

# SUBDIVISION ORDINANCE

Town of Woodfin



## Chapter 46 - SUBDIVISIONS

### ARTICLE I. - IN GENERAL

#### Sec. 46-1. - Title.

This chapter shall be known and may be cited as the "Subdivision Regulations of the Town of Woodfin, North Carolina," and may be referred to as the "Subdivision Regulations."

(Code 1995, § 151.01; Ord. of 2-15-1988)

#### Sec. 46-2. - Purpose.

- (a) The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the town.
- (b) It is further designed to provide for:
  - (1) The orderly growth and development of the town;
  - (2) The coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities;
  - (3) The dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and
  - (4) The distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare.
- (c) This chapter is designed to further facilitate adequate provisions of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

(Code 1995, § 151.02; Ord. of 2-15-1988)

#### Sec. 46-3. - Authority.

This chapter is hereby adopted under the authority and provisions of G.S. Ch. 160D Article 8.

(Code 1995, § 151.03; Ord. of 2-15-1988)

#### Sec. 46-4. - Jurisdiction.

The regulations contained herein, as provided in G.S. 160D-201., shall govern each and every subdivision within the town official boundary map.

(Code 1995, § 151.04; Ord. of 2-15-1988)

#### Sec. 46-5. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Block* means a piece of land bounded on one or more sides by streets or roads.

*Buffer strip.* If the locality uses the optional section on buffer strips, it should be defined a buffer strip here.

*Building setback line* means a line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

*Dedication* means a gift, by the owner, or a right to use of land for a specified purpose, because a transfer of property rights is entailed. Dedication must be made by written instrument, and is completed with an acceptance.

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

*Half street* means a street whose centerline coincides with a subdivision plat boundary, with one-half the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

*Lot* means a portion of a subdivision, or any other parcel of land, intended as a unit of transfer of ownership or for development or both. Includes the words "plot," "parcel," or "tract."

*Lot of record* means a lot which is part of a subdivision, a plat of which has been recorded in the office of the register of deeds of the county prior to February 15, 1988, or a lot described by metes and bounds, the description of which has been so recorded prior to February 15, 1988.

*Lot types.*

- (1) *Corner lot* means a lot located at the intersection of two or more streets. A lot abutting a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot's lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.
- (2) *Double frontage lot* means a continuous (through) lot which is accessible from both streets upon which it fronts.
- (3) *Interior lot* means a lot other than a corner lot with only one frontage on a street.
- (4) *Through lot or double frontage lot* means a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- (5) *Reversed frontage lot* means a lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.
- (6) *Single-tier lot* means a lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

*Major Subdivision* – means any subdivision not defined as a minor subdivision.

*Minor Subdivision* – means a subdivision of land meeting all of the following criteria:

- (a) Containing not more than four lots or building sites abutting an existing public street or access easement thereto;
- (b) Not involving the extension of any new public utilities, other than laterals to individual lots;
- (c) Not requiring any new street construction or street right-of-way dedication; and
- (d) Where the use of all of the lots will be for single family residences.

*Official maps of plans* means any maps of plans officially adopted by the board of commissioners.

*Open space* means an area (land and/or water) generally lacking in manmade structures and reserved for enjoyment in its unaltered state.

*Planned unit development* means a definition compatible with chapter 54 should be inserted here.

*Plat* means a map or plan of a parcel of land which is to be, or has been subdivided.

*Private driveway* means a roadway serving two or fewer lots, building sites or other divisions of land and not intended to be public ingress or egress.

*Private street* means an undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. 136-102.6.

*Public sewage disposal system.* The current definitions should be inserted.

*Recreation area or park* means an area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various manmade features that accommodate such activities.

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

*Rural roads.*

- (1) *Principal arterial* means a rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to service traffic. This network would consist of interstate routes and other routes designed as principal arterials.
- (2) *Minor arterial* means a rural link in a network joining cities and larger towns and providing interstate and intrastate and intercounty service at relatively high overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.
- (3) *Major collector* means a road which serves major intercounty travel corridors and traffic generators and provides access to the arterial system.
- (4) *Minor collector* means a road which provides service to small local communities and links locally important traffic generators with their rural hinterland.
- (5) *Local street* means any link not part of a higher order urban system which serves primarily to provide direct access to abutting land and access to higher systems.

*Shall* is always mandatory and not merely directory.

