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**WILKES COUNTY  
SUBDIVISION ORDINANCE**

Wilkes County, N.C.

**SUBDIVISION ORDINANCE  
WILKES COUNTY, NORTH CAROLINA**

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**SUBDIVISION ORDINANCE  
WILKES COUNTY, NORTH CAROLINA**

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF WILKES IN  
REGULAR SESSION ASSEMBLED:

**ARTICLE I**

**TITLE**

This Ordinance shall be known and may be cited as the Wilkes County Subdivision  
Ordinance.

**ARTICLE II**

**JURISDICTION**

This Ordinance is adopted pursuant to the authority granted under Part 2 of Article 18 of  
Chapter 153A of the North Carolina General Statutes and shall govern all subdivisions of land lying  
within Wilkes County, North Carolina and outside the subdivision regulating jurisdiction of any  
municipality.

**ARTICLE III**

**PURPOSE**

The purpose of this Ordinance is to establish procedures and standards for the development  
and subdivision of real estate within Wilkes County in an effort to, among other things: insure  
proper legal description, identification, monumentation, and recordation of real estate boundaries;  
further the orderly layout and appropriate use of land; provide safe, convenient and economic

circulation of vehicular traffic; provide suitable building sites which drain properly and are readily accessible to emergency vehicles; assure the proper installation of roads and other improvements; promote the eventual elimination of unsafe or unsanitary conditions arising from undue concentration of population; and help conserve and protect the physical and economic resources of the County. It is the intent of this Ordinance that these purposes be accomplished through procedures and standards governing the approval and public recordation of plats and other required documents for all subdivisions regulated hereunder in a manner sufficient to provide prospective purchasers of subdivision lots with accurate and detailed information concerning the same, and further through procedures and standards designed to assure the timely completion of subdivision improvements. It is further the intent of this Ordinance that accomplishment of these purposes shall be enforced primarily through those criminal penalties provided herein, and that civil remedies shall be employed by the County only in accordance with the terms hereof

## ARTICLE IV

### DEFINITION OF TERMS

#### Section 40: Definitions

For the purpose of this Ordinance, certain words or terms used herein shall be defined as follows:

- 40.1 Board of Adjustment.** The Wilkes County Board of Adjustment as established under the Wilkes County Zoning Ordinance.
- 40.2 Board of Commissioners.** The Wilkes County Board of Commissioners.
- 40.3 Building Setback Line.** A line parallel to the front, side, or rear property lines beyond which no structure shall be erected.

- 40.4 Cul-de-sac.** A turnaround terminating a road, whether temporary or permanent.
- 40.5 Convey/Conveyed/Conveyance.** The transfer of an ownership interest in real property (exclusive of an easement, right-of-way, mortgage, deed of trust, or other similar interest, and further exclusive of a transfer which is exempt under Section 52 below), which shall be deemed to have occurred for purposes for this Ordinance upon the recording of a deed, probating of a will, or entry on the public record of Wilkes County of any other instrument or document which legally effects such a transfer. For purposes of this definition, a conveyance shall include a transfer from the owner to himself.
- 40.6 County.** The County of Wilkes.
- 40.7 D.O.T.** The North Carolina Department of Transportation.
- 40.8 Dedication/Dedicated.** The depiction or designation of a street, road, alley, or other right-of-way for vehicular travel, whether public or private, paved or unpaved, opened or unopened, on a map or plat which is required to be presented for approval under this Ordinance; provided, however, that in no event shall a dedication involving a private street, road, alley, or right-of-way for vehicular travel be deemed a “street right-of-way dedication” within the meaning of subsections b. and d. of Section 40.36 below.
- 40.9 Double Frontage Lot.** A continuous lot which is accessible from both streets upon which it fronts.
- 40.10 Easement.** A grant by the property owner for use, by the public, a corporation, or other person(s), of a strip of land for specified purposes.
- 40.11 Family Subdivisions.** Family subdivisions are defined as follows:

- a. **Level 1 Family Subdivision.** A subdivision created by the conveyance of five (5) or fewer lots, parcels or tracts to lineal descendants or lineal ancestors of the owner of the parent tract, provided that there is no more than one (1) such conveyance per year out of said parent tract to any one (1) lineal descendant or lineal ancestor; provided further, that none of said lots, parcels or tracts, or any part thereof, are, within one (1) year of their conveyance to the lineal descendants or lineal ancestors, conveyed by any of them to any other party; provided further, that the parent tract itself was not created by conveyance out of a larger tract within one (1) year prior to the conveyance creating the family subdivision.
  
- b. **Level 2 Family Subdivision.** A subdivision created by the conveyance of more than five (5) lots, parcels or tracts to lineal descendants or lineal ancestors of the owner of the parent tract, provided that there is no more than one (1) such conveyance per year out of said parent tract to any one (1) lineal descendant or lineal ancestor; provided further, that none of said lots, parcels or tracts, or any part thereof, are, within one (1) year of their conveyance to the lineal descendants or lineal ancestors, conveyed by any of them to any other party; provided further, that the parent tract itself was not created by conveyance out of a larger tract within one (1) year prior to the conveyance creating the family subdivision.
  
- c. **Estate Settlement Subdivision.** A subdivision created by the conveyance of one (1) or more lots, parcels or tracts out of a parent tract by will, or a subdivision created by the conveyance of one (1) or more lots, parcels or tracts out of a parent tract for the purpose of dividing said parent tract among the tenants in common all of whom by intestacy or by will received said parent tract by inheritance or devise.

**40.12 Group/Cluster Development.** A development comprised of two (2) or more dwellings, with respect to which the land is not subdivided into streets and lots in conformity with the requirements of Articles VII and VIII hereunder.

**40.13 Lineal Ancestors.** The “lineal ancestors” of the owner of a lot, parcel or tract (including parent tract) of land shall include the owner’s parents, grandparents, great-grandparents, and spouses of the same.

**40.14 Lineal Descendants.** The “lineal descendants” of the owner of a lot, parcel or tract (including parent tract) of land shall include the owner’s children, grandchildren, great-grandchildren, and spouses of the same.

- 40.15 Lot.** A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership or for development or both. The word “lot” includes the word “plot”, “parcel” or “tract”, but does not include the phrase “parent tract.”
- 40.16 Major Road.** A road designed to carry heavy volumes of vehicular traffic.
- 40.17 Marginal Access Street.** A minor (service) street which parallels and is immediately adjacent to a major street or highway and which provides access to the properties abutting it and which separates the abutting properties from high-speed vehicular traffic.
- 40.18 Minor Subdivisions.** Minor subdivisions are defined as follows:
- a. **Level 1 Minor Subdivision.** A subdivision created by the conveyance of a single lot, parcel or tract of land out of a parent tract, provided that there is no more than one (1) such conveyance per year out of said parent tract; provided further, that neither the single lot, tract or parcel, nor any part thereof, nor the remainder of the parent tract, or any part thereof, is conveyed to any other person or persons within one (1) year following creation of the Level 1 minor subdivision; provided further, that the parent tract itself was not created by conveyance out of a larger tract within one (1) year prior to the conveyance creating the Level 1 minor subdivision.
  - b. **Level 2 Minor Subdivision.** A subdivision consisting of lots, parcels or tracts of land out of a parent tract, provided that all of said lots, parcels or tracts are contiguous to each other, and provided further that all such lots adjoin a D.O.T.-maintained road.
- 40.19 Modification.** Any change in the design, configuration, information, or other requirements of or for a subdivision as reflected on the approved final plat for the same.
- 40.20 Non-D.O.T. Road.** A road constructed and dedicated in accordance with the provisions as set forth in Article VII hereunder.
- 40.21 Official Maps or Plans.** Any maps or plans officially adopted by the Board of Commissioners as a guide for the development of Wilkes County.

- 40.22 Parent Tract.** The tract of land out of which a subdivision or any portion thereof is created.
- 40.23 Person.** A firm, corporation, general partnership, limited partnership, limited liability company, association, sole proprietor, individual, individual acting on behalf of another, or any other entity of any type whatsoever.
- 40.24 Phased Development.** The development of more than one (1) subdivision out of a parent tract, or out of adjoining parent tracts held in common ownership, whether by phases, sections, or otherwise.
- 40.25 Planned Unit Development (PUD).** A tract of land consisting of at least thirty (30) acres which is under ownership of a single person and which is intended to be subdivided into contiguous lots for common development as an integral unit incorporating two or more related uses, including single-family residential, multi-family residential, and commercial uses, or any combination thereof.
- 40.26 Planning Board.** The Wilkes County Joint Planning Board.
- 40.27 Planning Department.** The Wilkes County Planning Department.
- 40.28 Private Driveway.** A road serving two (2) or fewer lots, building sites or other divisions of land not intended to be public ingress or egress.
- 40.29 Right-of-Way.** A strip of land designated by the owner or other authority or acquired by other lawful means over which other persons may legally pass, and on which may be constructed a road or utilities.
- 40.30 Road.** A dedicated and accepted public or private right-of-way for vehicular traffic. The word "road" shall include the word "street".

**40.31 Secondary Road.** A road designed to carry medium volumes of vehicular traffic, to provide access to the major road system, and to provide access to abutting properties.

**40.32 Shall.** The word “shall” is always mandatory and not directory.

**40.33 Single-Tier Lot.** A lot which backs upon a limited access highway, a railroad, a physical barrier, or a non-residential use and to which access from the rear is usually prohibited.

**40.34 Subdivide.** The word “subdivide” shall mean the creation of a subdivision by a recorded deed, by a probated will, or by any other instrument or document having the legal effect of conveying real property on the public record of Wilkes County.

**40.35 Subdivider.** Any person, as defined herein, who is an owner or an agent of an owner of a tract or parcel of land out of which a subdivision has been made, proposed, or approved.

**40.36 Subdivision.** A “subdivision” shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition nor be subject to the regulations prescribed by this Ordinance:

- a. The combination or re-combination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as shown in its subdivision regulations;
- b. The division of land into parcels greater than ten (10) acres if no street right-of-way dedication is involved;

- c. The public acquisition by purchase of strips of land for the widening or opening of streets;
- d. The division of a tract of land in single ownership the entire area of which is no greater than two (2) acres into not more than three (3) lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the County as shown by its subdivision regulations.

## **ARTICLE V**

### **REGULATION**

#### **Section 50. Compliance with Ordinance.**

All subdivisions of land in Wilkes County, as hereinabove defined, are hereby regulated. No person shall subdivide land in Wilkes County without complying in all respects with the requirements of this Ordinance, and unless otherwise exempted below, all subdivisions shall be finally approved by the County as set forth herein and a final plat recorded in the Wilkes County Register of Deeds Office prior to the conveyance of any lot, parcel or tract in such subdivision. No subdivision, once approved hereunder, shall be modified or withdrawn except in accordance with the requirements of this Ordinance.

