: published by the American Association of Nurserymen, and free of disease.

- (3) Landscaped buffers shall have an arrangement of trees and shrubs in the buffer area done in a manner that provides a visual separation between abutting land uses.
- (4) Shrubs shall be massed in rows or groups to achieve the maximum screening effect.
- (5) Berms without landscaping are not suitable for screening.
- (6) Required buffers shall not be disturbed for any reason except for required driveways, sidewalks, or other pedestrian or bicycle paths, walls, fences, or required landscaping, landscaping maintenance or replacement, or maintenance and construction of utility lines. However, utility line construction must meet the following requirements:
 - (a) No utility easements shall run longitudinally within a buffer yard.
 - (b) To the extent possible, the path cleared for utility lines shall be replaced with plant materials which are consistent with those that existed prior to utility line construction in the buffer yard.
- (7) All buffer screening materials shall be properly maintained in order to fulfill the purpose(s) for which it is established. The owner of the property and any tenants shall be jointly and severally responsible for maintenance of all required screening.
- (8) All buffers shall be constructed in a manner that shall allow for adequate sight distance where subdivision streets intersect with the thoroughfare.
- (9) If above ground utilities are to remain in the buffer yard, then all landscaping must be located outside the easements/right-of-way for the utilities.
- (10) The area of the buffer shall be in addition to lot area as required by the Town of Wilkesboro Zoning Ordinance and setbacks as prescribed in said Zoning Ordinance shall be measured from the nearest edge of the buffer to any

structure of the lot. The buffer area shall become part of the lot on which it is located, or in the case of commonly owned property, shall be deeded to the homeowner's association.

5.4 Required Subdivision Improvements on the Ground.

- (A) **Approval of Construction Plans Prerequisite to Installation of Improvements.** The subdivider shall install the following improvements and such improvements shall be at no cost to the town, except as set forth herein and except as may be otherwise provided for in the town's water and sewer extension policies. No improvements shall be installed until construction plans have been approved by the town and any other such agency as may be appropriate or as required by law. A final plat may be recorded prior to installation of any or all required improvements provided that a financial guarantee in a form acceptable to the town is given by the subdivider to the town as provided in Section 5.5.
- (B) **Street Improvements.** The following requirements shall apply to all streets within the corporate limits of the Town of Wilkesboro, or if annexation of the subdivision to the town is desired or required by the subdivider.
- (1) **Grading.** All streets shall be graded to provide width for paved surfaces (road and sidewalks). Finished grade, cross section and profile shall be approved by the State of North Carolina DOT standards as established herein.
 - (2) **Paving.** Road base and paving shall be installed in accordance with the State of North Carolina DOT standards as established herein.
 - (3) **Curb and gutter.** All streets within a subdivision shall be curbed and guttered.
 - (4) **Sidewalks.** For subdivisions with a majority of the lots one (1) acre or smaller in size, five (5) foot sidewalks, five inches in thickness shall be required along one side of all residential streets. Sidewalks shall conform to ADA requirements and the Town of Wilkesboro installation and maintenance requirements.
 - (a) Sidewalks shall be provided along any existing public road directly accessed by the proposed subdivision as follows:

1. Sidewalks shall extend the length of the property adjacent to the roadway on the same side as the proposed subdivision.
 2. The subdivider shall provide any additional right-of-way needed for the sidewalk to either the town or NCDOT, as appropriate.
 3. When the adjacent road is an NCDOT facility, the sidewalk shall be built to NCDOT standards.
- (5) **Multiple Entrances.** Multiple entrances are encouraged for all major subdivisions and may be required for some large major subdivisions for emergency service purposes, provision of efficient services and to lessen the impact of the development on adjacent thoroughfares.
- (6) **Street Names and Signs.** Names of streets that duplicate or could be confused with the names of existing streets within Wilkesboro or unincorporated Wilkes County, shall not be approved. New street names will be reviewed with Wilkes County Emergency Management records to confirm non-duplication. Appropriate street name signs which meet the Town of Wilkesboro and Wilkes County specifications shall be placed at all street intersections at the subdivider's expense following completion of the grading of the streets or issuance of the first building permit, whichever occurs first. If an alternate street sign design is installed by the subdivider, the Town shall replace any damaged or destroyed street sign with a street sign of standard materials and design.
- (7) **Street Trees.** Street trees shall be installed according to the following provisions:
- (a) Street trees shall be planted along both sides of all public streets in new residential developments.
 - (b) Street trees shall be large canopy species and shall be planted forty feet on center. At the time of planting, each tree shall be two (2) inches or greater in diameter measured twelve inches (12) above ground level, and each shall be a minimum of eight (8) feet in height above grade. Small maturing trees planted a maximum of thirty feet on center may be used to meet street tree requirements only

where overhead utility lines along existing streets prevent or interfere with the maturing of canopy trees.