*Street* means a dedicated and accepted public right-of-way for vehicular traffic. The following classifications shall apply:

- (1) *Specific type rural or urban streets.*
  - a. *Freeway, expressway, or parkway* means a divided multi-lane roadway designed to carry large volumes of traffic at relatively high speeds. The term "freeway" means a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. The term "expressway" means a divided highway with full or partial control of access and generally with grade separations at major intersections. The term "parkway" means a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like development.
  - b. *Residential collector street* means a local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.
  - c. *Local residential street* means cul-de-sac, loop streets less than 2,500 feet in length or streets less than one mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic from more than 100 dwelling units.
  - d. *Cul-de-sac* means a short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.
  - e. *Frontage road* means a local street or road that is parallel to a full or partial access to adjacent land.
  - f. *Alley* means a strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

(2) *Urban streets.*

- a. *Major thoroughfares.* Major thoroughfares consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.
- b. *Minor thoroughfares.* Minor thoroughfares are important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through traffic movement and may also serve abutting property.
- c. *Local street.* A local street is any link not part of a higher-order urban system which serves primarily to provide direct access to abutting land and access to higher systems.

*Structure* means and includes the word building.

*Subdivider* means any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

*Subdivision* means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for a purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to any regulations enacted pursuant to this chapter:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in this chapter;
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets; and
- (4) The division of a tract in single ownership into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality as shown by this chapter.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- (6) The division of land pursuant to an order of a court of the general court of justice.
- (7) The division of land for cemetery lots or burial plots.
- (9) The division of land for the purpose of changing the boundary line(s) between adjoining property owners and no new road right-of-way dedication is involved, providing said division does not cause either property to be in violation of any town ordinance.

*Used for* means and includes the meaning "designed for."

(Code 1995, § 151.05; Ord. of 2-15-1988; Ord. of 12-16-2003)

Sec. 46-6. - Prerequisite to plat recordation.

After February 15, 1988, each individual subdivision plat of land within the town's jurisdiction shall be approved by the planning board.

(Code 1995, § 151.06; Ord. of 2-15-1988)

Sec. 46-7. - Acceptance of streets.

No street shall be maintained by the town or street dedication accepted for ownership and maintenance in any subdivision for which a plat is required to be approved unless and until such final plat has been approved by the town and the board of commissioners accepts the street dedication by resolution.

(Code 1995, § 151.07; Ord. of 2-15-1988)

Sec. 46-8. - Thoroughfare plans.

- (a) Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the town, such part of such thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this chapter.
- (b) If the board of commissioners and the county board of education have jointly determined the specified location and size of any school sites to be reserved and this information appears in the comprehensive land use plan, the planning board shall immediately notify the board of education whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. The board of education shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the planning board. If the board of education does not wish to reserve the site, the subdivision shall not be approved without such reservation. The board of education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase. If the board of education has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation.

(Code 1995, § 151.08; Ord. of 2-15-1988)

Sec. 46-9. - Zoning and other plans.

Similarly, proposed subdivisions must comply in all respects with the requirements of chapter 54 that are in effect in the area to be subdivided, and any other officially adopted plans.

(Code 1995, § 151.09; Ord. of 2-15-1988)

Secs. 46-10—46-36. - Reserved.

ARTICLE II. - LEGAL PROVISIONS

Sec. 46-37. - Plat approval.

- (a) After February 15, 1988, no subdivision plat of land within the town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the planning board as set forth in section 46-81, and until this approval is entered in writing on the face of the plat by the board of commissioners and attested by the town clerk.
- (b) The register of deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the town that has not been approved in accordance with these provisions, nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with this section.

(Code 1995, § 151.20; Ord. of 2-15-1988)

Sec. 46-38. - Statement by owner.

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision regulation jurisdiction of the town.

(Code 1995, § 151.21; Ord. of 2-15-1988)

Sec. 46-39. - Dedications.

Pursuant to G.S. 160D-806, the approval of a plat shall not be deemed to constitute or effect the acceptance by the town or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the board of commissioners may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other public purposes, when the lands or facilities are located within its subdivision regulations jurisdiction. Acceptance of dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the municipality shall not place on the town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the municipality shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

(Code 1995, § 151.22; Ord. of 2-15-1988)

Sec. 46-40. - Variances.

The board of adjustment may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the board of adjustment shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted until the board of adjustment holds a public hearing and finds:

- (1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.

