

**Town of Woodfin  
Planning Board  
Town Hall  
June 7, 2022  
6:00 P.M.**

**A. Call to Order**

1. Meeting Call to Order

**B. Approval of the Agenda**

**C. Approval of the Minutes from May 3, 2022**

**D. Public Comment**

*Everyone wishing to address the Board must sign up with the Town Clerk 15 minutes prior to the meeting. Each speaker will be recognized by the Chair when it is their time to be heard. Comments are limited to three minutes per speaker and the time allotted to public comment will be at the discretion of the Chair.*

**E. Old Business**

**F. New Business**

**Item 1: Public Hearing: Ordinance Text Amendments.** Review and recommendation of proposed amendments to Chapter 40, Steep Slope of the Code of Ordinances.

**G. Adjournment**



## MEETING MINUTES

### **Board Members Present**

Chairperson Jay Grimmatt  
Member Glenda Overbeck

Member Jeff Angel

### **Board Members Absent**

Vice Chair Kimberly Hunter

Member Dylan Dechant

### **Town Staff Present**

Adrienne Isenhower, Planning Director  
Ryan Vinson, Town Clerk / HR Analyst

Shannon Tuch, Town Manager

Chairperson Grimmatt called the meeting to order at 6:00 p.m.

### **A. Approval of the Agenda**

Member Overbeck made a motion to approve the agenda. Member Angel seconded the motion, which passed unanimously, 3-0.

### **B. Approval of the March 1, 2022, Regular Meeting Minutes**

Member Angel made a motion to approve the minutes. Member Overbeck seconded the motion, which passed unanimously 3-0.

### **C. Public Comment**

*Everyone wishing to address the Board must sign up with the Town Clerk 15 minutes prior to the meeting. Each speaker will be recognized by the Chair when it is their time to be heard. Comments are limited to three minutes per speaker and the time allotted to public comment will be at the discretion of the Chair.*

### **D. New Business**

1. **Item 1: Public Hearing: Ordinance Text Amendments.** Review and recommendation of proposed amendments to Sections 54-10, 54-34 and 54-317 of the zoning ordinance and Section 46-81 of the subdivision ordinance.

Chairperson Grimmatt opened the public hearing at 6:02 pm. There being nobody to speak, the public hearing was closed at 6:02 pm.

Planning Director Isenhower went over the proposed changes to the zoning and subdivision ordinances:

1. ZONING ORDINANCE: Section 54-10 Definitions
  - Add a definition for Application to provide a description of necessary documentation for development permit submittals.

2. ZONING ORDINANCE: Section 54-34 Certificate of Zoning Compliance
  - Add language to this section to prohibit land disturbing activity from taking place prior to issuance of a zoning permit.
3. ZONING ORDINANCE: Section 54-317 Fences, retaining walls.
  - Increase fence height limitation from 6 feet to 8 feet
4. SUBDIVISION ORDINANCE: Section 46-81 Final Plat Submission and Review
  - *Throughout text:* Remove language requiring final plat approval to follow same procedures as preliminary plat; final plat approval is administrative unless changes are made to plan after initial approval.
  - *Sec. 46-81 (b)(1):* Consolidate language regarding estimated cost requirements for performance guarantees. Previously, the language was located in several different provisions.
  - *Sec. 46-81 (b)(1)(b-c)* Divide Letter of Credit and Cash into two separate options for performance guarantees
  - *Sec. 46-81(c)(7 & 14)* Remove required certificate language as that language is provided in other regulation. We will add the required certificate for the Town of Woodfin on our checklist for major subdivisions.

Member Overbeck make motion to approve zoning ordnance changes that have been presented. Member Angel seconded the motion, which passed unanimously, 3-0.

Member Overbeck make motion to approve subdivision ordnance changes that have been presented. Member Angel seconded the motion, which passed unanimously, 3-0.

**E. Adjournment**

Member Angel made a motion to adjourn the meeting. Member Overbeck seconded the motion, which passed unanimously, 3-0.

Chairperson Grimmatt adjourned the meeting at 6:12 pm.

\_\_\_\_\_  
 Jay Grimmatt  
 Planning Board Chairperson

Attest: \_\_\_\_\_  
 Ryan Vinson  
 Town Clerk



## STAFF REPORT

Agenda Title: Public Hearing – Steep Slope Ordinance Amendments

Staff Contact: Adrienne Isenhower

Meeting Date: June 7, 2022

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### Summary:

Staff is recommending various changes to the steep slope ordinance for clarification and compliance with state law, along with changes specific to the Town of Woodfin's development goals.

### Staff Analysis:

A steep slope ordinance was adopted in February 2022. After three months of interpretation and enforcement, staff has identified some necessary amendments to ensure compliance with state law. Additionally, staff has now had time to review the standards for consistency with Woodfin's development conditions and goals and are proposing a few additional changes. More specifically, these changes include:

1. **Section 2. Applicability:** In addition to general reorganization of this section, staff recommends:
  - a. Splitting this section into two new sections ("Determining Steep Slope Areas" & "Applicability")
  - b. Adding language to specify that average elevation and **average natural slope** of a lot triggers the steep slope requirements.
  - c. Relocating text from Section 4 that explains how to calculate slope.
  - d. Revising language that will result in the regulation of communal infrastructure of subdivisions within the steep slope ordinance
  - e. Clarifying exemptions to include individual septic systems and expansions to existing structures that are less than 500 square feet.
2. **Section 3. Definitions:** Staff recommends removal, replacement or rewording of several defined terms, including:
  - a. Replacement of *Best Management Practice(BMP)* with *Stormwater Control Measure (SCM)*
  - b. Simplification of the definitions for *Cut slope* and *Fill slope*
  - c. Adding the definitions for *Downhill sections, Planar surface, Building and Structure*
  - d. Clarifying the definitions for *Development, Land disturbing activity, lot, and revegetation*
3. **Section 4. Development Standards 1-4:** Proposed amendments include:
  - a. clarification of density requirements
  - b. reorganization of standards for disturbed and impervious surface maximums
  - c. removal of the allowance for intensity bonuses.