#### **Section 51. Subdivisions in General.**

Except as otherwise set forth in Sections 52, 53, 54, 64, and 65 below, all subdivisions of land in Wilkes County shall comply in all respects with the requirements of Articles VI, VII, VIII, and IX of this Ordinance.

#### **Section 52. Exemptions.**

Subdivisions of land created by the following are exempt from the requirements of this Ordinance:

- a. Condemnation under Chapter 40A of the North Carolina General Statutes or any other lawful authority.

- b. Sales or conveyances of real property by any of the following:
  - (i) The United States Government;
  - (ii) The State of North Carolina, or any of its agencies or departments;
  - (iii) A county;
  - (iv) A city or town; or
  - (v) A board of education.
- c. Sales or conveyances of real property for the purpose of adding a buffer or other similar strip or piece of land to an existing lot parcel or tract where the additional land is not to be used for residential or commercial building development.
- d. Sales or conveyances of real property for the purpose of correcting or curing an encroachment with respect to improvements on an existing lot, parcel or tract.

**Section 53. Minor Subdivisions.**

Minor subdivisions shall comply with the following requirements:

**53.1 Level 1 Minor Subdivisions.** Level 1 minor subdivisions are exempt from the requirements of this Ordinance; provided, however, that in the event a Level 1 minor subdivision is created and there is a subsequent conveyance within one (1) year in violation of any of the requirements of Section 40.18a. above, the person making such conveyance shall then be required to comply with all of the requirements of this Ordinance as to the parent tract and all of said person's conveyances of or from the same. Said person shall commence the procedure for approval under Article VI below no later than thirty (30) days following the conveyance which resulted in the violation. Prior to final approval of the subdivision by the County and recording of a final plat in the Wilkes County Register of Deeds Office, said

subdivider shall not make any further conveyances of any lots, parcels or tracts from the parent tract.

**53.2 Level 2 Minor Subdivisions.** Level 2 minor subdivisions shall comply with all of the requirements of Articles VI, VII, VIII, and IX below, except that:

- a. The requirements of Sections 60, 61, 90, and 91 shall not apply.
- b. The procedure for approval of the final plat shall be as set forth under Section 64.2 below.

**Section 54. Family Subdivisions.**

Family subdivisions shall comply with the following requirements:

**54.1 Level 1 Family Subdivisions.** Level 1 family subdivisions shall comply with all of the requirements of Articles VI, VII, VIII, and IX below, except that:

- a. The requirements of Sections 60, 61, 90, and 91 shall not apply.
- b. Notwithstanding the provisions of Section 71.2 below, it shall not be required that roads in the subdivision be D.O.T.-maintained.
- c. The procedure for approval of the final plat shall be as set forth under Section 65.1 below.

Provided, however, that in the event a Level 1 family subdivision is created and there is a subsequent conveyance within one (1) year in violation of any of the requirements of Section 40.11a. above, the person making such conveyance shall then be required to comply with all of the requirements of this Ordinance as to the parent tract and all of said person's conveyances of or from the same. Said person shall commence the procedure for approval under Article VI below no later than thirty (30) days following the conveyance which resulted in the violation. Prior to final approval of the subdivision by the County and

recording of a final plat in the Wilkes County Register of Deeds Office, said subdivider shall not make any further conveyances of any lots, parcels or tracts from the parent tract.

**54.2 Level 2 Family Subdivisions.** Level 2 family subdivisions shall comply with all of the requirements of Articles VI, VII, VIII, and IX below, except that:

- a. The requirements of Sections 60, 61, 90, and 91 shall not apply.
- b. Notwithstanding the provisions of Section 71.2 below, it shall not be required that roads in the subdivision be D.O.T.-maintained.
- c. The procedure for approval of the final plat shall be as set forth under Section 65.2 below.

Provided, however, that in the event a Level 2 family subdivision is created and there is a subsequent conveyance within one (1) year in violation of any of the requirements of Section 40.11b. above, the person making such conveyance shall then be required to comply with all of the requirements of this Ordinance as to the parent tract and all of said person's conveyances of or from the same. Said person shall commence the procedure for approval under Article VI below no later than thirty (30) days following the conveyance which resulted in the violation. Prior to final approval of the subdivision by the County and recording of a final plat in the Wilkes County Register of Deeds Office, said subdivider shall not make any further conveyances of any lots, parcels or tracts from the parent tract.

**54.3 Estate Settlement Subdivisions.** Estate settlement subdivisions, unless exempt from the requirements of this Ordinance under Section 52.b. above, or unless created by the conveyance of one (1) or more lots, parcels or tracts out of a parent tract by will, shall comply with all of the requirements of Articles VI, VII, VIII, and IX below, except that:

- a. The requirements of Sections 60, 61, 90, and 91 shall not apply.

- b. Notwithstanding the provisions of Section 71.2 below, it shall not be required that roads in the subdivision be D.O.T.-maintained.
- c. The procedure for approval of the final plat shall be as set forth under Section 65.3 below.

## ARTICLE VI

### PROCEDURE FOR APPROVAL, MODIFICATION, AND WITHDRAWAL OF SUBDIVISIONS

#### **Section 60. Submission of Sketch Plan and General Information.**

Prior to preliminary plat application the subdivider may submit to the Secretary of the Planning Board, at least seven (7) days prior to a regularly scheduled meeting, a simple sketch plan of the proposed subdivision. Included with the sketch plan shall be a sketch vicinity map showing the subdivision in relation to the surrounding area. If the subdivider elects to submit a sketch plan under this Section 60, then at the regularly scheduled meeting referenced above the proposed development shall be reviewed and the subdivider shall discuss the proposed subdivision and become familiar with the regulations affecting the land to be subdivided.

#### **Section 61. Submission of Preliminary Plat.**

The subdivider shall submit a preliminary plat for approval by the Planning Board. If the subdivider has previously submitted a sketch plan for the proposed subdivision, the preliminary plat shall reflect the changes or modifications to the sketch plan as recommended or required by the Planning Board. The procedure for obtaining approval of the preliminary plat shall be as set forth in this Section 61.

**61.1 Documents to be Submitted.** The subdivider shall submit to the Planning Department, no fewer than fourteen (14) days prior to a regularly scheduled meeting of the Planning Board:

- a. At least ten (10) black or blue line prints of the proposed subdivision prepared in accordance with the requirements of Article VII and Section 91 of this Ordinance. Additional prints may be required when deemed necessary.
- b. A statement signed by the subdivider describing the proposed use of the land; provided, that such statement shall be required only if the proposed use or any part thereof is non-residential.
- c. Ten (10) copies of any required supplemental information which may be requested by the Planning Department or the Planning Board with respect to the proposed subdivision. Said supplemental information includes, but is not limited to, the evacuation plan as required under Section 80.10 of this Ordinance.

**61.2 Fees and Recording Costs.** At the time of submission of the preliminary plat the subdivider shall pay to the Planning Department:

- a. Such filing fee as the Board of County Commissioners shall have approved for subdivision plats;
- b. Such fees as the Board of County Commissioners shall have approved for road signs in the subdivision; provided, however, that the subdivider, unless he utilizes the provisions of Section 61.6 below, may elect to pay road sign fees at the time the final plat is submitted; and
- c. The costs for recording of the plat with the Wilkes County Register of Deeds Office as finally approved under this Ordinance; provided, however, that the subdivider, unless he utilizes the provisions of Section 61.6 below, may elect to pay recording costs at the time the final plat is submitted.

The filing fee in subsection a. above is a one-time nonrefundable fee which shall be paid by the subdivider at the time the preliminary plat is submitted, regardless of whether or not the subdivider utilizes the provisions of Section 61.6 below.

**61.3 Reports.** Before acting on the preliminary plat the Planning Board may request reports or other information from the D.O.T. District Engineer, the County Health Director, the County School Superintendent, the North Carolina Forest Service, and other officials or agencies which are or may be affected by the proposed development. Said reports or other

information shall certify compliance with or note deviations from the requirements of this Ordinance and may include comments on other factors which bear upon the public interest.

**61.4 Action by the Planning Board.** If the Planning Board disapproves or approves conditionally the preliminary plat, the reasons for such action shall be noted in the Planning Board's minutes and, where applicable, reference shall be made to the specific sections of this Ordinance with which the preliminary plat does not comply. Upon approval of the preliminary plat, or conditional approval where all conditions have been satisfied in the opinion of the Planning Board, the subdivider shall then submit a final plat in accordance with the provisions of Section 62 below (unless the provisions of Section 61.6 shall apply). The Planning Department shall promptly notify the subdivider as to the action taken by the Planning Board under this Section 61.4, and, where the action consists of disapproval or conditional approval, shall direct the subdivider as to the steps necessary to bring the subdivision into compliance with the requirements of this Ordinance and/or the conditions imposed by the Planning Board. If such steps include changes to the preliminary plat, the subdivider may thereafter resubmit the same with the directed changes and shall comply with the requirements of Section 61.1.

**61.5 Action by the Board of Commissioners.** Should the Planning Board fail to act on the preliminary plat within forty-five (45) days after its submission, the subdivider may seek approval of the preliminary plat at the next regularly scheduled meeting of the Board of Commissioners. Unless the provisions of Section 61.6 shall apply, the Board of Commissioners shall, upon approval of the preliminary plat, return the matter to the Planning Board for action on the final plat as required under this Ordinance. If the Board of

Commissioners disapproves or approves conditionally the preliminary plat, the reasons for such action shall be noted in the Board of Commissioners' minutes and reference shall be made to the specific sections of this Ordinance with which the preliminary plat does not comply, whereupon the matter shall be returned to the Planning Board for such action as may be consistent with this Ordinance.

**61.6 Preliminary Plat Approved as Final Plat.** If a properly submitted preliminary plat under this Section 61 meets all of the requirements for a final plat under Sections 62 and 92 below, then, if all fees and recording costs have been paid under Section 61.2, the Planning Board may approve the same as a final plat, in which event the procedural requirements of Section 62 shall be deemed to have been met and the plat shall be submitted to the Board of Commissioners for final approval.

**61.7 Withdrawal of Preliminary Plat.** The subdivider may, at any time prior to approval of the preliminary plat, voluntarily withdraw the same from consideration by the Planning Board, in which event the forty-five (45) day time limit under Section 61.5 shall be inapplicable and shall not begin until the subdivider resubmits the preliminary plat; provided, that the twelve (12) month time limit under Section 61.8 shall continue to run during any such withdrawal.