- (c) The planting area for street trees shall be a minimum of five (5) feet in width as measured perpendicularly from the street.
- (d) On any street for which a streetscape plan has been adopted by the Board of Commissioners, the streetscape plan shall control.
- (e) Along streets that are well-forested or new streets that are to be maintained in a forested condition by the developer, the requirements of this section may be reduced or eliminated upon approval of the Subdivision Administrator to minimize grading and enhance preservation of existing, mature trees. Tree planting requirements may be modified where extreme topography would require excessive grading to meet the specific standards above.

(C) Water Supply Improvements.

- (1) Any subdivision which has town water system lines available or to be made available within 400 feet of its boundary shall have such available systems extended to each lot within the town limits. Such extensions shall include appropriate valves, hydrants, taps and service to the property line of each lot as determined by the standards of the town. For the purposes of this section, **AVAILABLE** shall mean legally available and without geographic or topographic features which would make such connection infeasible.
- (2) In any case where a public water system intended to serve more than two lots is proposed to be installed in a subdivision as part of the plan approval process, such system shall be considered to be a required improvement within the context of this section regardless of whether such a system is an extension of the town system or not and such system shall be required to be installed by the subdivider, This requirement includes both facilities within the subdivision and off-site facilities which are essential to providing the service to the property.

(D) Sanitary Sewer and Wastewater Improvements. Provisions shall be made for wastewater disposal for each lot platted for sale or

development as follows:

- (1) If the property is located within the town's corporate limits, it shall be served by town sewer unless waived by the Board of Commissioners. Approvals by the Town Engineer and the Board of Commissioners are required prior to the submission of plans for approval to State officers. All town ordinances and sewer extension guidelines shall be followed. Said system shall be completed according to the approved plans; provided that where said improvements are to be installed or constructed subsequent to the approval of the final plat, plans and specifications for said improvements shall be made a part of the final plat.
 - (2) Where individual on-site waste disposal systems are proposed, such systems shall be consistent with State laws and local ordinances. These systems are not considered as improvements that are required to be installed by the subdivider.
- (E) Stormwater Management.** It shall be the responsibility of the subdivider to provide a stormwater management design which shall meet the following objectives:
- (1) Provides a suitable building area on each lot that is safe from inundation and erosion.
 - (2) Protects the characteristics and capacity of natural drainage ways, and encourages reliance on natural drainage ways for the removal of runoff by preventing their impoundment, except where there may be a site for intentional stormwater detention;
 - (3) Protects all roads, driveways, utilities, and other types of development from damage caused by improper stormwater management.
 - (4) Generally minimizes the disturbance to natural vegetation, minimizes the area of impervious surface and maximizes the infiltration of stormwater into the groundwater system.

To achieve these objectives, the subdivider may use whatever combinations of mechanical devices, natural buffers, large lots, or other technical means that are available. Drainage easements may be required when necessary. Such easements shall be indicated on the final plat. The preliminary plan shall be reviewed by NCDENR, the Department of Transportation, the Planning Board and the Town Engineer.

The installation of any part of a drainage system which is necessary because of proposed improvements as set forth in this section may be installed subsequent to the approval of the Final Plat; provided that plans and specifications of said improvements shall be made a part of the Final Plat.

(F) Street Lights. Inside the town limits the subdivider shall install street lighting at appropriate locations in the subdivision in accordance with town standards.

(G) Monuments. Permanent type monuments of stone or concrete and markers shall be accurately placed according to G.S. Chapter 39, Article 5A and the following:

- (1) At least two monuments designated as "Control Corners" shall be placed in each block for the control of that block. There shall be a minimum of two monuments per 10 lots.
- (2) Monuments shall be set at least thirty inches in depth. The dimensions shall be no less than four inches at the top and six inches at the bottom. Such monuments shall have a non-corrosive metal plate or pin in the top to mark the location of the designated point.
- (3) At least two one "Control Corner" shall be accurately tied to a monument of some U.S. or State Agency survey system as required by G.S. Chapter 47, Article 2, Section 30.
- (4) All corners, other than those marked by monuments shall be marked by metal stakes set not less than thirty inches in depth with a half inch in diameter.
- (5) Where a corner falls in a right-of-way, or in a stream, a marker should be located at either side of the point in question so that the point may be located accurately on the ground and on the map.