NCGS §160D-102 requires that standards for administrative decisions be non-discretionary and based on objective standards. Several of the allowances for an intensity bonus require

discretion so staff proposes removal of that section. Options for objective standards for intensity bonuses may be discussed.

4. **Section 4. Development Standards 5-10:** Amendments to these provisions are mainly for general reorganization and further clarification. More specifically, the amendments include:
  - a. Dividing language regarding geotechnical assessment requirements and slope determination into separate provisions (see #1 above)
  - b. Adding requirement for geotechnical assessment preparation by a NC registered professional engineer and clarifying slope determination through data from the state and Buncombe County
  - c. Adding expansion of structures exceeding 500 square feet to screening requirements
  - d. Addition of requirements for tree protection fencing for trees identified to be preserved and counted towards tree credits
  - e. Addition of a requirement for a maintenance plan for remediation areas
  - f. Removal of allowance for submittal of an alternative landscaping plan to remove trees or vegetation from preservation areas
5. **Section 5. Application Submittal and Review Process: This section gets renumbered to "Section 6" and** proposed amendments revises language clarifying the site plan requirements for steep slope review are required as part of the zoning permit.
6. **Section 6. Penalties:** Staff recommends removing most of the language from this section and simply referencing the penalties section of the zoning ordinance.
7. **Sections 7. Fees, 8. Completeness Review and Appeal, and 9. Permit Expiration:** Staff recommends removing these sections in their entirety due to duplication with other parts of the code related to zoning permits and requirements.

**Staff Recommendation & Suggested Motion:**

Staff recommends approval of the proposed text amendment.

**SUGGESTED MOTION: I move that the Town of Woodfin Planning Board, having considered the proposed ordinance amendments in relation to the comprehensive plan, and finding the proposed ordinance amendments to be consistent with the comprehensive plan, recommend approval of the proposed ordinance amendments to the Board of Commissioners.**

Attachments:

- (1) [Draft Ordinance](#)
- (2) [Mark-ups](#)
- (3) [Draft consistency statement](#)

**FINAL VERSION  
OF PROPOSED  
AMENDMENTS**

ORDINANCE AMENDING CHAPTER 40 OF THE CODE OF ORDINANCES OF THE TOWN OF WOODFIN TO  
AMEND THE STEEP SLOPE ORDINANCE

WHEREAS, the Town of Woodfin has the authority pursuant to Article 1 of Chapter 160D of the North Carolina General Statutes to adopt development regulations; and

WHEREAS, the Town of Woodfin Board of Commissioners may amend said regulations from time to time in the interest of the public health, safety, and welfare; and

WHEREAS, the Town initiated a recommendation to amend Chapter 40 of the Code of Ordinances, Steep Slope; and

WHEREAS, the public hearing for this text amendment has been noticed in compliance with the North Carolina General Statutes; and

WHEREAS, the Woodfin Planning Board reviewed this text amendment recommendation at its June 7, 2022, public meeting and voted 3-0 to find the amendment a reasonable request considering the potential benefits to development of the Town of Woodfin and surrounding community; and

WHEREAS, the Woodfin Board of Commissioners held the public hearing on June 21, 2022 and, after hearing such, made the following required findings:

The text amendment is consistent with the comprehensive plan in the following ways:

- The proposed text amendment is reasonable and in the best interest of the public and aligns town land use regulations in compliance with state law as required: and
- The proposed text amendment is consistent with comprehensive plan Section F. Environmental Resource, Strategy 2: Develop a new Steep Slope Ordinance or adopt/adapt the Steep Slope Ordinance of Buncombe County that would regulate development and building on steep slopes and ridgetops.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Woodfin, that Chapter 40, Steep Slope of the Code of Ordinances is hereby amended as follows:

**Section 1. Purpose.**

The purpose of this section is to regulate development in steep slope areas in order to preserve the Town of Woodfin's unique character, conserve the public health, safety and general welfare and to promote environmentally sound design and planning in accordance with the following objectives:

- To protect life and property from all potentially hazardous conditions particular to steep slopes, e.g., rock falls, flash flooding, debris flows, mud slides and increased wildfire hazard.
- To preserve and enhance the scenic and environmental resources of the landscape by encouraging the maximum retention of prominent natural topographic features, i.e., drainage swales, streams, slopes, ridgelines, rock outcroppings, vistas, natural plant formations, and trees.
- To encourage innovative site and architectural design and planning in order for the development to adapt to the natural terrain and be harmonious with the character of the area.
- To minimize grading and cut and fill operations inconsistent with the retention of the natural character of the hillside.
- To preserve where possible, natural streams, ponds and associated riparian vegetation.

- To require the retention of trees and other vegetation to stabilize steep hillsides, retain moisture, prevent erosion and enhance the natural scenic beauty.
- To encourage the retention of trees and other vegetation throughout the site instead of just the periphery of the development.
- To encourage minimal grading which relates to the natural contour of the land, thus rounding off sharp angles at the top and bottom of cut and fill slopes in a natural manner.
- To provide land use densities to promote the best possible development of hillside areas in order to retain significant natural features and to preserve slope stability.
- To encourage road design that follows the natural topography wherever possible in order to minimize grading.
- To preserve predominant views from and of the hillside areas in order to retain the sense of identity and imagery that the hills and mountains now impart to the Town of Woodfin.

**Section 2. Determining Steep Slope Areas.**

For the purposes of this section, steep slopes are defined as: (1) any lot, parcel, tract or portion thereof, that has a natural elevation of 2,200 feet above mean sea level or higher and has an average natural slope of 20 percent or greater, or (2) that has a natural elevation of 3,000 feet above mean sea level or higher, regardless of slope.