**61.8 Unapproved Preliminary Plat Void After Twelve (12) Months.** Should a preliminary plat not be approved by the Planning Board within twelve (12) months of its submission, due to the failure of the subdivider to comply with the requirements of this Ordinance or directives of the Planning Board or Planning Department as authorized hereunder, then the preliminary plat shall be deemed void and the subdivider shall be required to repeat the procedure for approval of the subdivision under this Article VI, including payment of all fees and costs in

connection therewith; provided, however, that all road sign fees and recording costs which have been paid under Section 61.2 shall be refunded.

**Section 62. Submission of Final Plat.**

Following approval of the preliminary plat, the subdivider shall submit a final plat to the Planning Department for approval by the Planning Board and the Board of Commissioners. The procedure for obtaining approval of the final plat shall be as set forth in this Section 62.

**62.1 Documents to be Submitted.** The subdivider shall submit to the Planning Department, no fewer than fourteen (14) days prior to a regularly scheduled meeting of the Planning Board:

- a. An original mylar plat and at least ten (10) copies of the same showing the proposed subdivision and prepared in accordance with the requirements of Article XII and Section 92 of this Ordinance. The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record, provided that such portion conforms to all the requirements of this Ordinance. Additional prints may be required when deemed necessary by the Planning Department or Planning Board.
- b. Ten (10) copies of a letter or other certification from the North Carolina Department of Environment and Natural Resources (or any successor to the same) confirming that the subdivider has submitted to said Department a proposed soil erosion control plan for the subdivision, unless by law no such plan is required.
- c. Ten (10) copies of any required supplemental information which may be requested by the Planning Department or the Planning Board with respect to the proposed subdivision. Said supplemental information includes, but is not limited to, the evacuation plan as required under Section 80.10 of this Ordinance.

**62.2 Fees and Recording Costs.** At the time of submission of the final plat the subdivider shall pay to the Planning Department:

- a. Such fees as the Board of County Commissioners shall have approved for road signs in the subdivision, unless these fees have already been paid pursuant to Section 61.2 above; and

- b. The costs for recording of the plat with the Wilkes County Register of Deeds Office as finally approved under this Ordinance, unless said costs have already been paid pursuant to Section 61.2 above.

**62.3 Reports.** Before acting on the final plat the Planning Board shall request reports or other information from the D.O.T. District Engineer, the County Health Director, the County School Superintendent, the North Carolina Forest Service, and other officials or agencies which are or may be affected by the proposed development. Said reports or other information shall certify compliance with or note deviations from the requirements of this Ordinance and the approved preliminary plat, and may include comments on other factors which bear upon the public interest, but no such reports or information shall be requested for the sole purpose of duplicating information already obtained by the Planning Board under Section 61.3 above.

**62.4 Action by the Planning Board.** If the Planning Board disapproves or approves conditionally the final plat, the reasons for such action shall be noted in the Planning Board's minutes and, where applicable, reference shall be made to the specific sections of this Ordinance with which the final plat does not comply. Upon approval of the final plat, or conditional approval where all conditions have been satisfied in the opinion of the Planning Board, the final plat shall be submitted to the Board of Commissioners for approval. The Planning Department shall promptly notify the subdivider as to the action taken by the Planning Board under this Section 62.4, and, where the action consists of disapproval or conditional approval, shall direct the subdivider as to the steps necessary to bring the subdivision into compliance with the requirements of this Ordinance and/or the conditions imposed by the

Planning Board. If such steps include changes to the final plat, the subdivider may thereafter resubmit the same with the directed changes and shall comply with the requirements of Section 62.1.

**62.5 Failure to Act by the Planning Board.** Should the Planning Board fail to act on the final plat within forty-five (45) days after its submission, the subdivider may seek approval of the final plat at the next regularly scheduled meeting of the Board of Commissioners.

**62.6 Action by the Board of Commissioners.** Upon submission to the Board of Commissioners of a final plat approved by the Planning Board, the Board of Commissioners shall act on the same within forty-five (45) days after the date of approval by the Planning Board. The Board of Commissioners' action shall consist either of approval or disapproval of the final plat. If the Board of Commissioners disapproves or approves conditionally the final plat, the reasons for such action shall be noted in the Board of Commissioners' minutes. Where applicable, reference shall be made to the specific sections of this Ordinance with which the final plat does not comply, and the same shall be returned to the Planning Board for compliance by the subdivider with the requirements of this Ordinance. Thereafter the procedure for approval of the final plat shall again be as set forth under this Section 62.

**62.7 Withdrawal of Final Plat.** The subdivider may, at any time prior to approval of the final plat, voluntarily withdraw the same from consideration by the Planning Board or the Board of Commissioners, in which event the forty-five (45) day time limit under Section 62.5 or Section 62.8, as the case may be, shall be inapplicable and shall not begin until the subdivider resubmits the final plat; provided, that the twelve (12) time limit under Section 62.9 shall continue to run during any such withdrawal.

**62.8 Failure to Act by the Board of Commissioners.** Once a final plat has been submitted to the Board of Commissioners for approval in accordance with the provisions of this Section 62, a failure by the Board of Commissioners to act on said final plat within forty-five (45) days after its submission shall constitute an approval of the final plat.

**62.9 Unapproved Final Plat Void After Twelve (12) Months.** Should a final plat not be approved by the Board of Commissioners within twelve (12) months following approval of the preliminary plat by the Planning Board, due to the failure of the subdivider to comply with the requirements of this Ordinance or directives of the Planning Board or Planning Department as authorized hereunder, then the final plat shall be deemed void and the subdivider shall be required to repeat the procedure for approval of the subdivision under this Article VI, including payment of all fees and costs in connection therewith; provided, however, that all road sign fees and recording costs which have been paid under Section 62.2 shall be refunded.

**62.10 Possession of Original Plat After Approval.** Upon approval or conditional approval of the final plat by the Board of Commissioners, or upon approval of the same due to a failure by the Board of Commissioners to act within the required forty-five (45) days, the original mylar plat shall be retained by the Planning Department for recording under Section 63 below.

**Section 63. Recording of Final Plat.**

The procedure for recording of the final plat shall be as follows:

**63.1 Planning Department to Record.** As soon as possible following final plat approval by the Board of Commissioners, or by the Planning Department in the case of a Level 2 minor subdivision or Level 1 or 2 family subdivision, but in no event prior to compliance by the

subdivider with the requirements of any conditional approval, the Planning Department shall record the plat with the Wilkes County Register of Deeds Office. The recording cost charged by the Register of Deeds shall be collected in advance by the Planning Department from the subdivider as required under Sections 61.2 and 62.2 above. The Planning Department shall retain a copy of the final plat, as approved and recorded. Upon adoption of this Ordinance the Register of Deeds shall not thereafter file or record a plat of a subdivision located within the territorial jurisdiction of Wilkes County until said plat has been approved by the Board of County Commissioners. Without the said approval by the Board of Commissioners, the filing or recording of a subdivision plat shall be null and void. No court shall order or direct the recording of a plat where such recording would be in conflict with this Ordinance.

**63.2 Unrecorded Final Plat Void After Twelve (12) Months.** Should a final plat not be recorded with the Wilkes County Register of Deeds Office within twelve (12) months following approval of the same by the Board of Commissioners, due to the failure of the subdivider to comply with the requirements of any conditional approval of such final plat as may be authorized or directed under this Ordinance, then the final plat shall be deemed void and the subdivider shall be required to repeat the procedure for approval of the subdivision under this Article VI, including payment of all fees and costs in connection therewith; provided, however, that all road sign fees and recording costs which have been paid under Section 62.2 shall be refunded.

**Section 64. Minor Subdivisions.**

The procedure for approval of minor subdivisions shall be as follows:

**64.1 Level 1 Minor Subdivisions.** As set forth in Section 53.1 above, Level 1 minor subdivisions are exempt from the requirements of this Ordinance unless there is a violation of the one (1) year requirement of Section 40.18a. In the event of such violation, the subdivider shall comply with all of the requirements of this Ordinance (as set forth in Section 53.1).

**64.2 Level 2 Minor Subdivisions.** A final plat as required under Sections 62 and 92 shall be submitted by the subdivider to the Planning Department, together with the filing fee, road sign fees, and recording costs as required under Section 61.2. The Planning Department shall review the plat and shall determine whether or not it meets the requirements of said sections and whether or not the subdivision meets the requirements of Articles VII and VIII. The procedure for approval is as follows:

- a. It shall not be required that said final plat be reviewed or approved by the Planning Board or the Board of Commissioners. Said review shall instead be conducted by the Planning Department, which shall, no later than forty-five (45) days following submission of the final plat, notify the subdivider in writing as to whether the requirements of Sections 62 and 92 and Articles VII and VIII have been satisfied. In making said determination, the Planning Department may exercise any discretion which is reserved to the Planning Board under specific provisions of Section 62, Section 92, Article VII, or Article VIII. In the event said determination by the Planning Department is in the affirmative, the subdivision shall stand approved upon written notification from the Planning Department to the subdivider and payment of all required fees and costs by the subdivider, and thereafter the original mylar plat shall be recorded by the Planning Department with the Wilkes County Register of Deeds Office pursuant to the provisions of Section 63 above. The Planning Department shall retain a copy of the final plat as approved and recorded.
- b. Before acting on the final plat the Planning Department may request reports from the D.O.T. District Engineer, the County Health Director, the County School Superintendent, the North Carolina Forest Service, and other officials or agencies which are or may be affected by the proposed development. Said reports shall certify compliance with or note deviations from the requirements of this Ordinance and include comments on other factors which bear upon the public interest.