5.5 Financial Guarantee in Lieu of Immediate Installation of Required Improvements for Approval of Final Plat.

(A) In lieu of requiring the completion, installation and inspection of all or any part of the required improvements as described in this ordinance 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/her 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.

(C) Duration of Financial Guarantees.

(1) 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 exceed 18 months.

(2) 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 no to exceed six months.

(D) Default.

- (1) 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.
- (2) Default on a project does not release the subdivider from liability/responsibility for the completion of the improvements.

(E) 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.

Appendix A SUBDIVISION PLAT CHECKLIST



Town of Wilkesboro SUBDIVISION PLAT CHECKLIST



Name of Subdivision		Date:
Name of Subdivider		Contact Phone No:
Name of Preparer		

City Department E=Town Engineer P=Planning	Item #	Item Description	When Required F=Final, S=Sketch P=Preliminary	Preparers check here if complete	Office use only
TITLE BLOCK INFORMATION					
	1	Title Block is shown containing:			
P		A. Name of development	P,F		
P		B. Name of map or plan (sketch plan, preliminary plan, or Final Plat)	S,P,F		
P		C. Owner's name with address and daytime phone number	S,P,F		
P		D. Location, including address, city, township, county, & state,	S,P,F		
P		E. Date(s) map(s) prepared or revised	S,P,F		
P		F. Scale of drawing in feet per inch – drawing scale shall not be less than 1" equals 200'	S,P,F		
P		G. Name, address, and telephone number of preparer of map	S,P,F		
P		H. Developer's name, address and daytime phone number, if different from owner's)	S,P,F		
ZONING AND LAND USES					
P	2	Zoning district(s) within the property and adjacent properties are shown	P,F		
P	3	Existing land uses within the property and adjacent properties are noted	P		
P	4	Dimensions, location, and use of all existing buildings; distances between buildings measured at the closest point; distance from buildings to closest property lines; buildings to remain on final plat	P,F		
STREETS					
	5	Street data is shown illustrating:			
P		A. Existing and proposed rights-of-way within and adjacent to property are shown	P,F		
P		1. Total right-of-way width dimensions are shown	P,F		
E		2. Right-of-way width dimension from centerline of existing public streets are shown	P,F		
P		3. Cul-de-sac right-of-way radius from centerpoint are shown	P		
P		B. Pavement or curb lines are shown	P		
P		C. Pavement width dimensions are shown	P		
P		D. Cul-de-sac pavement radius from centerpoint are shown	P		
E	6	All existing streets and proposed streets are named and approved by E-911	F		
MAP INFORMATION AND DESCRIPTION					
P	7	Bar Graph Scale is shown	S,P,F		

City Department E=Town Engineer P=Planning	Item #	Item Description	When Required F=Final, S=Sketch P=Preliminary	Preparers check here if complete	Office use only
P	8	(Deed or Record) Book or Plat (Book or Cabinet) references to subject property	P,F		
P	9	Names of adjoining property owners [or subdivisions or developments of records with Plat (Book or Cabinet) and/or (Deed or Record) Book reference] are shown	P,F		
P	10	Tax block and parcel(s) number(s) are shown	P,F		
P	11	A vicinity map is shown	P,F		
P	12	All jurisdiction lines which adjoin or cross the tract are shown	P,F		
P	13	North arrow and orientation (oriented towards top of map where practicable)	S,P,F		
	14	Boundaries of the tract to be subdivided are shown as follows:			
E		A. At least one corner is tied to: (1) N.C. Grid and provide grid coordinates where at least one of two control monuments needed are within 2000' of the boundary and show the grid factor or (2) tie to the nearest street intersection	F		
P		B. All locations of intersecting boundary lines of adjoining properties are shown	P,F		
P		C. Distinctly and accurately represent and show all distances; show bearings and distances on final; show bearings and distances and curve data on outside boundaries and street centerlines on preliminary with street centerline tied to boundary	P,F		
P	15	Location and descriptions of all monuments, markers, and control corners is shown on plat	F		
P	16	Existing "old" property lines on tract to be subdivided are shown as dashed lines and are labeled as "old property lines"	S,P,F		
P	17	Existing and proposed topography of tract and 100 feet beyond property showing existing contour intervals of no greater than 5 feet (2 feet where available) and labeling at least two contours per map and all others at 10 foot intervals from sea level	P		
ENVIRONMENTAL AND NATURAL FEATURES					
P	18	Existing and proposed topography of tract	P		
P	19	Marshes, swamps, and other wetlands are shown	P,F		
P	20	Water courses, ponds, lakes, and streams are shown	P,F		
P	21	Undisturbed, vegetative buffers along perennial streams are shown	P,F		
P	23	Areas to be dedicated or reserved for public use are shown	P,F		
P	24	The name and location of any property or building on the National Register of Historic Places or locally designated historic property is shown	P,F		
P	25	Areas designated as a common area or open space under control of a Developer's or Homeowner's Association are shown (where applicable)	P,F		
FLOOD IMPACT AREAS					
P,E	26	The location of floodway and floodway fringe areas (where applicable) are shown referenced from FEMA Flood Hazard Boundary Maps and/or approved Engineering Flood studies	P,F		
SITE DATA					
	27	Site calculations are shown including:			
P		A. Acreage in total tract	S,P,F		
P		B. Acreage in public greenways and other open space(where applicable)	P,F		
P		C. Total number of lots proposed	S,P,F		
P		D. Linear feet in streets	P,F		
P		E. Area in newly dedicated right-of-way	P,F		
P		F. General location of the boundaries of any residual lot (> 10 acres)	S,P		
P	28	Proposed lot lines and dimensions, with bearing and distances shown	P,F		
P	29	Area in square footage of all proposed lots under one (1) acre in size; area in acres is shown for all lots one acre or more in size; smallest lot is indicated	P,F		
P	30	Lots shown are sequenced or numbered consecutively	P,F		