For the purposes of this ordinance, slope means the average natural slope of an entire parcel. The average natural slope for the parcel shall be calculated using the following formula.

$$S = \frac{.0023(I)(L)}{A}$$

Where:

S = Existing grade of parcel in percent

I = Contour interval of map in feet, with said contour intervals to be five feet or less

L= Total length of the contour lines within the parcel in feet

A= Area of the parcel in acres

0.0023=Product of two constants, one of which converts feet into acres and one of which converts a decimal into a percentage

**Section 3. Applicability.**

A. Steep slope standards shall apply to the following:

1. New building construction and individual lot improvements, including but not limited to drives, retaining walls, utilities, and stormwater controls.
2. Communal infrastructure including, but not limited to, roadways, shared drives, public utilities, public facilities, and stormwater controls, when installed in accordance with an approved major subdivision plan. For the purpose of applying this section, approval of a subdivision plat shall not constitute approval of a development plan for the individual lots in the subdivision, which shall be reviewed under separate applications.

B. Building elements exempted from steep slope standards shall include:

1. Individual septic systems.
2. Expansions to existing structures applied for on or before February 15, 2022, that are less than 500 square feet.

**Section 4. Definitions.**

*Artificial slope* shall mean any land disturbing activity that modifies an existing slope.



*Building* shall mean a structure that is designed or intended for support, enclosure, shelter or protection of person, animals or property having a permanent roof and walls.

*Cut slope* shall mean the exposed ground surface resulting from excavation of material.

*Development* shall mean any man-made change to improved or unimproved real estate, including, but not limited to, new buildings and structures, including additions/expansions, , mining, dredging, filling, grading, paving, excavation, or drilling operations.

*Disturbed areas* shall mean any area subject to a *land-disturbing activity*.

*Downhill sections* shall mean areas of the property which fall 10 feet or more in elevation within 50 feet of the structure.

*Fill slope* shall mean the exposed ground surface resulting from deposition of material.

*Forested areas* shall mean an ecosystem supporting a dense growth of trees covering a large area.

*Geotechnical assessment* shall mean a comprehensive analysis of soil type(s), composition, and characteristics (colluvial, cohesive or expansive, pH, water retention, etc.) conducted pursuant to proposed development of a building site.

*Impervious surface* shall mean any surface that does not allow water to percolate through, or significantly penetrate, for natural absorption by the ground within a twenty-four (24) hour period, including but not limited to: rooftops, parking/driving areas finished with asphalt, concrete, or densely compacted gravel, patios, or pools.

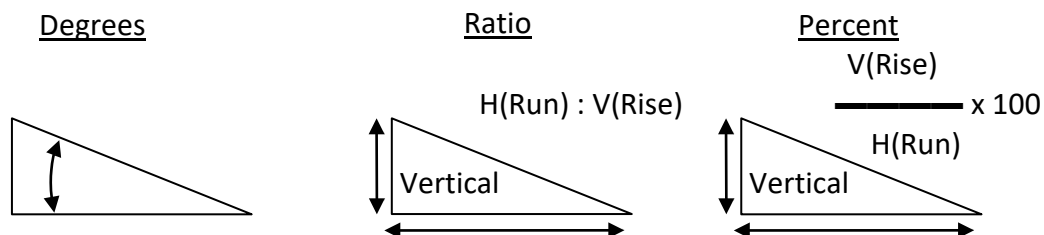
*Land-disturbing activity* shall mean any use of the land by any person in a residential, industrial, educational, institutional, or commercial development, highway and road construction, and maintenance that results in a change in the natural cover or topography.

*Lot (for the purposes of this ordinance)* shall mean a parcel of land occupied or intended for occupancy by one or more uses permitted in the Town of Woodfin Zoning Ordinance, including one principal building and its accessory building(s), and having its principal frontage upon a dedicated street.

*Planar surface* is defined as the combined exterior surface area of all vertical surfaces within a single face of the structure.

*Revegetation* shall mean reintroducing native plant species, as defined by the Natural Resource Conservation Service of the United States Department of Agriculture, into a disturbed area to restore native plant communities, mitigate erosion and landslides, and minimize the expansion of non-native invasive plants.

*Slope* shall mean the extent to which a landform deviates from the perfectly horizontal as expressed in percent, degree or ratio. To ensure consistent conversion between these separate methods of expressing the extent of slope, the following explanatory table is provided as part of this definition.



Degrees Horizontal		Horizontal
45°	1H:1V	100%
39°	1.25H:1V	80%
34°	1.5H:1V	67%
30°	1.75H:1V	57%
27°	2H:1V	50%
22°	2.5H:1V	40%
18°	3H:1V	33%
14°	4H:1V	25%
8.5°	6.7H:1V	15%

*Structure* shall mean a building or object that is constructed from parts.

**Section 5. Steep Slope Development Standards.**

**A. Lot size.**

Any new lot created with greater than ten percent of the area considered steep slope as defined in Section 2, and which is created after February 15, 2022, shall be a minimum of 1.5 acres.

These regulations shall not prohibit the development on any lot which was a lot of record on February 15, 2022, and which does not meet the lot size requirements of this ordinance, provided that all other ordinance requirements are satisfied.

**B. Density.**

No single lot may contain more than two dwelling units.

**C. Number and height of buildings and structures.**

1. Buildings. No single lot may contain more than two detached buildings, and no building may exceed a height of 35 feet.
2. Accessory structures. The number of accessory structures, not including buildings, are not limited but no accessory structure may exceed a height of 20 feet.
3. Measuring height. For the purpose of this section, building height is measured by calculating the average of the shortest and tallest sides of a building, from ground level to the tallest peak of the roof. Structure height shall be measured from the ground level to the tallest end of the structure.

**D. Land disturbance and impervious surface standards.**

Land disturbance and impervious surface limits shall apply to all steep slope areas as follows:

	<b><u>Land Disturbance</u></b>	<b><u>Impervious Surface</u></b>
<b><u>Lots less than 2 acres</u></b>	0.3 acres	0.16 acres
<b><u>Lots 2 acres or larger</u></b>	15 % of the total lot area	8% of the total lot area

<b>Major Subdivisions</b>	15% of the total lot area	10% of the total lot area
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**E. Geotechnical assessment.**

A geotechnical assessment prepared by a NC registered professional engineer shall be required for lots with existing grade thirty-five percent (35%) or greater to determine the stability of the underlying geology and soils to support the proposed development. The geotechnical analysis report shall be required prior to the issuance of a zoning permit.