- c. If the Planning Department in its review finds that all of the requirements of Sections 62 and 92 and Article VII and VIII have not been satisfied, the Planning Department shall disapprove the final plat and shall provide written notification to this effect to the subdivider, making specific reference therein to the sections of this Ordinance with which the final plat does not comply. The Planning Department shall return the original mylar plat and the road sign fees and recording costs to the subdivider along with said written notification, keeping a copy thereof for the Planning Department's files. Thereafter the subdivider may, upon complying with such requirements of this Ordinance as are specified in the written notification from the Planning Department, re-submit the final plat to the Planning Department for review under this Section 64.2.
- d. Should the Planning Department fail to either approve or disapprove the proposed final plat within forty-five (45) days after its submission as set forth above, or should the subdivider disagree with a determination by the Planning Department disapproving the final plat under subsection c. above, the subdivider may seek approval of the final plat under the procedures set forth in Section 62. In the event the subdivider seeks approval under Section 62 due to a disagreement with the Planning Department's determination under subsection c., the subdivider shall submit a written statement setting forth the reason(s) for the disagreement, making specific reference to the section(s) of this Ordinance on which the subdivider relies.
- e. The Planning Department shall, for informational purposes, present to the Planning Board at each regular monthly meeting a list of all Level 2 minor subdivisions which the Planning Department has either approved or disapproved during the preceding month, together with copies of the written notifications of approval or disapproval.
- f. Notwithstanding the foregoing provisions of subsections a. through e., the Planning Department may, in its discretion, request that the Planning Board review and approve a proposed subdivision hereunder, in which event the Planning Department shall forward the final plat and any other related reports and documents to the Planning Board together with a request that Planning Board conduct such review in lieu of the Planning Department and the reason(s) for the request. The Planning Board shall thereupon conduct said review in accordance with the provisions of subsections a. through d. above, except that under subsection d. recourse by the subdivider shall be to the Board of Commissioners.
- g. Further notwithstanding the provisions of the foregoing subsections, the Planning Department, the Planning Board, or the Board of Commissioners, as the case may be, may disapprove a proposed subdivision hereunder upon a finding that the subdivision was made or created in such a manner as to evidence a clear intent on the part of the subdivider to circumvent the purposes and requirements of this Ordinance. In the

event of such disapproval the subdivider shall be furnished with written notification of the same, which notification shall state the reason(s) for the disapproval, and the original mylar plat shall be returned to the subdivider together with the notification and a refund of the road sign fees and recording costs which the subdivider has paid.

**Section 65. Family Subdivisions.**

The procedure for approval of family subdivisions shall be as follows:

**65.1 Level 1 Family Subdivisions.** A final plat as required under Sections 62 and 92 shall be submitted by the subdivider to the Planning Department, together with the filing fee, road sign fees, and recording costs as required under Section 61.2. The Planning Department shall review the plat and shall determine whether or not it meets the requirements of said sections and whether or not the subdivision meets the requirements of Articles VII and VIII. The procedure for approval shall be the same as for Level 2 minor subdivisions under Section 64.2 above; provided, that the following additional requirements shall apply:

- a. The plat shall show the parent tract and all lots, parcels or tracts into which the parent tract is proposed to be subdivided by conveyance to the lineal descendants or lineal ancestors.
- b. The plat shall further show all rights-of-way providing said lots, parcels or tracts with access to a D.O.T.-maintained road or roads.
- c. All rights-of-way shall be located where a road can feasibly be built and shall be a minimum of twenty (20) feet in width, except that where the right-of-way is greater than five hundred (500) feet in length it shall be a minimum of forty-five (45) feet in width.

**65.2 Level 2 Family Subdivisions.** A final plat as required under Sections 62 and 92 shall be submitted by the subdivider to the Planning Department, together with the filing fee, road sign fees, and recording costs as required under Section 61.2. The Planning Department shall review the plat and shall determine whether or not it meets the requirements of said sections

and whether or not the subdivision meets the requirements of Articles VII and VIII. The procedure for approval shall be the same as for Level 2 minor subdivisions under Section 64.2 above; provided, that the following additional requirements shall apply:

- a. The plat shall show the parent tract and all lots, parcels or tracts into which the parent tract is proposed to be subdivided by conveyance to the lineal descendants or lineal ancestors.
- b. The plat shall further show all rights-of-way providing said lots, parcels or tracts with access to a D.O.T.-maintained road or roads.
- c. All rights-of-way shall be located where a road can feasibly be built and shall be a minimum of forty-five (45) feet in width.

**65.3 Estate Settlement Subdivisions.** A final plat as required under Sections 62 and 92 shall be submitted by the subdivider to the Planning Department, together with the filing fee, road sign fees, and recording costs as required under Section 61.2. The Planning Department shall review the plat and shall determine whether or not it meets the requirements of said sections and whether or not the subdivision meets the requirements of Articles VII and VIII. The procedure for approval shall be the same as for Level 2 minor subdivisions under Section 64.2 above; provided, that the following additional requirements shall apply:

- a. The plat shall show the parent tract and all lots, parcels or tracts into which the parent tract is proposed to be subdivided by conveyance to the lineal descendants or lineal ancestors.
- b. The plat shall further show all rights-of-way providing said lots, parcels or tracts with access to a D.O.T.-maintained road or roads.
- c. All rights-of-way shall be located where a road can feasibly be built and shall be a minimum of twenty (20) feet in width, except that where the right-of-way is greater than five hundred (500) feet in length it shall be a minimum of forty-five (45) feet in width.

**Section 66. Phased Development.**

In the case of a phased development, including PUD's, the following requirements shall apply:

**66.1 Master Plan.** A master plan showing the entire proposed subdivision, phases of development, and proposed density shall be submitted for approval together with the preliminary and final plat for the first phase thereof, to be governed by the same procedure as set forth in Sections 61 and 62 above. Following approval of the final plat and master plan for the first phase, the master plan need not be submitted for approval again as to subsequent phases unless the phases of development or proposed density change, in which event a revised master plan shall be submitted for approval in accordance with said Sections 61 and 62.

**66.2 Recording.** All master plans approved for PUD's under Section 66.1 shall be recorded, together with the approved final plat for the same, in the Wilkes County Register of Deeds Office. The recording of such master plans shall be subject to the requirements of Section 63 above. Master plans for subdivisions other than PUD's shall not be required to be recorded in the Wilkes County Register of Deeds Office.

**66.3 All Phases to Comply with Ordinance.** A second or subsequent phase or section of a phased development shall not be approved if the subdivider is out of compliance with one or more of the requirements of Articles VII or VIII of this Ordinance as to a previously approved phase or section.

**Section 67. Planned Unit Development (PUD's).**

Upon submission of a preliminary and/or final plat with accompanying master plan under this Article VI which qualifies as a PUD, the Planning Board is authorized to deviate from the general

requirements and design standards set forth in Articles VII and VIII of this Ordinance to such extent as the Planning Board may determine to be reasonable and appropriate in encouraging the development of the multi-use facilities proposed for such PUD, provided that the Planning Board shall at all times comply with the requirements of this Section 67. The approval process for PUD's shall be the same as for all other subdivisions under Sections 60, 61, and 62.

**67.1 Watershed Requirement and Storm Water Drainage.** A PUD shall comply with all of the requirements of the Wilkes County Watershed Ordinance, if applicable, together with any other regulations, including state and federal regulations, which may be applicable to the property. Provisions shall be made for acceptable design and construction of storm water facilities including grading, gutters, piping, treatment of turf to handle storm waters, and erosion prevention.

**67.2 Permitted Uses.** If the PUD is in a zoning district, all applicable permitted and conditional uses under the Wilkes County Zoning Ordinance are allowed. If the PUD is not in a zoning district, any use consistent with the definition for a PUD under Section 40 of this Ordinance is allowed. Notwithstanding the foregoing provisions, commercial and office space will be permitted only if they are primarily for the convenience and service of the residents of the development and represent no more than ten (10%) percent of the total development.

**67.3 Dimensional Requirements.** Yard, setback, lot size, and frontage requirements may be altered by the Planning Board, provided that the spirit and intent of this Section 67 are met in the total development plan, and provided that such requirements may not be reduced by more than one-third (33%). The Planning Board may determine that certain setbacks be required

within all or a portion of the perimeter of the site. Requirements, if altered, will be determined on a case-by-case basis.

**67.4 Density.** Density (dwelling units per acre) may be increased if the character of the development and/or amenities incorporated in the development warrants such increases, provided that in no case shall the density increase cause the density of the PUD to be more than thirty-three (33%) percent in excess of the density which would be achieved under applicable standard zoning regulations. If the Planning Board finds that any of the following conditions would be created by an increase in density, it may either deny any application for increase in density, or limit the increase by an amount sufficient to avoid the creation of any of the following conditions:

- a. Inconvenient or unsafe access to the development;
- b. Traffic congestion in streets adjoining the development;
- c. An excessive burden imposed on parks, recreational areas, schools, and other public facilities, which serve or are proposed to serve the development.

**67.5 Common Open Space.** Common open spaces are an important element in a PUD. Common open space is defined as a group of parcels or tracts of land designated and intended for use by all residents of the PUD. A minimum of fifteen (15%) percent of the total project acreage shall be designated as common open space. Suggested uses may include fitness, recreational, educational, religious, or cultural. The common open spaces may have accessory buildings or facilities such as swimming pools, tennis courts, equestrian trails, fitness trails, and others. A pond, lake, large stream, or other body of water may be used in conjunction with parcels of land to constitute common open space. Conveyance and

maintenance of common open space, recreational areas, and commonly owned facilities shall be in accordance with the Unit Ownership Act (G.S. Chapter 47A) or other appropriate mechanisms acceptable to the Planning Board. The designated common areas shall be recorded with the Wilkes County Register of Deeds Office to restrict the use and future development of the common open spaces.

- 67.6 Privacy.** Each PUD shall provide reasonable visual and acoustical privacy for all dwelling units. Fences, insulation, walkways, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants. If topographical or other existing barriers within 200 feet of the PUD do not provide reasonable privacy for existing uses adjacent to the development, the Planning Board may require that structures on the perimeter of the PUD be well screened in a manner which is approved by the Planning Board.
- 67.7 Streets.** All streets providing access to a PUD and streets within a PUD shall comply with the requirements of Section 71 of this Ordinance; provided, that the Planning Board may approve a road grade of up to eighteen (18%) percent without necessity of obtaining a variance by the Board of Adjustment. Any road grade in excess of eighteen (18%) percent shall require such variance, but in no event shall the Board of Adjustment authorize a road grade in excess of twenty (20%) percent.
- 67.8 Utilities.** Whenever reasonably possible, all PUD's shall provide for underground installation of utilities (including electricity, cable, and telephone). All installation of utilities and maintenance of utilities shall be in accordance with the requirements and regulations of the governing body. A PUD application shall not be approved unless adequate

assurance is given that public or community water and sanitary sewer service will be available, except that upon application by the developer and good cause shown, the Planning Board may modify or waive this requirement provided such action is consistent with the spirit and intent of this section.

**67.9 Parking.** Every PUD shall provide at least two (2) off-street parking spaces per dwelling unit and commercial/office parking and loading space according to the following schedule:

- a. Parking space for commercial/office uses shall consist of one off-street parking space for each 200 square feet of gross floor area.
- b. Loading and unloading space for commercial/office uses shall consist of one space at least 300 square feet in size for each 5,000 square feet of gross floor area.