(Code 1995, § 151.23; Ord. of 2-15-1988)

Sec. 46-41. - Amendments.

- (a) The board of commissioners may from time-to-time amend the terms of this article, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the planning board for review and recommendation. The planning board shall have 30 days from the time the proposed amendment is submitted to it within which to submit its report. If the planning board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.
- (b) No amendment shall be adopted by the board of commissioners until they have held a public hearing on the amendment. Notice of the hearing shall be published in a paper of record at least once a week for two successive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 nor less than ten days prior to the hearing date. In computing the ten- through 25-day period, the date of publication is not to be counted, but the date of the hearing is.

(Code 1995, § 151.24; Ord. of 2-15-1988; Ord. of 9-19-2006)

Sec. 46-42. - Abrogation.

It is not intended that this article repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this article imposes greater restrictions, the provisions of this article shall govern.

(Code 1995, § 151.25; Ord. of 2-15-1988)

Sec. 46-43. - Administrator.

The holder of the office of zoning administrator is hereby appointed to serve as subdivision administrator.

(Code 1995, § 151.26; Ord. of 2-15-1988)

Secs. 46-44—46-74. - Reserved.

ARTICLE III. - SUBDIVISION PLATS

Sec. 46-75. - Plat required on subdivision.

Pursuant to G.S. 160D-804, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this article whenever any subdivision of land takes place.

(Code 1995, § 151.40; Ord. of 2-15-1988)

Sec. 46-76. - Approval prerequisite.

Pursuant to G.S. 160D-803, no final plat of a subdivision within the jurisdiction of the town, as established in section 46-4, shall be recorded by the county register of deeds until it has been approved by the town planning board as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this article.

(Code 1995, § 151.41)



Sec. 46-77. - Procedures for review of subdivisions.

- (a) All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in Sec. 46-5 Definitions. Major subdivisions shall be reviewed in accordance with the procedures in sections 46-79 through 46-81. Minor subdivisions shall be reviewed in accordance with the provisions in section 46-78. However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road, or right-of-way from the property to be subdivided, the subdivision shall not qualify under the abbreviated procedure. Furthermore, the abbreviated procedure may not be used a second time within three years on any property less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or any legal interest in the original subdivision at the time the subdivision reviewed preliminary or final plat approval.

(Code 1995, § 151.42; Ord. of 2-15-1988)

Sec. 46-78. - Minor subdivisions.

(a) *Preliminary Plat.*

- (1) Prior to submission of a final plat, the subdivider shall submit to the subdivision administrator three copies of the preliminary plat of the proposed minor subdivision containing the following information:
- a. A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
  - b. The boundaries of the tract and the portion of the tract of the subdivided;
  - c. The total acreage to be subdivided;
  - d. The existing and proposed use of the land within the subdivision and the existing uses of land adjoining it;
  - e. The existing street layout and right-of-way width, lot layout and size of lots;
  - f. The name, address, and telephone number of the owner;
  - g. The name, if any, of the proposed subdivision;
  - h. Streets and lots of adjacent developed or platted properties;
  - i. The zoning classification of the tract and of adjacent properties;
  - j. A statement from the county health department that a copy of the sketch plan has been submitted to them if a septic tank or other on-site water or wastewater systems are to be used in the subdivision.
- (2) An application for a preliminary plat for a minor subdivision shall be deemed complete if it is submitted on the required form, includes all the requested information, and is accompanied by the applicable fee. A determination of application completeness shall be made within five (5) working day of application filing. If an application is determined to be incomplete, the subdivision administrator shall provide written notice to the applicant along with the explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within twenty (20) working days, the application shall be considered withdrawn.
- (3) The subdivision administrator shall review the preliminary plat with the applicant for general compliance with requirements, the zoning and eligible uses, and other needs. The public works, fire chief or police chief, local NCDOT district representative or other representative may be invited to review the sketch plan depending on the determination of the staff reviewer. Additional

information concerning the proposed subdivision may be required at the request of the administering staff.