**F. Screening of buildings and structures.**

1. Applicability. Screening and revegetation standards apply within steep slope areas for: (1) all new buildings and structures, (2) any modification to an existing building exceeding 50 percent of the appraised or tax assessed value, and (3) any expansion of existing buildings or structures exceeding 500 square feet or 20 linear feet.

2. Planting standards.

- a. *Calculating the requirement.* The surfaces of the structure which are oriented to the downhill sections of the lot must be screened at a ratio of one tree for every 200 square feet of planar surface.
- b. *Minimum tree size.* Trees planted must be a minimum of 1.5 inches in diameter measured six inches above the root ball.
- c. *Tree Spacing.* Trees must be located no greater than 50 feet from the furthest extending portion of the structure (measured perpendicularly) and shall be spaced a minimum of ten feet, but no greater than 30 feet, apart.
- d. *Tree composition.* Trees must be of varying, native species, as defined by the Natural Resources Conservation Service of the United States Department of Agriculture, and no single species shall comprise more than 50 percent of the trees planted, unless existing Tree credit. Existing trees which are left intact and that appear in good health can be credited toward the required plantings. The following credit system will be observed:

<i>Tree Dimensions</i>	<i>Credits</i>
2.5" to 4" DBH (minimum 8' tall)	1 tree
4" to 6" DBH (minimum 15' tall)	1.5 trees
6" to 10" DBH (minimum 20' tall)	2 trees
10" to 16" DBH (minimum 25' tall)	2.5 trees
16" or greater (minimum 30' tall)	3 trees

Trees to be credited shall be marked using flagging tape and cordoned off with tree protection fencing spaced 1 foot for every 1 inch of tree diameter measured from the edge of tree prior to site disturbance in order to ensure their health throughout site development.

**G. Artificial slopes.**

1. Maximum slope standards. Artificial slopes shall not exceed a 1.5:1 cut and 2:1 fill. Artificial slopes may increase to 1:1 cut and 1.5:1 fill with submittal of a geotechnical certification from a North

Carolina registered professional engineer. However, if stable exposed rock is the intended result, the cut and/or fill slope(s) may be increased upon certification from a North Carolina registered professional engineer.

2. Revegetating artificial slopes. Artificial slopes shall be remediated through reforestation or revegetation to visually integrate disturbed areas into surrounding terrain with the purpose of maintaining a natural appearance. Revegetation shall consist of a combination of trees, shrubs and groundcover plants native to the area

H. **Maintenance Plan.**

A maintenance plan shall be required for revegetated areas and such plan shall include provisions for replacement of dead vegetation when greater than fifty percent (50%) mortality rate occurs.

I. **Preservation of Vegetation.**

All trees and other natural vegetation outside the designated land disturbance area shall be preserved in steep slope areas the. Non-native invasive species may be removed. For all new development, these preservation areas shall be designated on plans submitted for approval. Preservation areas shall be clearly designated during all land disturbing activities using protective fencing and shall be inspected prior to the zoning permit being issued.

**Section 6. Zoning Permit Required**

Compliance with the requirements of this Chapter shall be included in the zoning permit review. Site and building plan information necessary to demonstrate compliance with the steep slope development standards, along with all other applicable development requirements will be required at time of zoning permit application.

**Section 6. Penalties**

Violations of this Chapter shall be enforced with the standards found in Section 54-41.

**Section 2:** If any provisions of this Ordinance are for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, independent provision and such holding shall not affect the validity of any other provision thereof, and to that end, the provisions of this Ordinance are hereby declared to be severable.

**Section 3:** This Ordinance shall be effective on this 7<sup>th</sup> day of June 2022.

Attest:

\_\_\_\_\_  
M. Jerry Vehaun, Mayor

\_\_\_\_\_  
Town Clerk

**ORDINANCE**

**MARKUP**

## Steep Slope Ordinance

### Section 1. Purpose.

The purpose of this section is to regulate development in steep slope areas in order to preserve the Town of Woodfin's unique character, conserve the public health, safety and general welfare and to promote environmentally sound design and planning in accordance with the following objectives:

- To protect life and property from all potentially hazardous conditions particular to steep slopes, e.g., rock falls, flash flooding, debris flows, mud slides and increased wildfire hazard.
- To preserve and enhance the scenic and environmental resources of the landscape by encouraging the maximum retention of prominent natural topographic features, i.e., drainage swales, streams, slopes, ridgelines, rock outcroppings, vistas, natural plant formations, and trees.
- To encourage innovative site and architectural design and planning in order for the development to adapt to the natural terrain and be harmonious with the character of the area.
- To minimize grading and cut and fill operations inconsistent with the retention of the natural character of the hillside.
- To preserve where possible, natural streams, ponds and associated riparian vegetation.
- To require the retention of trees and other vegetation to stabilize steep hillsides, retain moisture, prevent erosion and enhance the natural scenic beauty.
- To encourage the retention of trees and other vegetation throughout the site instead of just the periphery of the development.
- To encourage minimal grading which relates to the natural contour of the land, thus rounding off sharp angles at the top and bottom of cut and fill slopes in a natural manner.
- To provide land use densities to promote the best possible development of hillside areas in order to retain significant natural features and to preserve slope stability.
- To encourage road design that follows the natural topography wherever possible in order to minimize grading.
- To preserve predominant views from and of the hillside areas in order to retain the sense of identity and imagery that the hills and mountains now impart to the Town of Woodfin.