**67.10 Master Plan for Phased Developments.** If the proposed PUD is to be developed in phases, the developer shall submit a master plan in accordance with the requirements of Section 66 above.

**67.11 PUD Review.** It is the intent of this Section 67 that subdivision review under this Ordinance be carried out as an integral part of the review of a PUD. The plans required for PUD's hereunder must be submitted in a form which satisfies the requirements of this Ordinance for preliminary and final plat approvals.

#### **Section 68. Modification of Subdivisions.**

Following approval of a subdivision and recording of the final plat (and master plan, if applicable) under this Ordinance, no modification shall be undertaken or made as to said subdivision without approval of a new final plat (and master plan, if applicable) for the same which fully and accurately reflects the modification. The procedure for approval of the new final plat (and master plan, if applicable) shall be the same as for the original plat (and master plan, if applicable) hereunder, unless

the modification has the effect of converting the original subdivision to one for which a different procedure is required under this Article VI, in which event such different procedure shall be utilized. The requirements of this Section 68 are subject to the provisions of Section 40.36 above.

**Section 69. Withdrawal of Subdivisions.**

Following approval of a subdivision and recording of the final plat (and master plan, if applicable) under this Ordinance, the same may be withdrawn only upon submission of a written instrument requesting the same which is signed and acknowledged by all persons having an ownership interest in any lot or other portion of the subdivision and which is in such form as may be recorded in the Wilkes County Register of Deeds Office. Said instrument shall be submitted for approval by the Planning Board, together with such other information or documentation as may be requested by the Planning Department. Upon approval, the Planning Board shall order that the instrument be duly recorded at the expense of the person(s) requesting the withdrawal, and that such person(s) also record at their expense an order by the Planning Board approving the withdrawal. Nothing in this Section 69 shall be deemed to authorize the Planning Board to approve withdrawal of a subdivision in violation of the requirements for the same under this Ordinance or state law.

**ARTICLE VII**

**INSTALLATION OF PERMANENT REFERENCE POINTS  
AND IMPROVEMENTS**

**Section 70. Permanent Reference Points.**

Prior to the approval of the final plat and as a condition precedent thereto, permanent reference points shall be placed in accordance with the following requirements:

**70.1 Subdivision Corner Tie.** At least one corner of the subdivision shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within two thousand (2,000) feet of a US Coast and Geodetic Station or NC Grid System and coordinated monument, of such other coordinated system, then this corner shall be marked with a monument so designated by computed x and y coordinates which shall appear on the map with a statement identifying this station or monument and to an accuracy of 1:10,000. When such monument or station is not available, the tie shall be made to some pertinent and readily recognizable land mark or identifiable point, physical object or structure.

**70.2 Monuments.** Two (2) control monuments evenly spaced throughout and on each side of the street shall be installed in each subdivision of five (5) lots or less. For subdivisions having from six (6) to twenty (20) lots, four (4) control monuments shall be so installed; for subdivisions having from twenty-one (21) to forty (40) lots, eight (8) control monuments shall be so installed; and continuing accordingly, with two (2) additional control monuments for each additional twenty (20) lots or part thereof. Monuments shall be constructed of concrete or granite and shall be at least four (4) inches in diameter or square and not less than thirty (30) inches in length. Each monument shall have imbedded in its top or attached by a suitable means a metal plate of noncorrosive material and marked plainly with the point, the surveyor's name, and the surveyor's registration number. A monument shall be set at least twenty-four (24) inches in the ground with at least six (6) inches exposed above the ground unless this requirement is impractical because of vehicular traffic or other factors.

**70.3 Property Markers.** A steel or wrought iron pipe or equivalent not less than one-half (1/2) inches in diameter and at least thirty (30) inches in length shall be set at all corners, except

those located by monuments. A marker shall also be set at a point of curve, property corner, point of tangency, and reference point unless a monument has already been placed at these points.

**70.4 Accuracy.** All reference points in a subdivision shall have an accuracy of at least 1:10,000.

### **Section 71. Improvements.**

Prior to the approval of the final plat and as a condition precedent thereto, all improvements shall comply with the following requirements:

#### **71.1 Design Standards for Streets**

Except as set forth in Section 71.9 below with respect to secondary fire apparatus access roads, the design standards for subdivision streets shall meet either the minimum construction standards for secondary roads as required by D.O.T. or the minimum construction requirements for non-D.O.T. roads as required under this Ordinance. When State standards are to be met, the developer shall submit proposed road specifications for the approval of the local D.O.T. office prior to submitting a final plat.

**71.2 Non-D.O.T. Roads.** Non-D.O.T. roads may, by and with the approval of the Planning Board, be utilized in a subdivision if the Planning Board determines that one or more of the following conditions exists:

- a. The location and design of the subdivision is such that it clearly preserves the rural character of the County through:
  - (i) The provision of lot sizes and building setback lines significantly greater than required under this Ordinance; or
  - (ii) The retention and/or provision of landscaping and use of clustering of welling units to screen the view of the subdivision from public roads, maintain a

wooded or forested character, maintain scenic views, or preserve wildlife, botanical, historical, archaeological, and/or recreation sites; or

- (iii) The preservation of site features which directly enhance the special or unique cultural, historical, archaeological, or ecological characteristics of the immediate area.
- b. The number, location, and/or size of lots to be located in the subdivision are such that, even if constructed to D.O.T. standards, the roads would not be accepted by D.O.T. for maintenance due to density or other D.O.T. requirements.
- c. Recreation and/or open space areas, including lands containing significant botanical, wildlife, historical, and/or archaeological sites, are to be dedicated and/or preserved through restrictive covenants in substantial amounts.
- d. If the subdivision is located in a protected watershed, significantly larger than required stream buffers and lot sizes, and/or other design features, are proposed as part of the subdivision in order to reduce the amount of impervious surface and cause infiltration of storm water runoff so as to prevent the pollution of drinking water supplies.
- e. Topographic and environmental features, such as streams, steep slopes, or watersheds, that would be adversely affected by the use of roads constructed to D.O.T. standards due to factors such as significant amounts of earthwork (cut and fill) that would contribute to increased runoff of storm water and siltation.
- f. There is only one subdivision road proposed. Its length does not exceed five hundred (500) feet, it serves no more than five (5) lots, its grade does not exceed fifteen percent (15%), and the land being subdivided is not connected to or part of another subdivision required to be served by D.O.T. roads. In addition, the average lot size within the subdivision is at least 40,000 square feet.
- g. The road is a secondary fire apparatus access road as required under Section 71.9 below.

**71.3 Maintenance of Non-D.O.T. Roads.** In the case of approved non-D.O.T. roads in a subdivision, the subdivider shall be responsible for maintenance of all such roads until said maintenance is lawfully assumed by a Property Owners Association as provided for in Section 71.7 below.

**71.4 Subdivision Streets Disclosure Statement.** The subdivider shall comply in all respects with the provisions of G. S. §136-102.6, including but not limited to the preparation of a subdivision streets disclosure statement. The subdivision streets disclosure statement, if required by said statute, shall be furnished to the Planning Board prior to approval of the final plat.

**71.5 Design Requirements for Non-D.O.T. Roads.** Non-D.O.T. roads, if permitted by the Planning Board under Section 71.2, shall meet the following design requirements:

- a. **Right-of-Way Width.** Except as otherwise provided for Level 1 family subdivisions under Section 65.1c. above, right-of-way width for non-D.O.T. roads shall be not less than forty-five (45) feet on roads exclusively serving one subdivision and fifty (50) feet on connector roads or roads greater than two thousand five hundred (2,500) feet in length.
- b. **Width of Road.** Graded width of road bed including ditch and shoulder areas shall be a minimum of twenty-five (25) feet; provided, that where a twenty (20) foot right-of-way is permitted under Section 65.1c. above, the minimum graded width of road bed including ditch and shoulder areas shall be twenty (20) feet.
- c. **Stoned or Paved Area.** Road travel area may be either stoned or paved, and shall have a minimum width of eighteen (18) feet. Where stone is used, it shall be "crusher-run" or D.O.T. approved "ABC" stone compacted to a minimum of four (4) inches. In locations where soil conditions require additional stone to attain a stable road bed, the developer shall add the required amount of stone before obtaining approval of the final plat. If the developer elects to pave non-D.O.T. roads, he shall meet all D.O.T. requirements pertaining to stone base and top surface.
- d. **Shoulder Areas and Ditches.** Shoulder area on the cut side shall be a minimum of three (3) feet in width and shall provide a drainage ditch of adequate size to accommodate storm water run-off based on terrain and location. Shoulder width on the fill side shall be a minimum width of four (4) feet. In locations where cuts are required on both sides of the road, drainage ditches and shoulders shall occupy be approximately three and one-half (3 1/2) feet wide on each side. The Planning Department may recommend shoulder design which differs from the above during site inspection and depending upon terrain and cut and fill.

- e. **Cuts and Fills.** Cuts and fills shall have a maximum slope of 2:1 (two feet horizontal spread to each foot vertical rise). All cuts and fills shall be seeded when weather and season permits. Otherwise, small brush, mulch or other suitable material shall be used to keep erosion to a minimum.
- f. **Benching.** Where the terrain cross grade is twenty (20) percent or greater, the fill side shall be benched a minimum width of six (6) feet at the base of the fill and fill material shall be well compacted. Neither brush nor stumps shall be placed in the road bed but may be placed in the toe of the fill if fully covered and seeded.
- g. **Road Grades.** Maximum grade shall be fifteen (15%) percent. A variance up to eighteen (18%) percent may be granted by the Board of Adjustment upon written request by the subdivider in extreme cases where terrain prohibits a lesser grade to attain access to a nearby area, if in the opinion of the Board of Adjustment such variance will not create a hazardous or destructive condition. In no case shall a variance be granted for road grades exceeding eighteen (18%) percent. In addition, for any road containing grade(s) exceeding fifteen (15%) percent, the entire road network shall be paved unless deemed unnecessary by the Board of Adjustment in considering the variance. The Board of Adjustment may in such event require the placement of guardrails on curves of such roads. The Board of Adjustment may also require a slope stake road profile for roads (or portions of roads where practical) with grade(s) fifteen (15%) to eighteen (18%) percent subsequent to preliminary plat approval. In such instances, the developer is strongly encouraged to request an advisory opinion prior to submission of a preliminary plat.
- h. **Culverts and Drainage.** Culverts shall be of adequate size to discharge storm water from any given area depending upon terrain and location. Minimum culvert size shall be eighteen (18) inches inside diameter (which may be reduced in the discretion of the Planning Department) and shall be located and installed as recommended by the project engineer or as recommended by the Planning Department. Culverts may be either corrugated metal or concrete (bell and spigot) and shall be installed on a constant grade of a sufficient degree to insure proper drainage and a minimum danger of becoming clogged with debris or mud. Under no circumstances shall plastic pipe be used unless approved under D.O.T. standards. Where concrete is preferred, it shall be laid on straight timbers and all joints secured as tightly as possible and joints covered with a twelve (12) inch strip of building felt or other suitable material. Concrete culvert shall not be permitted where it cannot extend a sufficient distance from the fill side of road to prevent discharge from eroding the road bank. All culverts shall have a minimum cover of twelve (12) inches of well compacted earth. The first six (6) inches of earth surrounding the culvert shall be free of stones larger than two (2) inches square.