- (4) One copy of the preliminary plat shall be retained and kept on file by the subdivision administrator, and one copy shall be returned to the subdivider or his authorized agent.
  - (5) The subdivision administrator shall take action regarding the application by either approving or denying the minor subdivision request based on compliance with the information required by subsection Sec. 46-78 (a)(1). The action of the subdivision administrator shall be reduced to writing and transmitted to the subdivider.
- (b) *Final plat for minor subdivisions.*
- (1) Upon approval of the preliminary plat by the subdivision administrator the subdivider may proceed with the preparation of the final plat in accordance with the requirements of this article.
  - (2) The final plat shall include a statement from the Buncombe County Health Department that a copy of the final plat has been submitted to them if septic tanks or other on-site water or wastewater systems are to be used in the subdivision.
  - (3) The final plat shall be prepared by a registered land surveyor currently licensed and registered in the state by the state board of registration for professional engineers and land surveyors.
  - (4) Five copies of the final plat shall be submitted, two of these shall be on reproducible material; three shall be black-or blue-line paper prints. Material and drawing medium for the original shall be in accordance with the "Standards of Practice for Land Surveying in North Carolina" where applicable, and the requirements of the county register of deeds.
  - (5) The final plat shall be of a size suitable for recording with the county register of deeds and shall be at a scale of not less than one-inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.
  - (6) Submission of the final plat shall be accompanied by a filing fee of \$35.00.
  - (7) The following signed certificate shall appear on all five copies of the final plat.

a. *Certification of ownership and dedication.*

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Woodfin and that I hereby adopt this plan of subdivision with my free consent and established minimum building setback lines as noted.

Date	Owner

b. *Certificate of survey and accuracy.*

1. In accordance with G.S. 47-30, there shall appear on each plat a certificate by the person under whose supervision such survey or such plat made, stating the origin of the information shown on the plat, including recorded deed and plat references shown thereon. The ration of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer is authorized to take acknowledgements by the registered land surveyor preparing the plat. All plats to

be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

- The certificate required shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments and shall be in substantially the following form:

"I \_\_\_\_\_, Certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seat this day of \_\_\_\_\_, A.D. 20\_\_\_\_."

	_____
	Surveyor
Seal or Stamp	
	_____
	Registration Number

- The certificate of the notary shall read as follows:

North Carolina, \_\_\_\_\_ County.

I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

	_____
	Notary Public
Seal-stamp	
My commission expires	_____.

- (8) The subdivision administrator shall review the final plat and shall recommend approval, conditional approval with modification to bring the plat into compliance, or disapproval of the final plat with reasons within 60 days of the first consideration of the plat.
- (9) If the subdivision administrator approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Woodfin, North Carolina and that this plat has been approved by the subdivision administrator for recording in the Office of the Register of Deeds of Buncombe County.

_____
Subdivision Administrator

- (10) The subdivider shall file the approved final plat with the county register of deeds within 15 days of the subdivision administrator approval; otherwise such approval shall be null and void.

(Code 1995, § 151.43; Ord. of 2-15-1988)

Sec. 46-79. - Major subdivisions.

- (a) *Number of copies and contents.* Prior to the preliminary plat submission, the subdivider shall submit to the planning board two copies of a sketch plan of the proposed subdivision or three copies if the abbreviated procedure is to be used containing the following information:
  - (1) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads and waterways;
  - (2) The boundaries of the tract and the portion of the tract to be subdivided;
  - (3) The total acreage to be subdivided;
  - (4) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
  - (5) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;
  - (6) The name, address, and telephone number of the owner;
  - (7) The name, if any, of the proposed subdivision;
  - (8) Streets and lots of adjacent developed or platted properties;
  - (9) The zoning classification of the tract and of adjacent properties;
  - (10) A statement from the county health department that a copy of a sketch plan has been submitted to them if septic tanks or other on-site water or wastewater systems are to be used in the subdivision.
- (b) *Submission and review procedure.*
  - (1) The concept plan shall be submitted at least 21 days prior to the planning board meeting at which it will be reviewed. Concept plans shall meet the specifications of Sec. 46-82. The planning board shall review the concept plan for general compliance with the requirements of this article and chapter 54; the planning board shall advise the subdivider or his authorized agent of the

regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

- (2) One copy of the concept plan shall be retained as a part of the minutes of the planning board with the other copy being returned to the subdivider or his authorized agent.

(Code 1995, § 151.44; Ord. of 2-15-1988)

Sec. 46-80. - Preliminary plat submission and review.