### Section 2. Determining Steep Slope Areas.Applicability

For the purposes of this section, steep slopes are defined as: (1) any lot, parcel, tract or portion thereof, that has a natural elevation of 2,200 feet ~~in elevation~~ above mean sea level or higher and has an average natural slope of 20 percent or greater, or (2) that has a natural elevation of 3,000 feet ~~in elevation~~ above mean sea level or higher, regardless of slope. ~~In addition, the following regulations apply to all steep lots, as defined in this section~~

For the purposes of this ordinance, slope means the average natural slope of an entire parcel. The average natural slope for the parcel shall be calculated using the following formula.

$$S = \frac{.0023(I)(L)}{A}$$

A

Where:

S = Existing grade of parcel in percent

I = Contour interval of map in feet, with said contour intervals to be five feet or less

L = Total length of the contour lines within the parcel in feet

A = Area of the parcel in acres

0.0023=Product of two constants, one of which converts feet into acres and one of which converts a decimal into a percentage

### **Section 3. Applicability.**

A. Steep slope standards shall apply to the following:-

1. These limits shall apply to New building construction and individual lot improvements, including but not limited to drives, retaining walls, utilities, and stormwater controls. but shall not apply to installation of individual septic systems.
2. When Communal infrastructure including, but not limited to, roadways, shared drives, public utilities, public facilities and stormwater controls, when installed in accordance with an approved minor or major subdivision plan. For the purpose of applying this section, approval of a subdivision plat shall not constitute approval of a development plan for the individual lots in the subdivision, which shall be reviewed under separate applications.
3. , the disturbed and impervious area shall be regulated by the land development and subdivision ordinance and not by this article. When communal infrastructure is installed to serve lots in a division of land which is exempt from the definition of a subdivision pursuant to section 46-5 of the subdivision ordinance and results in more than three lots, the maximum area of the total tract to be developed for the purposes of communal infrastructure installation shall be 15 percent disturbed area and ten percent impervious area.

B. Building elements exempted from steep slope standards shall include:

1. Individual septic systems.
2. Expansions to existing structures built applied for on or before February 15, 2022 that are less than 500 square feet. existing at the time this article was adopted must meet the gross site area disturbed and impervious limitations, however the disturbed and impervious area of the existing development is not required to be included in the disturbed and impervious area calculations.
1. For the purpose of applying this section, approval of a subdivision plat shall not constitute approval of a development plan for the individual lots in the subdivision.

### **Section 43. Definitions.**

*Artificial Slope* shall mean any land disturbing activity that modifies an existing slope.

*Best Management Practices (BMP)* shall mean both structural and non-structural methods of preventing exposure to stormwater runoff, and provide measures designed to remove a substantial percentage of any pollutants that may be present in the stormwater stream. BMPs also treat the volume of stormwater runoff leaving a developed site with the goal of approximating pre-construction, or natural conditions.

*Building* shall mean a structure that is designed or intended for support, enclosure, shelter or protection of person, animals or property having a permanent roof and walls.

*Cut slope* shall mean any area of ground subject to a land-disturbing activity forming an artificial incline, expressed as the ratio of horizontal to vertical projection; an area of ground where earth material is to be or has been removed by excavation or other methods used by man, and that exposes lower horizons

~~of earth material in situ, and where any face of the excavated area lies in repose at any angle other than a horizontal plane~~the exposed ground surface resulting from excavation of material.

*Development* shall mean any man-made change to improved or unimproved real estate, including, but not limited to, new buildings and structures, including additions/expansions, building or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

*Disturbed areas* shall mean any area subject to a *land-disturbing activity*.

*Downhill sections* shall mean areas of the property which fall ~~25~~10 feet or more in elevation within 10050 feet of the structure.

~~*Existing grade* shall mean the grade prior to any land-disturbing activity.~~

~~*Fill slope* shall mean any area of placed earth material that has been or will be subject to a land-disturbing activity forming an artificial incline and expressed as the ratio of horizontal to vertical projection; an area where soil is to be or has been placed by excavation or other methods used by man and where any face of the excavated area lies in repose at any angle other than a horizontal plane~~the exposed ground surface resulting from deposition of material.

*Forested areas* shall mean an ecosystem supporting a dense growth of trees covering a large area.

*Geotechnical aAssessment* shall mean a comprehensive analysis of soil type(s), composition, and characteristics (colluvial, cohesive or expansive, pH, water retention, etc.) conducted pursuant to proposed development of a building site.

*Impervious sSurface* shall mean any surface that does not allow water to percolate through, or significantly penetrate, for natural absorption by the ground within a twenty-four (24) hour period, including but not limited to: rooftops, parking/driving areas finished with asphalt, concrete, or densely compacted gravel, patios, or pools.

~~*Land-D*~~*isturbing A**ctivity* shall mean any use of the land by any person in a residential, industrial, educational, institutional, or commercial development, highway and road construction, and maintenance that results in a change in the natural cover or topography ~~and that may cause or contribute to sedimentation.~~

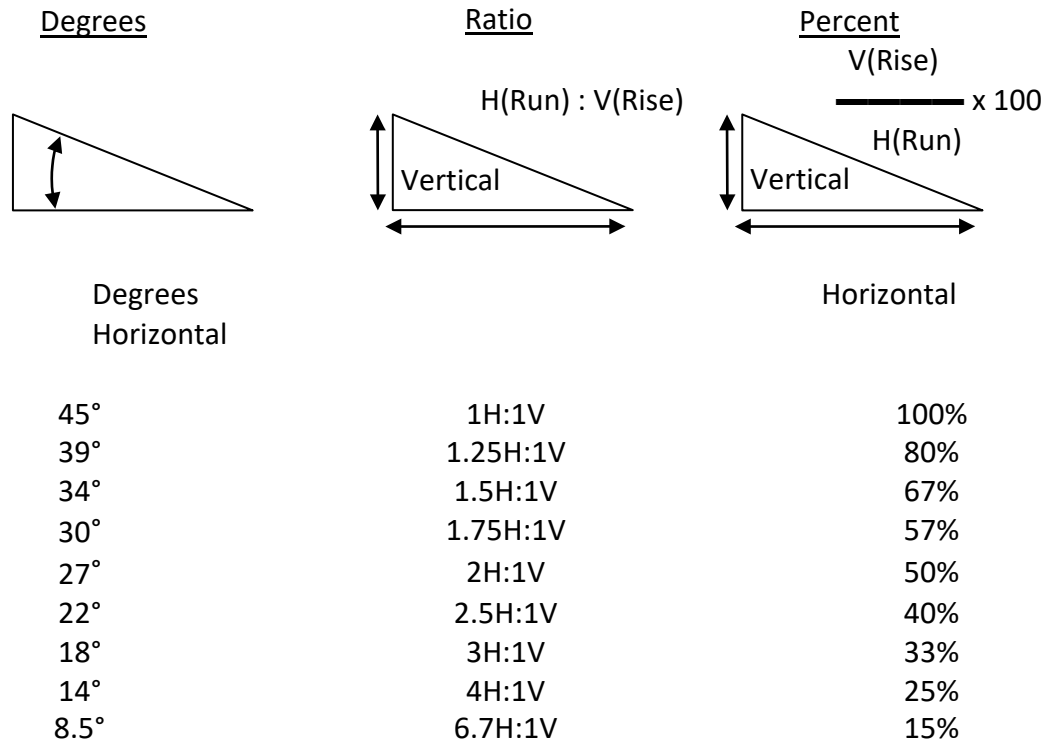
*Lot (for the purposes of this ordinance)* shall mean a parcel of land occupied or intended for occupancy by one ~~main or more~~ uses permitted in the Town of Woodfin Zoning Ordinance, including one principal building and its accessory building(s), and having its principal frontage upon a dedicated street. ~~The boundaries of the lot shall be determined by its lot lines.~~