- i. **Curve Radius.** All curves in non-D.O.T. roads shall have a radius of no less than fifty (50) feet.
- j. **Bridges.** Proposed bridges which will be part of a non-D.O.T. road shall accommodate two (2) lanes of traffic unless a variance for a one (1) lane bridge is requested in writing by the subdivider and is granted by the Board of Adjustment. Factors to be considered by the Board of Adjustment in deciding upon such variances are: (a) environmental impact of a one (1) lane bridge as opposed to a two (2) lane bridge; (b) density (number of houses to be served by the bridge); and (c) traffic flow (one lane bridges should not be placed so as to cause traffic to back up onto a major thoroughfare). Bridges shall in all instances be constructed to meet D.O.T. specifications, except that the width may be reduced to twenty (20) feet. Confirmation that bridges meet such specifications may be provided either by a D.O.T. engineer or by a registered private engineer. In addition, one-lane bridges shall include gravel or paved turnouts on each side of the bridge(s) to provide access to the water body for firefighting equipment where feasible. Developers proposing bridges should request an advisory opinion from the Planning Department to assist in designing appropriate and adequate bridges.
- k. **Cul-de-sacs.** Turnaround right-of-way width shall be one hundred (100) feet in diameter for round-design cul-de-sacs. Provided, however, that if terrain prevents construction of a round-design cul-de-sac, "tee" and "y" types of turn-arounds may be constructed, in which event the right-of-way shall be forty-five (45) feet in width.
- l. **Turnarounds.** Non-D.O.T. roads shall be provided with turnarounds located as near as practical to the first 1000 foot point and each 1000 foot point thereafter, but not to vary by more than 100 feet longer. Road right-of-way shall be established so as to encompass turnarounds.

**71.6 Designation of Road Status.** All roads shown on the preliminary and final plats shall be clearly noted as to which roads are non-D.O.T. and which are constructed to meet D.O.T. requirements.

**71.7 Property Owners Association.** Prior to approval of the final plat, the developer shall submit to the Planning Board a copy of an instrument having provisions for the establishment of a Property Owners Association to establish reasonable assessments for road maintenance and standards for maintenance of roads and green areas in the subdivision. Said instrument

shall be effective, and shall be recorded in the Wilkes County Register of Deeds Office, at or prior to the time of recording of the final plat. Non-D.O.T. roads in an approved subdivision shall at all times be maintained to the original graveled or paved width.

**71.8 Private Driveways.** No more than two (2) homes shall be accessed by a private easement or driveway.

**71.9 Secondary Fire Apparatus Access Roads.** For all subdivisions requiring Planning Board approval under Article VI of this Ordinance which have thirty (30) or more lots or two thousand five hundred (2,500) or more linear feet of streets, there shall be located within the subdivision, in addition to the primary road serving as access to and from the same, at least one (1) separate road serving as secondary access for fire apparatus in the event of a fire or other disaster. In the case of a phased development, a separate road serving as secondary access for fire apparatus shall be required once the development reaches thirty (30) or more lots or two thousand five hundred (2,500) or more linear feet of streets. Said secondary access road is referred to herein as a fire apparatus access road. Fire apparatus access roads may be non-D.O.T. roads as authorized under Section 71.2, but need not comply with all of the requirements for the same under Section 71.5 as long as they are sufficient in the determination of the Planning Board to accommodate fire apparatus in a manner consistent with the intent of this Section 71.9. Fire apparatus access roads shall, to the extent reasonably practicable, be located in a part of the subdivision which is separate and distinct from the primary access, and they may, in such manner as may be consistent with the restrictive covenants or other lawful rules or regulations governing the subdivision, be gated and/or otherwise closed except when necessary for use in connection with a fire or other

disaster. The Planning Board shall be authorized in its discretion to waive the requirement for a fire apparatus access road upon written request of the subdivider, if the subdivider establishes through evidence satisfactory to the Planning Board that such separate road serving as secondary access is impossible in the subdivision due to topographical or other conditions peculiar to the site; provided, however, that the Planning Board may not grant such waiver except upon the express condition that the subdivider shall agree to place and maintain within the subdivision, as a required improvement under this Article VII, a secondary water source for use in fighting any fire that may occur within or threaten the subdivision. Approval of a secondary water source, whether in the form of a retention pond, water tank, or otherwise, shall be granted by the Planning Board only after consultation with and compliance with any conditions established by the North Carolina Forest Service and the fire chief for the rural volunteer fire department serving the subdivision. Approval for a secondary water source granted by the Planning Board under this Section 71.9 shall be in writing and shall specify all requirements established for the same by the Planning Board, the North Carolina Forest Service, and the fire chief for the rural volunteer fire department serving the subdivision. Notwithstanding the foregoing, a secondary water source shall not be required if the subdivision is served by a public or community water system.

**Section 72. Installation.**

Prior to approval of the final plat and as a condition precedent thereto, the subdivider shall comply with the following requirements:

**72.1 Installation Prior to Approval.** All improvements shown on the final plat or required under Sections 70 and 71 above, all fire hydrants required under Section 80.8 below, and all

improvements with respect to the installation of water lines, sewer lines, and other utility lines (including power and telephone) which may be available to service the proposed subdivision, whether or not shown on the final plat, shall be fully installed and completed by the subdivider.

**72.2 Performance Guarantees in Lieu of Prior Installation.** In lieu of prior installation of improvements as required under Section 72.1 above, the subdivider may, by and with the written approval of the Planning Board, furnish a performance guarantee in an amount sufficient to secure to the County the satisfactory construction, installation, and dedication of the uncompleted portion of said improvements. Such performance guarantee shall comply with the following requirements:

- a. The performance guarantee shall be in the form of a certified check, a deposit of funds in escrow, a no-contest irrevocable bank letter of credit from a bank licensed to do business in the State of North Carolina and having an office in the County, or a performance and payment bond underwritten by a surety company licensed by the State of North Carolina.
- b. The performance guarantee shall be in favor of the County, shall be in such amount as shall be approved by the Planning Board for the purposes as set forth above, and shall be conditioned on satisfactory completion by the subdivider of all improvements within such time as the Planning Board shall establish.
- c. Letters of credit and performance and payment bonds shall be reviewed by the County Attorney for compliance with the provisions of this Section. All performance guarantees shall be deposited with and held by the County Manager pending satisfactory completion of improvements. No such guarantee or any portion thereof shall be released until the Planning Department has inspected the subdivision and has determined that improvements have been satisfactorily completed, which determination shall be in writing and shall be forwarded to the County Manager.

**72.3 Rough Grading of Streets.** Without regard to whether a subdivider furnishes a performance guarantee under Section 72.2 above, the subdivider shall, prior to

recording of the final plat and as a condition precedent thereto under Section 63 above, cause all proposed streets in the subdivision to be rough graded to such extent as may reasonably be required by the Planning Department, for the purpose of facilitating the Planning Department's inspection of the subdivision in order to determine whether the same is in compliance with the requirements of this Ordinance. Said rough grading shall at a minimum comply with the requirements of Sections 71.5b. and 71.5g. Approval of the final plat for all subdivisions to which this Section 72.3 is applicable shall be deemed to be conditional pending compliance by the subdivider with the provisions hereof.

## **ARTICLE VIII**

### **GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN**

#### **Section 80. General Requirements**

- 80.1 Conformity to Official Maps or Plans.** The location and width of all proposed roads shall be in conformity with official maps or plans of Wilkes County and with existing or amended plans of the Planning Board.
- 80.2 Continuation of Existing Roads.** The proposed road layout shall be coordinated with the existing road system of the surrounding area and where possible, existing roads shall be extended.
- 80.3 Green Areas and Reserve Strips.** Green areas may be allowed within a subdivision, provided that the subdivider complies with the requirements for establishment of a Property

Owners Association under Section 71.7 above. No reserve strips shall be allowed in any subdivision.

**80.4 Contour Map.** The subdivider shall, upon request of the Planning Board due to special topographical or drainage characteristics of the land to be subdivided, submit to the Planning Board a contour map with intervals as specified by the Planning Board.

**80.5 Lots.** All lots shall front upon a public or private street. Where double frontage lots are shown on the subdivision plat, the plat shall designate which street shall be considered the front. Every lot submitted for approval on a final plat shall be physically marked either at the front property corners or at the approximate center of the front property line, no more than thirty (30) feet from a street or highway line (or, where applicable, from a private drive). Lot numbers shall be conspicuously indicated on a stake or sign by permanent marker or paint and shall correspond to the lot numbers as indicated on the plat. If the configuration or number of a lot changes at any time prior to approval of the final plat by the Planning Board, the lot shall be re-marked in accordance with the foregoing requirements. Lots shall remain marked in compliance with this Section 80.5 until such time as the Planning Board has approved the final plat.

**80.6 Subdivision Names.** The name of a subdivision shall not be the same as or, in the sole discretion of the Planning Board, substantially similar to the name of a subdivision which has already been approved under this Ordinance or under any previous subdivision ordinance in the County. Phases or sections of a phased development shall not be subject to this requirement.

- 80.7 Road Names.** Proposed roads which are obviously in alignment with existing roads shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of the suffix "street," "avenue," "boulevard," "drive," "place," or "court."
- 80.8 Fire Hydrants.** Fire hydrants shall be installed in all subdivisions which are served by public water having lines six (6) inches or greater in size, in which event such hydrants shall be installed a maximum of one thousand (1,000) feet apart.
- 80.9 Water Supply and Wastewater Systems.** Each lot shall have an adequate means for both water supply and wastewater removal as authorized under applicable laws, rules, and regulations for the State of North Carolina. Public or community water layouts and public or community sanitary sewer system layouts, if known, shall be shown on the final plat in accordance with the provisions of Section 92.11 below. In the absence of a public or community sanitary sewer system, suitability of lots for construction of authorized private wastewater systems shall be evidenced by Improvement Permits issued by the Wilkes County Health Department for each lot in accordance with Section 92.15 below, or, in the alternative, by a certificate from a licensed soil scientist in accordance with Section 92.16 below. The Planning Board may, in its discretion and for good cause shown, require that less than all of the lots in the subdivision have an adequate means for water supply and wastewater removal as required above; provided, however, that in any case the subdivider shall comply with the requirements of Section 92.15 or Section 92.16, as the case may be, and shall further comply with the requirements of Section 92.17. "Good cause" under this

Section 80.9 shall be limited to circumstances where the subdivider desires to retain one or more lots for a purpose other than resale or building development (e.g., for burying brush or debris from cleared lots, maintaining entranceway signs or landscaping, etc.), or where, due to topographic or drainage characteristics, a lot is unsuitable for building development and is to be sold for the privacy of an adjoining lot or other similar purpose.