City Department E=Town Engineer P=Planning	Item #	Item Description	When Required F=Final, S=Sketch P=Preliminary	Preparers check here if complete	Office use only
EASEMENT AND UTILITIES					
P	31	Location, dimension, and type of all easements (existing and proposed) are shown	P,F		
E	32	General Public Utility Easements are tied to the property lines	P,F		
E	33	Public Storm Drainage Easements are shown centered over the creeks, ditches, and/or structures. Ties to property lines are not required.	P,F		
P	34	Plat contains a utility layout plan for water, sewer, storm sewer, natural gas, electric, and cable TV (where applicable)	P		
P	35	Note that if a septic system is proposed that lots have perked for a septic tank	P		

NOTES AND STATEMENTS					
P	36	Plat contains <i>NCDOT Construction Standards Certification</i> (where applicable)	P,F		
P	37	Plat contains an <i>On-Site Water and/or Sewer Note</i> (where applicable)	P,F		
P	38	Plat contains a <i>Special Flood Hazard Area Note</i>	P,F		
P	39	Plat contains a <i>Notary Certificate of Owners Signature</i>	F		
P	40	Plat contains a <i>Certificate of Ownership and Dedication</i>	F		
P	41	Plat contains a <i>Subdivision Administrator Approval Certificate</i>	F		
E	42	Plat contains a <i>Certification of Survey and Accuracy</i>	F		
E	43	Plat contains a <i>Wilkes County Review Officer's Statement</i>	F		
E	44	Plat contains <i>Storm Drainage Note</i> (where applicable)	P,F		

Appendix B

SUBDIVISION CERTIFICATES

Certificate of Subdivision Approval

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations for the Town of Wilkesboro, NC and that this plat has been approved for recording in the office of the Register of Deeds of Wilkes County. This plat shall be recorded within sixty days of this date.

Subdivision Administrator

Date

Owners Certificate

I, (We) hereby certify that I am (we are) the owner(s) of the property shown and described heron and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish minimum building lines and dedicate all roads, alleys, walks, parks, and other sites to the Public or Private land as shown heron is within the platting jurisdiction of the Town of Wilkesboro.

Date _____

Owner Authorized Agent

Name: _____

Address: _____

**STATE OF NORTH CAROLINA
COUNTY OF WILKES**

I, _____, Review Officer of Wilkes County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

Certificate of Survey and Accuracy

I certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____ Page _____, etc.) (other); that the error of closure as calculated by latitudes and departures is 1: _____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____; that this map was prepared in accordance with G.S. 47-30 as amended. Witness my hand and seal this _____ day of _____, 20____.

Registered Land Surveyor

License or Registration Number

SEAL

NCDOT Construction Standards Certification

(For all Plats outside Town Limits involving new street right-of-way and any plat inside Town Limits which changes a state system street)

Department of Transportation

Division of Highways

Proposed Subdivision Road

Construction Standards Certificate

Approved: _____
District Engineer

Date: _____

On-Site Water and/or Sewer Note (where applicable)

Note: (ALL LOTS) or (LOTS #____) as shown on this plat are proposed to be served with on-site water and/or sewer systems. The lots as shown meet the minimum size prescribed by the Wilkes County Health Department for such systems(s). This Plat guarantees that such lots meet the requirements for the approval by the Health Department for such on-site systems(s).