*Planar surface* is defined as the combined exterior surface area of all vertical surfaces within a single face of the structure.



*Revegetation* shall mean reintroducing entirely native plant species, as defined by the Natural Resource Conservation Service of the United States Department of Agriculture, ~~back~~ into a disturbed area to ~~effect aesthetic remediation, restore native plant communities, mitigate prevent potential~~ erosion and landslides, and minimize the expansion~~impact~~ of non-native invasive plants.

*Slope* shall mean the extent to which a landform deviates from the perfectly horizontal as expressed in percent, degree or ratio. To ensure consistent conversion between these separate methods of expressing the extent of slope, the following explanatory table is provided as part of this definition.



**Structure shall mean a building or object that is constructed from parts.**

**Section 54. Steep Slope Development Standards.**

**1. Lot sSize.**

Any new lot created with greater than ten percent of the area considered steep slope as defined in Section 2, ~~and which is created after the effective date of this Ordinance after February 15, 2022,~~ shall be a minimum of 1.5 acres.

These regulations shall not prohibit the development on any lot which was a lot of record on February 15, 2022, and which does not meet the lot size requirements of this ordinance, provided that all other ordinance requirements are satisfied.

**2. Density.**

~~No single lot may contain more than two dwelling units.~~

~~No more than two dwelling units and no more than two detached principal buildings or structures per lot of record shall be allowed on any steep slope lot.~~

**3. ~~Height~~Number and height of buildings and structures.**

~~A. Buildings. No single lot may contain more than two detached buildings, and no building may exceed a height of 35 feet.~~

~~B. Accessory structures. The number of accessory structures, not including buildings, are not limited but no accessory structure may exceed a height of 20 feet.~~

~~C. Measuring height.~~

~~The maximum height of principal structures in steep slope areas shall be limited to thirty five (35) feet. No structure shall exceed the height requirement of the underlying zoning district. For the purpose of this section, building height is measured by calculating the average of the shortest and tallest sides of a building structure, from ground level to the tallest peak of the roof. Structure height shall be measured from the ground level to the tallest end of the structure.~~

**4. ~~Disturbed Land disturbance and impervious surface standards.~~**

~~The following Land disturbance and impervious surface limits shall apply to all steep slope areas as follows:~~

	<u>Land Disturbance</u>	<u>Impervious Surface</u>
<u>Lots less than 2 acres</u>	<u>0.3 acres</u>	<u>0.16 acres</u>
<u>Lots 2 acres or larger</u>	<u>15 % of the total lot area</u>	<u>8% of the total lot area</u>
<u>Major Subdivisions</u>	<u>15% of the total lot area</u>	<u>10% of the total lot area</u>

~~A. The maximum gross site area disturbance allowed for any single lot in a steep slope area, excluding disturbance for installation of individual septic systems, shall be:~~

- ~~• For lots less than 2.0 acres shall be 0.3 acres.~~
- ~~• For lots 2.0 acres and larger shall be 15 percent.~~

~~B. The maximum gross site of impervious surface allowed for any single lot shall be:~~

- ~~• For lots less than 2.0 acres shall be 0.16 acres.~~
- ~~• For lots 2.0 acres and larger shall be eight percent.~~

~~*Intensity Bonus*—An intensity bonus may be granted for each of the following items. Bonus may apply to maximum gross site area disturbance and maximum gross site impervious surface. A total intensity bonus of up to 60 percent of the allowable intensity may be achieved under this provision through accumulation. Bonus applications may result in administratively approved reductions in minimum setback requirements and minimum lot size if necessary to achieve site preservation, screening or grading objectives. Such reductions shall be indicated on the development plans submitted to obtain the density bonus and the rationale behind the reductions shall be clearly demonstrated on the plans or other application materials.~~

- a. Buildings, parking, and other improvements are clustered on less steep and sensitive areas of the site to reduce the amount of grading and the steeper, more sensitive areas are preserved through a conservation easement that safeguards the property from future development; bonus of up to 60 percent based on the following table. Less sensitive areas may not exceed a 40 percent average natural slope and may include previously cleared areas, such as logging roads and pastures, provided such clearing predates January 1, 2022.
- b. Grading is limited to ten percent or more under the maximum allowed under section 4 above; bonus of 20 percent.
- c. Buildings and parking areas are screened by vegetation to minimize the visual impact from commonly frequented or accessible areas; bonus of 20 percent.
- d. Grading of roads and access drives is located outside the slopes exceeding 25 percent and/or is predominately located on existing cleared roadbeds; bonus of 20 percent.
- e. Grading for the principal structure(s) is located completely outside of slopes exceeding 25 percent; bonus of 20 percent.
- f. Substantial stormwater best management practices are met in the proposed development, as determined by a physical engineer; bonus of 20 percent.