(a) *Submission procedure.*

- (1) Upon approval of the concept plan by the planning board, the subdivider may proceed with the preparation of the preliminary plat, and with arrangements for making required improvements in accordance with the approved concept plan and the requirements of this chapter. For every major subdivision within the jurisdiction of the town, the subdivider shall submit a preliminary plat which shall be reviewed by the planning board and approved by the board of commissioners before any work is begun of any kind which affects the topography on the site.
- (2) Three copies of the preliminary plat (as well as any additional copies which the subdivision administrator determines are needed to be sent to other agencies) shall be submitted to the administrator of this article at least 21 days prior to the planning board meeting at which the subdivider desires the planning board to review the preliminary plat.
- (3) Preliminary plats shall meet the specifications in section 46-82.
- (4) An application for a preliminary plat for a major subdivision shall be deemed complete if it is submitted on the required form, includes all the requested information, and is accompanied by the applicable fee. A determination of application completeness shall be made within five (5) working day of application filing. If an application is determined to be incomplete, the subdivision administrator shall provide written notice to the applicant along with the explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within twenty (20) working days, the application shall be considered withdrawn.

(b) *Review by other agencies.*

After having received the preliminary plat from the subdivider, the subdivision administrator may submit copies of the preliminary plat and any accompanying material to other officials and agencies which may be concerned with the new development.

(c) *Review procedure.*

- (1) The planning board shall review the preliminary plat at or before its next regularly scheduled meeting which follows at least 21 days after the subdivision administrator received the preliminary plat and the comments from the appropriate agencies.
- (2) The planning board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 60 days of its first consideration of the plat.
- (3) If the planning board recommends approval of the preliminary plat, it shall retain one copy of the plat for its minutes and transmit two copies of the plat to the board of commissioners with its recommendations.
- (4) If the planning board recommends conditional approval of the preliminary plat, it shall keep one copy of the plat for its minutes, transmit two copies of the plat and its recommendation to the board of commissioners, and return the remaining copy of the plat and its recommendation to the subdivider.
- (5) If the planning board recommends disapproval of the preliminary plat, it shall retain one copy of the plat for its minutes, transmit one copy of the plat and its recommendation to the board of

commissioners, and return the remaining copy of the plat and its recommendations to the subdivider.

- (6) If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat or appeal the decision to the board of commissioners.
- (7) If the planning board does not make a written recommendation within 60 days after its first consideration of the plat, the subdivider may apply to the board of commissioners for approval or disapproval.
- (8) If the planning board approves the preliminary plat, such approval shall be noted on two copies of the plat. One copy of the plat shall be retained by the board of commissioners and one copy shall be returned to the subdivider. If the board of commissioners approves the preliminary plat with conditions, approval shall be noted on two copies of the plat along with a reference to the conditions. One copy of the plat along with the conditions shall be retained by the board of commissioners and one copy of the preliminary plat along with the conditions shall be returned to the subdivider. If the board of commissioners disapproves the preliminary plat, the reason for such disapproval shall be specified in writing. One copy of the plat and the reasons shall be retained by the board of commissioners and one copy shall be returned to the subdivider.

(Code 1995, § 151.45; Ord. of 2-15-1988)

Sec. 46-81. - Final plat submission and review.

- (a) *Preparation of final plat and installation of improvements.* Upon approval of the preliminary plat by the board of commissioners, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this article. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this article or guaranteed their installation as provided herein. No final plat will be accepted for review by the planning board or the board of commissioners unless accompanied by written notice by the subdivision administrator acknowledging compliance with the improvement and guarantee standards of this article.
- (b) *Performance guarantees.* (A) *Agreement and security required.* In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the town may enter into an agreement with the subdivider whereby the subdivider shall complete all required improvements. Once the agreement is signed by both parties and the security required herein is provided, the final plat may be approved if all other requirements of this article are met. To secure this agreement, the subdivider shall provide, any, or a combination of the following guarantees to cover the costs of the uncompleted improvements:
  - a. *Surety bond.* The subdivider shall obtain a surety bond from a surety bonding company authorized to do business in the state. The bond shall be payable to the town and shall be in an amount sufficient to cover the entire cost of completing all required improvements, but not to exceed 125 percent of the entire estimated cost, as estimated by the subdivider and approved by the board of commissioners. The duration of the bond shall be until such time as the improvements are accepted by the board of commissioners.
  - b. *Letter of Credit.*

The subdivider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the town or in escrow with a financial institution. The use of any instrument other than cash shall be subject to the approval of the board of commissioners. The amount of deposit shall be equal sufficient to cover the entire cost of completing all requirement improvements, not to exceed 125 percent of the entire estimated cost, as estimated by the subdivider and approved by the board of commissioners.