**80.10 Evacuation Plan.** The subdivider shall, as supplemental information required to be submitted to the Planning Department under Sections 61.1c. and 62.1c. above, prepare and furnish a written disaster evacuation plan with an accompanying diagram for the purpose of depicting the manner in which the subdivider proposes to enable or facilitate an evacuation of the subdivision in the event of a fire or other disaster; provided, that the foregoing shall apply only to those subdivisions requiring Planning Board approval under Article VI of this Ordinance. Upon approval of the subdivision by the Planning Board, the evacuation plan and accompanying diagram shall be posted in a conspicuous place at or near the main entrance of the subdivision, or shall be posted within a common facility located in the subdivision. A copy of the evacuation plan and accompanying diagram shall also be filed by the Planning Department with the Wilkes County Emergency Management Department.

## **Section 81. Design Standards**

**81.1 Streets and Roads.** Design standards for subdivision streets and secondary roads as outlined herein are the responsibility of the D.O.T. Subdividers shall contact the D.O.T. District Engineer to obtain such standards.

**81.2 Alleys.** An alley shall be provided to the rear of all business lots and shall not be provided in any residential block unless approved by the Planning Board. All alleys shall have a right-of-

way width of at least twenty (20) feet. A dead-end alley shall have a turn-around with a diameter of not less than eighty (80) feet. All alleys shall have a compacted base of at least two inches of crushed stone, gravel or equivalent material.

**81.3 Numbering of Lots.** All lots shall be numbered using sequential lot numbers starting with "1." No two lots within a development shall have the same number regardless of the number of sections, phases, blocks, or other parts of the development.

**81.4 Lot Configuration.** The size, shape and orientation of lots for other than residential purposes shall be such as the Planning Board deems appropriate for the type of development and use contemplated. Residential lots shall comply with the requirements of Sections 81.5 through 81.8 below.

**81.5 Lot Area.** All lots shall have an area of at least eight thousand (8,000) square feet.

Additional lot area is required when:

- a. A lot is served by public sewer but not public water, in which event said lot shall be not less than ten thousand (10,000) square feet in area;
- b. A lot is served by public water but not public sewer, in which event said lot shall be not less than eighteen thousand (18,000) square feet in area;
- c. A lot is served by neither public sewer nor public water, in which event said lot shall be not less than twenty-one thousand seven hundred eighty (21,780) square feet in area;
- d. A lot is served by septic tank and is located in a Class III or Class IV watershed, in which event said lot shall be not less than twenty-one thousand seven hundred eighty (21,780) square feet in area; or
- e. A lot is served by septic tank and is located in a Class I or Class II watershed, in which event said lot shall be not less than forty-three thousand five hundred sixty (43,560) square feet in area.

- f. Notwithstanding the foregoing, larger lot areas may be required by the Wilkes County Health Department.

**81.6 Lot Width.** All lots shall have a minimum width at the street line of seventy (70) feet and a minimum width at the building line of one hundred (100) feet, except that lots in a cul-de-sac shall have a minimum width at the street line of thirty-five (35) feet. Corner lots shall have an extra width of ten (10) feet to permit adequate setback from side streets. Greater lot width is required when:

- a. A lot is served by public water but not public sewer, in which event the lot width at the street line shall be not less than seventy-five (75) feet; or
- b. A lot is served by neither public water nor public sewer, in which event the lot width at the street line shall be not less than ninety (90) feet.

**81.7 Lot Depth.** All lots shall have a minimum mean depth of not less than one hundred ten (110) feet. Single-tier lots shall have a minimum mean depth of not less than at least one hundred twenty-five (125) feet. Greater lot depth is required when:

- a. A lot is served by public water but not public sewer, in which event the mean lot depth shall be not less than one hundred twenty-five (125) feet; or
- b. A lot is served by neither public water nor public sewer, in which event the mean lot depth shall be not less than one hundred fifty (150) feet.

**81.8 Orientation of Lot Lines.** Side lot lines shall be substantially at right angles or radial to street lines.

**81.9 Building Setback Lines.** The minimum residential, commercial and industrial setbacks shall be as follows:

## Residential

- a. From the front property line or right-of-way 30 feet
- b. From the front property line where the line runs with the center of the street or road that has no designated right-of-way 50 feet
- c. From the side property line 15 feet
- d. From the rear property line 25 feet
- e. From the side property line which abuts a street right-of-way 25 feet
- f. From the side property line where the line runs with the center of a street or road that has no designated right-of-way 45 feet

## Commercial

- a. From the front property line or right-of-way 50 feet
- b. From the side property line 25 feet
- c. From the rear property line 35 feet
- d. From the side property line which abuts a street or right-of-way 50 feet

Setbacks shall be from the property line except where there is a designated right-of-way, in which case the setback shall run from the right-of-way line. Notwithstanding the foregoing requirements, setbacks shall conform to the requirements of any applicable zoning district.

### **81.10 Easements.** Utility and other easements shall be provided as follows:

- a. Utility easements on front or rear lot lines, or centered on side lot lines shall be provided where necessary and shall be at least ten (10) feet in width.
- b. A crosswalk easement of eight (8) feet in width shall be provided when such is required by the Planning Board.

- c. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith, in the discretion of the Planning Board. Natural Flood Insurance maps shall be utilized to make these determinations.
- d. Lakes, ponds, creeks, and similar areas within the County will be accepted for maintenance only if such is recommended by the Planning Board and approved by the Board of Commissioners.

**81.11 Buffer Strips.** The Planning Board may require a buffer strip of up to fifty (50) feet in width along lot lines that are adjacent to a railroad, a limited access highway, or a commercial or industrial development. Said strip shall be a part of the platted lots, but shall have the following restriction lettered on the face of the plat: "This strip reserved for the planting of trees or shrubs by the owners; the building of structures hereon is prohibited".

**81.12 Addressing.** The establishment of all addresses within a subdivision shall be in compliance with Global Positioning System (GPS) requirements. All addresses shall be assigned by the County.

## ARTICLE IX

### PLAT REQUIREMENTS

**Section 90. Sketch Plan.**

A sketch plan submitted pursuant to Section 60 shall be drawn at an approximate scale of 200 or fewer feet to one inch and shall show the tentative street layout, approximate right-of-way widths, lot arrangements, drainage and utility easements, sites for schools, parks, churches, and other non-residential uses, existing structures, water courses, wooded areas, number of acres devoted to each

use, total acres, average lot sizes, approximate number of lots and existing zoning both on the land to be subdivided and the land immediately adjacent to the proposed development.

**Section 91. Preliminary Plat.**

The preliminary plat shall be at a scale of 100 or fewer feet to one inch and shall be drawn on a sheet 18 inches by 24 inches. The preliminary plat shall be prepared by a professional surveyor and shall show the following information.

- 91.1 General.** The location of existing and platted property lines, roads, buildings, water courses, railroads, transmission lines, sewers, bridges, culverts and drainpipes, water mains, town limit lines and any other utility easements.
- 91.2 Boundaries.** Boundaries of tract shown with bearings and distances.
- 91.3 Additional Features.** Wooded areas, marshes and any other features which should be considered in development of the site.
- 91.4 Adjoining Owners.** Names of the owners of adjoining property or subdivisions.
- 91.5 Zoning.** Zoning classification, if any, both on the land to be subdivided and on adjoining lands.
- 91.6 Roads.** Proposed roads, road names, rights-of-way, pavement widths and approximate grades.
- 91.7 Easements.** Other proposed right-of-way and easement locations, widths, and purposes.
- 91.8 Lots.** Proposed lot lines, lot numbers and approximate dimensions.
- 91.9 Setbacks.** Proposed minimum building setback lines.
- 91.10 Public spaces.** Proposed parks, school sites or other public open spaces, if any.
- 91.11 Miscellaneous.** Title, date, north point and graphic scale.

**91.12 Owner and Surveyor.** Name of owner and professional surveyor.

**91.13 Site Data:**

- a. Acreage in total tract
- b. Acreage in park or other land usage
- c. Average lot size
- d. Total number of lots
- e. Lineal feet in streets
- f. Sketch vicinity map showing relationship between subdivision and surrounding area.
- g. All lots shall be numbered sequentially throughout all phases of a subdivision. No number shall be used twice within a subdivision bearing the same name.

**Section 92. Final Plat.** The final plat shall be drawn with permanent ink on mylar at the same scale and on the same sheet size as the preliminary plat, shall be archivable, and shall conform substantially to the preliminary plat as approved. The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of this Ordinance. The final plat shall be prepared by a professional surveyor and shall show the following information:

**92.1 Roads.** The right-of-way lines and easements of all roads, and access or rights-of-way to D.O.T.-maintained roads.

**92.2 Lots.** Lot lines and lot numbers showing bearings and distances.

**92.3 Setbacks.** Minimum building setback lines.

- 92.4 Easements, Public Areas, etc.** Reservations, easements, alleys, and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations.
- 92.5 Lines, Bearings, and Distances.** Sufficient data to determine readily and reproduce on the ground, the location, bearing and length of every road line, lot line, boundary line, and building line, whether curved or straight. This shall include the radius, central angle, point of curve, point of tangent, and arcs and chords of all curved roads and curved property lines.
- 92.6 Dimensions.** All dimensions to the nearest one-hundredth (1/100) of a foot and angles to the nearest ten (10) seconds.
- 92.7 Monuments and Markers.** Accurate location and description of all monuments and markers.
- 92.8 Adjoining Property and Roads.** The names and locations of adjoining subdivisions and roads, and, where known, the ownership and deed book and page number of the recorded deed for adjoining unsubdivided property.
- 92.9 Miscellaneous.** Title, date, name and location of subdivision and graphic scale.
- 92.10 Subdivider and Surveyor.** Name of subdivider and professional surveyor.
- 92.11 Utility Layouts.** The following utility layouts, if known:
- a. Public or community water (not including individual wells);
  - b. Gas;
  - c. Public or community sanitary sewer (not including private wastewater tank systems);  
and
  - d. Storm drainage.