**5. ~~Geotechnical aAssessment and Slope Determination.~~**

A ~~g~~Geotechnical ~~a~~Assessment prepared by a NC registered professional engineer shall be required for lots with existing grade thirty-five percent (35%) or greater to determine the stability of the underlying geology and soils to support the proposed development. Investigation of Global Stability shall be required as indicated by a Geotechnical Assessment. The recommendations of a NC registered geotechnical engineer regarding a particular site may reduce the maximum percentage of site grading below the value indicated. ~~The geotechnical analysis report shall be required to be submitted prior to the issuance of a zoning permit.~~

**~~Slope Determination~~**

~~The applicant may submit calculations of the existing grade; these calculations shall be sealed certified by a licensed surveyor, engineer, or landscape architect. If no calculations are provided, the Town of Woodfin will calculate the existing grade of any property using the following formula and publicly available typography data supplied by the State of North Carolina and/or Buncombe County:~~

$$\frac{S = .0023(I)(L)}{A}$$

Where:

S = Existing grade of parcel in percent

I = Contour interval of map in feet, with said contour intervals to be five feet or less

L = Total length of the contour lines within the parcel in feet

A = Area of the parcel in acres

0.0023 = Product of two constants, one of which converts feet into acres and one of which converts a decimal into a percentage

~~If existing grade cannot be calculated using the above methods, it shall be estimated using best available resources by the Planning Director whose determination shall be final.~~

**6. Screening of buildings and structures.**

A. Applicability. ~~The following screening and revegetation standards regulations shall be required apply~~ within ~~sSteep sSlope~~ areas for: (1) all new buildings and structures, and (2) any modification to an existing building structure exceeding 50 percent of the appraised or tax assessed value of the structure, and (3) any expansion of existing buildings or structures exceeding 500 square feet or 20 linear feet.

A.B. Planting standards.

(1) Calculating the requirement. The surfaces of the structure which are oriented to the downhill sections of the lot ~~or the downhill sections of the adjacent topography (downhill sections are defined as areas of the property which drop 25 feet or more in elevation within 100 feet of the structure)~~ must be screened at a ratio of one tree ~~of 1.5 inch diameter measured six inches above the root ball~~ for every 200 square feet of planar surface. ~~Planar surface is defined as the combined exterior surface area of all vertical surfaces within a single face of the structure.~~

(2) Minimum tree size. Trees planted must be a minimum of 1.5 inches in diameter measured six inches above the root ball.

(3) Tree Spacing. Trees ~~planted to achieve the required ratio~~ must be located planted no greater than 50 feet from the furthest extending portion of the structure (measured perpendicularly) and shall be spaced a minimum of ten feet, but no greater than 30 feet, apart.

(4)

~~(1)~~ Tree composition. Trees must be of varying, native species, as defined by the Natural Resources Conservation Service of the United States Department of Agriculture, and no single species shall comprise more than 50 percent of the trees planted, unless existing. Trees shall be spaced no less than ten feet but no greater than 30 feet apart.

~~(2)~~(5) Tree credit. Existing trees ~~within the area of allowed disturbance~~ which are left intact and that appear in good health can be credited toward the required plantings ratio. The following credit system will be observed:

<i>Tree Dimensions</i>	<i>Credits</i>
2.5" to 4" DBH (minimum 8' tall)	1 tree
4" to 6" DBH (minimum 15' tall)	1.5 trees
6" to 10" DBH (minimum 20' tall)	2 trees
10" to 16" DBH (minimum 25' tall)	2.5 trees
16" or greater (minimum 30' tall)	3 trees

Trees to be credited shall be marked using flagging tape and cordoned off with tree protection fencing spaced 1 foot for every 1 inch of tree diameter measured from the edge of tree prior to site disturbance in order to ensure their health throughout site development.

**7. Artificial sSlopes.**

A. Maximum slope standards. Artificial slopes shall not exceed a 1.5:1 cut and 2:1 fill. Artificial slopes may increase to 1:1 cut and 1.5:1 fill with submittal of a geotechnical certification from a North Carolina registered professional engineer. However, if stable exposed rock is

the intended result, the cut and/or fill slope(s) may be increased upon certification from a North Carolina registered professional engineer.

**A.B. Revegetating artificial slopes.**

Artificial slopes shall be remediated through reforestation or revegetation, naturescaped or otherwise remediated to visually integrate disturbed areas into surrounding terrain with the purpose of maintaining a natural appearance. ~~Artificial slopes shall not exceed a 1.5:1 cut and 2:1 fill. Artificial slopes may increase to 1:1 cut and 1.5:1 fill with submittal of a geotechnical certification from a North Carolina registered professional engineer. However, if stable exposed rock is the intended result, the cut and/or fill slope(s) may be increased with approval from the Planning Director and supporting recommendation upon certification from a North Carolina registered professional engineer. Remediation-Revegetation shall consist of a combination of trees, shrubs and groundcover plants native to the area.~~

**8. Maintenance Plan.**

A maintenance plan shall be required for ~~remediation-revegetated~~ areas and such plan shall include provisions for replacement of dead vegetation when greater than fifty percent (50%) mortality rate occurs.

**8.9. Preservation of Vegetation.**

All trees and other natural vegetation outside the designated land disturbance area shall be preserved in steep slope areas ~~except within the allowed grading area~~. Non-native invasive species may be removed. For all new development ~~or additions~~, these preservation areas shall be designated on plans submitted for ~~development~~ approval. ~~For existing development, aerial photographs or other methods for determining the extent of tree cover shall be utilized to enforce this requirement.~~ Preservation areas shall be clearly designated during all land disturbing activities using protective fencing and shall be inspected prior to the zoning permit being issued. ~~If a property owner desires to remove trees or other protected vegetation required to be preserved in this section, he or she may submit an alternative landscape plan for consideration by the Planning Director. The alternative landscape plan must contain:~~

~~A tree survey of the property showing which trees and protected vegetation are to be removed and which will remain;~~

~~The location of any structures, driveways and other impervious surfaces; and~~

~~An explanation of the reason(s) for removal of the required trees and other protected vegetation, including a statement of how the removal supports the purposes of this section or how such removal can be mitigated consistent with the purposes of this section.~~

**Section 56. Plan Requirements Zoning Permit Required**

~~In addition to the submittal requirements of the underlying zoning district, the following plans/reports shall be required prior to approval of steep slope area development: Compliance with~~

the requirements of this Chapter shall be included in the zoning permit review. Site and building plan information necessary to demonstrate compliance with the steep slope development standards, along with all other applicable development requirements, will be required at time of zoning permit application.