If cash or other instrument is deposited in escrow with a financial institution, as provided above, then the subdivider shall file with the board of commissioners an agreement between the financial institution and himself guaranteeing the following:

- (i) That the escrow account shall be held in trust until released by the board of commissioners and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and
  - (ii) That in the case of a failure on the part of the subdivider to complete the improvements, the financial institution shall, upon notification by the board of commissioners and submission of by the board of commissioners to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the town the funds estimated to complete the improvement, up to the full balance of the escrow account, or deliver to the town any other instruments fully endorsed or otherwise made payable in full to the town.
- (2) *Default.* Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, the surety or the financial institution holding the escrow account shall, if requested by the board of commissioners, pay all or any portion of the bond or escrow fund to the town up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the board of commissioners, in its discretion, may expend such portion of the funds as it deems necessary to complete all or any portion of the required improvements.
- (3) *Release of guarantee security.* The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the board of commissioners that the improvements for which the performance guarantee in being required are complete. If the improvements are not complete and the current performance guarantee is expiring, it shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A subdivider shall demonstrate, reasonable, good-faith progress toward completion of the required improvements.
- (c) *Submission procedure.*
- (1) The subdivider shall submit the final plat, so marked, to the subdivision administrator not less than 21 days prior to the planning board meeting at which it will be reviewed; further, the final plat for the first stage of the subdivision shall be submitted not more than six months after the date on which the preliminary plat was approved; otherwise, such approval shall be null and void, unless a written extension of this limit is granted by the board of commissioners on or before the six month anniversary of the approval.
  - (2) The final plat shall be prepared by a registered land surveyor currently licensed and registered in the state by the state board of registration for professional engineers and land surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Manual of Practice for Land Surveying in North Carolina.
  - (3) Five copies of the final plat shall be submitted; two of these shall be on reproducible material; three shall be black- or blue-line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the county register of deeds.
  - (4) The final plat shall be of a size suitable for recording with the county register of deeds and shall be at a scale of not less than one-inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.
  - (5) Submission of the final pat shall be accompanied by a filing fee as established by the board of commissioners.
  - (6) The final plat shall meet the specifications in sections 46-81 and 46-82.
  - (7) The following signed certificates shall appear on all five copies of the final plat:

a. *Certificate of ownership and dedication.*

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Woodfin, North Carolina and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.

_____	_____
Date	Owners

b. *Certificate of survey and accuracy.*

1. In accordance with the Manual of Practice for Land Surveying in North Carolina:

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgements and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source on information.

2. The certificate shall take the following general form:

I, \_\_\_\_\_, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (other); that the ration of precision as calculated by latitudes and departure is 1:\_\_\_\_\_, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_.

	_____
	Surveyor
Seal Or Stamp	
	_____
	Registration Number



3. The certificate of the notary shall read as follows:

North Carolina, \_\_\_\_\_ County.

I, A Notary Public of the County and State aforesaid, certify that \_\_\_\_\_, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

	_____
	Notary Public
Seal-Stamp	
My Commission expires	_____.

c. *Certificate of approval of the design and installation of streets, utilities, and other required improvements.*

I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to town specifications and standards in the \_\_\_\_\_ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the town has been received, and that the filing fee for this plat, has been paid, as such fee is established by the Board of Commissioners.

_____	_____
Subdivision Administrator	Date

- (8) The planning board shall review the final plat at or before its next regularly scheduled meeting which follows at least 21 days after the subdivision administrator receives the final plat and shall recommend approval, conditional approval with modifications to bring the plat into compliance or disapproval of the final plat with reasons within 60 days of its first consideration of the plat.
- (9) During its review of the final plat, the planning board may appoint a registered land surveyor to confirm the accuracy of the final plat if agreed to by the board of commissioners. If errors are found, the plat shall not be recommended for approval until such errors have been corrected.
- (10) If the planning board recommends approval of the final plat, it shall transmit all copies of the plat and its written recommendations to the board of commissioners through the subdivision administrator.
- (11) If the planning board recommends disapproval of the final plat, it shall instruct the subdivider concerning resubmission of revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this article and resubmit the same for reconsideration by the planning board, or appeal the decision to the board of commissioners.
- (12) Failure of the planning board to make a written recommendation within 60 days shall constitute grounds for the subdivider to apply to the board of commissioners for approval.