**92.12 Vicinity Map.** Sketch vicinity map showing relationship between subdivision and surrounding area.

**92.13 Lot Numbering.** All lots shall be numbered sequentially throughout the entire subdivision. Numbers will not be allowed to be repeated within a subdivision.

**92.14 Final Certifications.** The following certificates shall be neatly placed together on the mylar and, where possible, aligned horizontally across the top border of the mylar:

a. Certificate of Approval by the Planning Board.

I, \_\_\_\_\_, Chairman of the Wilkes County Planning Board, hereby certify that said Board duly approved the final plat of the Subdivision entitled \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Chairman

*[Not required for a Level 2 Minor Subdivision or Family Subdivision].*

b. Certificate of Ownership and Dedication.

I (We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish minimum building lines, and dedicate all roads, alleys, walks, parks and other sites to public (D.O.T.) or private (non-D.O.T.) use as noted. Further, I (we) certify the land as shown hereon is within the platting jurisdiction of Wilkes County.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner(s) or Authorized Agent(s)

c. Certificate of Precision.

(As required under N.C. General Statutes §47-30 as amended)

\_\_\_\_\_  
Date Professional surveyor

d. Certificate of Review Officer.

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.

\_\_\_\_\_  
Date Review Officer

e. Certificate of Approval for Recording Plat.

I, \_\_\_\_\_, the County Clerk of Wilkes  
County, North Carolina, do certify that on the \_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_, the Board of County Commissioners  
approved this plat for recording as a subdivision pursuant to the  
Wilkes County Subdivision Ordinance.

\_\_\_\_\_  
Date  
\_\_\_\_\_  
County Clerk

(SEAL)

*[Not required for a Level 2 Minor Subdivision or Family Subdivision].*

- f. Certificate of Approval For Recording Plat (for Level 2 Minor Subdivisions and Family Subdivisions).

I, \_\_\_\_\_, Director of the Wilkes County Planning Department, Wilkes County, North Carolina, do certify that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the Wilkes County Planning Department approved this plat for recording as a  Level 2 Minor Subdivision  Level 1 Family Subdivision  Level 2 Family Subdivision  Estate Settlement Subdivision pursuant to the Wilkes County Subdivision Ordinance.

\_\_\_\_\_  
Date  
\_\_\_\_\_  
Director, Wilkes County  
Planning Department

*[Required only for a Level 2 Minor Subdivision or Family Subdivision].*

- g. Certification *and Detail* of Approval of North Carolina Division of Highways.

Proposed Subdivision Road  
Construction Standards Certification *and Detail*

Approved \_\_\_\_\_  
Date \_\_\_\_\_

*[Not required for a Level 2 Minor Subdivision or Family Subdivision].*

**92.15 Table of Improvement Permits.** Where there is no public or community sanitary sewer system, a table containing each numbered lot in the subdivision and, for each such lot, the Improvement Permit number as issued for that lot by the Wilkes County Health Department authorizing the construction of a private wastewater system on said lot, as required under Section 80.9 of this Ordinance; or, if an Improvement Permit was not issued by the Wilkes County Health Department for a particular lot, the words "No Permit Issued" beside the

applicable lot number (in which event the approval of the Planning Board for said lot shall be required under Section 80.9). The table shall contain the following columns:

<u>Lot No.</u>	<u>Health Department Improvement Permit No.</u>
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In lieu of this information, the final plat may contain that certification as set forth under Section 92.16 below.

**92.16 Additional Certificate.** The following additional certificate, if utilized under Sections 80.9 and 92.15 of this Ordinance, shall be neatly placed on the mylar and, where possible, aligned horizontally across the top border of the mylar together with those certificates required under Section 92.14:

Certificate of Site Evaluation for Private Wastewater Disposal Systems

I, \_\_\_\_\_, a soil scientist licensed in the State of North Carolina, do hereby certify that I have performed site evaluations to determine the suitability of private wastewater disposal systems for the lots shown herein. In my opinion, unless otherwise noted herein, each lot has an area which is suitable for installation of a conventional, or large diameter pipe (gravelless) septic system.

\_\_\_\_\_  
Licensed Soil Scientist

Any lots in the subdivision which are not certified as suitable must be approved by the Planning Board under Section 80.9 above.

**92.17 Wastewater or Improvement Permit Notation.** In the event of approval of one or more lots in a subdivision which are not certified as suitable for a private wastewater system, or for which no Improvement Permit has been issued by the Wilkes County Health Department, the

Planning Board may in its discretion require the subdivider to note the same directly on the applicable lot or lots as shown on the final plat.

**92.18 Watershed Areas.** If one or more of the lots in the subdivision, or any portion thereof, are located in a watershed area as defined in the Amended Wilkes County Watershed Protection Ordinance, the final plat shall contain a statement indicating specifically which lot or lots (or portion thereof) are in a watershed area, and the classification of watershed area in which they are located.

## **ARTICLE X**

### **EXCEPTIONS AND VARIANCES**

#### **Section 100. Exceptions.**

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

#### **Section 101. Variances.**

Where because of the size of the tract to be subdivided or topographical or other conditions peculiar to the site, strict adherence to the provisions of this Ordinance would cause an unusual or unnecessary hardship on the subdivider, the Board of Adjustment may, upon written request of the subdivider which states in detail the reason(s) for the request, authorize a variance from the requirements set forth herein. In granting a variance, the Board of Adjustment may impose such conditions as will secure, insofar as practicable, the objectives of the requirement varied.

All variances shall be entered in the minutes of the Board of Adjustment together with the circumstances that justified the same and any conditions upon which the variance was granted.

## **ARTICLE XI**

### **PENALTIES**

#### **Section 110. Violation a Misdemeanor.**

If a subdivider subdivides land in violation of this Ordinance, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved hereunder and recorded with the Wilkes County Register of Deeds Office, or in any other manner violates the requirements of this Ordinance, said subdivider shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalty.

#### **Section 111. Injunctive Relief and Other Equitable Remedies.**

The County, pursuant to G.S. §§153A-123 and 153A-334, may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the Court shall, upon appropriate findings, issue an injunction and order requiring the subdivider to comply with the requirements hereof. Notwithstanding the foregoing, actions for injunction or for orders of abatement shall not be brought to enforce the provisions of Articles VII or VIII of this Ordinance; said provisions shall instead be enforced by the County through procedures for approval of plats and for installation of improvements or performance guarantees in lieu thereof, or by the owners of subdivision lots through private actions against the subdivider or other lot owners.

**Section 112. Building Permits.**

The County, pursuant to G.S. §153A-334(a), may deny building permits required under G.S. §153A-357 for any lot that has been subdivided in violation of the requirements of this Ordinance.

**ARTICLE XII**

**AMENDMENTS**

**Section 120. Amendment Procedure.**

This Ordinance may be amended from time to time by the Board of Commissioners as herein specified.

**120.1 Planning Board Review.** No amendment shall become effective unless it shall have been either proposed by the Planning Board or submitted to the Planning Board by the Board of Commissioners for review and recommendation. The Planning Board shall have forty-five (45) days from the date an amendment is first submitted to it for review to make a recommendation to the Board of Commissioners. Said recommendation, or a proposal for an amendment by the Planning Board, as the case may be, shall be made by action of the Planning Board undertaken at a duly called meeting and recorded in the minutes of the meeting. The failure of the Planning Board to so act on the amendment within said forty-five (45) day period shall constitute a recommendation of approval; provided, however, that said forty-five (45) day period shall not apply where an amendment is proposed by the Planning Board.

**120.2 Public Hearing.** No amendment shall be adopted until the Board of Commissioners has held a public hearing on the same. Notice of the hearing shall be published in a newspaper of general circulation in the Wilkes County area at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) nor less than ten (10) days prior to the hearing date. In computing the ten (10) - twenty-five (25) day period, the date of publication is not to be counted, but the date of the hearing is. Nothing herein shall be construed to prohibit the Planning Board from calling for and holding its own public hearing on the amendment prior to making a recommendation or proposal to the Board of Commissioners, which public hearing, if called for by the Planning Board, shall be held upon the same notice requirements as set forth above, except that publication of the notice shall be required only once.

### ARTICLE XIII

#### LEGAL STATUS PROVISIONS

**Section 130. Validity.**

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid such declaration shall not affect the Ordinance as a whole, or any other part thereof other than the part so declared to be unconstitutional or invalid.

**Section 131. Effective Date.**

This Ordinance shall take effect and be in force from and after its adoption.

**Section 132. Reenactment and Repeal of Existing Subdivision Regulations.**

**132.1 Reenactment and Repeal.** This Ordinance in part carries forward by reenactment some of the provisions of the existing Subdivision Ordinance for Wilkes County. All provisions of said existing Subdivision Ordinance which are not reenacted herein, and all ordinances or parts of ordinances other than the Wilkes County Zoning Ordinance which are in conflict herewith, are hereby repealed from and after the date of adoption of this Ordinance.

**132.2 Status of Existing and Pending Subdivisions.** All or any subdivisions with final plat approval granted under the provisions of the existing Subdivision Ordinance for Wilkes County as of the effective date hereof, including the initial and subsequent phases of phased developments which meet the requirements thereof, will not be affected by the provisions of this Ordinance. All or any subdivisions with preliminary plat or sketch plan approval granted under the provisions of the existing Subdivision Ordinance for Wilkes County as of the effective date hereof, including the initial and subsequent phases of phased developments which meet the requirements thereof, shall conform to those provisions in effect at the time of said preliminary plat approval. All or any subdivisions without preliminary plat or sketch plan approval on and after the effective date of this Ordinance shall be required to comply with all of the provisions hereof.

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ON MOTION OF ~~COMMISSIONER~~ Vice Chairman Luther Parks \_\_\_\_\_, SECONDED BY COMMISSIONER Fay Byrd \_\_\_\_\_, THE FOREGOING ORDINANCE WAS READ, APPROVED, AND ADOPTED BY THE BOARD OF COMMISSIONERS OF WILKES COUNTY, IN REGULAR SESSION ASSEMBLED ON THE 4th DAY OF September, 2007, BY VOTE OF 5 IN FAVOR AND 0 OPPOSED.



WILKES COUNTY BOARD OF COMMISSIONERS

By: Zach Henderson  
Zach Henderson, Chairman  
Wilkes County Board of Commissioners

ATTEST:

Alene E. Faw  
Alene E. Faw, Clerk