A site plan drawn to scale showing:

Project boundaries

Topography with contour lines from a field survey with a contour interval not to exceed five feet

Existing structures, utility lines, roads, driveways, wells, septic systems and other site improvements.

Include setbacks from property lines and structural dimensions

Proposed structures, utility lines, driveways, wells, septic systems and other site improvements.

Location and height of all proposed retaining walls

Proposed areas in square feet of disturbance and proposed areas of impervious surface

Existing and proposed forested areas.

Perennial and intermittent streams.

Architectural plans showing building elevations, including dimensions of shortest and tallest sides from finished grades to peak of roof.

If individual well and/or septic tanks are to be utilized, a written statement from the Buncombe County Department of Environmental Health indicating approval of wells and/or septic tanks for use in the development.

## **Section 6. Penalties**

Violations of this Chapter shall be enforced with the standards found in Section 54-41.

A.—Any person who violates any of the provisions of this article, or rules or orders adopted or issued pursuant to this article, or who initiates or continues improvement to property for which a steep slope development permit is required, except in accordance with terms, conditions and provisions of an approved plan shall be subject to a fine not to exceed five hundred dollars (\$500). Violations of this ordinance will not subject offenders to criminal violations. Each day such violation continues shall constitute a separate offense pursuant to N.C.G.S. §160A-175(g).

B.—No penalty shall be assessed until the applicant is notified of the violation by registered or certified mail, return receipt requested, or, if reasonable attempts to contact the applicant have failed, by conspicuously posting the property in such manner as to be readily visible from an adjacent street or public thoroughfare for a period not less than ten (10) days giving notice to the violation.

A posting affidavit shall be required, including graphic record of the noticing, and filed with Zoning and Inspections Department. The notice shall list the parcel identification number and location of the property, the date, the applicant's name and a description of the violation in reasonable detail. It shall also specify the timeframe in which the violation shall be corrected, and warn that failure to correct the violation within the prescribed time period will result in the assessment of civil penalty or other enforcement action.

C. ~~If the violation has not been corrected within the designated time period, a civil penalty may be assessed from the date the violation is detected.~~

D. ~~Refusal to accept the notice or failure to notify the Code Administrator of a change of address shall not relieve the violator's obligation to pay such penalty.~~

### **Section 7. Fees**

~~Application and permit review fees shall be established by the Woodfin Board of Commissioners and posted in the fee schedule for Town services. Plan review fees shall be double the posted amount when land-disturbing activity begins before a Steep Slope Development Permit has been issued.~~

### **Section 8. Completeness Review and Appeal**

~~The Planning Department shall review the submittal for completeness and for compliance with the requirements of this ordinance. An incomplete or nonconforming permit application will be returned to the applicant prior to review with an explanation of issues requiring resolution before plan review can be initiated.~~

~~Within thirty (30) days of receipt of complete application for steep slope development approval, the Planning Department shall take action on the plan.~~

~~Approval, approval with modifications, or denial of the proposed hillside development project shall be in writing. In the case of denial, the reasons for denial shall be clearly stated. The applicant may appeal the decision of the Planning Department to the Board of Adjustment.~~

~~Upon appeal, the Woodfin Board of Adjustment will conduct a hearing in the nature of a quasi-judicial proceeding with all findings of fact supported by material evidence.~~

### **Section 9. Appeal**

~~Upon appeal, the Woodfin Board of Adjustment will conduct a hearing in the nature of a quasi-judicial proceeding with all findings of fact supported by material evidence. The procedures for such hearing will follow the standards provided in Section 54-78 (3).~~

### **Section 109. Permit Expiration Validity**

~~A steep slope development permit shall become null and void if the applicant has failed to make significant progress on the site within six (6) months after the date of approval. The Planning Department may grant a single, six-month extension of this time limit, for good cause shown, upon receiving a written request from the applicant before expiration of the approved plan. Validity of a steep slope development permit will follow the same standards as a zoning permit, provided in Section 54-34. A steep slope development permit is valid for 12 months from the date of issuance.~~

# CONSISTENCY STATEMENT





**CONSISTENCY STATEMENT FROM TOWN OF  
WOODFIN PLANNING BOARD  
TO  
TOWN OF WOODFIN BOARD OF COMMISSIONERS**

Having reviewed the **Text Amendments** of the Town of Woodfin Code of Ordinances for amendments to the Steep Slope Ordinance, and having considered information from the planning staff of the Town of Woodfin and comments from other persons, pursuant to 160D-604(d), the Town of Woodfin Planning Board hereby adopts on of the following motions, effective June 7, 2022:

- (A) \_\_\_\_\_ Motion to adopt the following resolution: RESOLVED, that the Town of Woodfin Planning Board finds the proposed text amendment is consistent with the Town of Woodfin comprehensive plan. The following reasons and other matters were considered in the deliberations of the Town of Woodfin Planning Board with respect to this motion:
1. The proposed text amendment is reasonable considering the potential benefits to development of the Town of Woodfin and surrounding community; and
  2. The proposed text amendment advances the public health, safety, and welfare of the Town of Woodfin, and;
  3. The proposed text amendment is consistent with Section F. Environmental Resource, Strategy 2: Develop a new Steep Slope Ordinance or adopt/adapt the Steep Slope Ordinance of Buncombe County that would regulate development and building on steep slopes and ridgetops.
- (B) \_\_\_\_\_ Motion to adopt the following resolution: RESOLVED, that the Town of Woodfin Planning Board hereby finds that the proposed text amendments are not consistent with the Town of Woodfin comprehensive plan.

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Chair

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Date