- (13) If the planning board recommends approval or conditional approval with modifications to bring the plat into compliance, or the subdivider appeals to the board of commissioners, the board of commissioners shall review and approve or disapprove the final plat within thirty days after the plat and recommendations of the planning board have been received by the subdivision administrator.
- (14) If the board of commissioners approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Woodfin, North Carolina and that this plat has been approved by the Board of Commissioners of the Town of Woodfin for recording in the Office of the Register of Deeds of Buncombe County.

Town Clerk	Date

\_\_\_\_\_, North Carolina

- (15) If the final plat is disapproved by the board of commissioners, the reasons for such disapproval shall be stated in writing, specifying the provisions of this article with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the board of commissioners as part of its proceedings; one copy of the reasons and three copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance and resubmit the same for reconsideration by the planning board and the board of commissioners or by the board of commissioners as determined by the board of commissioners.
- (16) If the final plat is approved by the board of commissioners, the original tracing and one print of the plat shall be retained by the subdivider. One reproducible tracing and one print shall be filed with the town clerk, and one print shall be returned to the planning board for its records.
- (17) The subdivider shall file the approved final plat with the register of deeds of the county within ten days of the board of commissioners' approval; otherwise, such approval shall be null and void.

(Code 1995, § 151.46; Ord. of 2-15-1988)

The preliminary and final plats shall depict or contain the information indicated in the following table. An "X" indicates that the information is required.

<i>Information</i>	<i>Concept Plan</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Title block containing: Property designation	X	X	X
Name of owner	X	X	X
Location (including township, county, and state)	X	X	X
Date or dates survey was conducted and plat prepared		X	X
A scale of drawing in feet per inch listed in words or figures	X	X	X
A bar graph	X	X	X
Name, address, registration number and seal of the registered land surveyor		X	X
Name of the subdivider	X	X	X
Corporate limits, township boundaries, county lines if on the subdivision tract	X	X	X
The registration numbers and seals of the professional engineers, registered land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision		X	X
North arrow and orientation	X	X	X
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands	X	X	X
The names of owners of adjoining properties		X	X
The names of any adjoining subdivisions or record or proposed and under review		X	X
Minimum building setback lines	X	X	X

The zoning classification of the tract to be subdivided and adjoining properties	X	X	
Proposed lot lines, lot and block numbers, and approximate dimensions	X	X	X
The exact location of the flood hazard, floodway and floodway fringe areas from the community's FHBM or other FEMA maps		X	X
Right of way location and dimensions, Proposed streets, pavement widths, approximate grades and street names		X	X
Typical cross section of proposed streets and proposed street names and designation as "public" or "private"		X	X
Existing and platted streets on adjoining properties and in the proposed subdivision		X	X
Evidence that the subdivider has obtained such approval, location and dimensions of all:			
Utility and other easements		X	X
School sites		X	X
Areas to be dedicated to or reserved for public use		X	X
Areas to be used for purposes other than residential with the purpose of each stated		X	X
The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowner's association, or for tenants remaining in subdivider's ownership) of recreation and open space lands			
Sanitary sewers system layout, prepared by a profession engineer		X	
Storm sewers system layout, prepared by a professional engineer		X	
Other drainage facilities, if any, prepared by a professional engineer, except incidental drainage		X	

Water distribution system layout, prepared by a professional engineer illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blow-offs, pumps, and gate valves		X	
A statement as to whether or not natural gas, telephone and electric and cable television lines are to be installed and whether or not they will be overhead or underground.		X	X
Plans for individual water supply and sewage disposal systems, if any		X	
Acreage in total tract to be subdivided	X	X	X
Total number of parcels created	X	X	X
Acreage in the smallest lot in the subdivision		X	
Linear feet in streets		X	
Topographic map with contour intervals of no greater than 10' at a scale of no less than 1:2.00	X	X	X

(Code 1995, § 151.47; Ord. of 2-15-1988)

Sec. 46-83. - Recombination of land.

- (a) Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.
- (b) Such an instrument shall be approved by the same agencies as approved the final plat. The board of commissioners may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.
- (c) Such an instrument shall be executed, acknowledged, or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.
- (d) When lots have been sold, the plat may be vacated in the manner provided in subsections (a), (b) and (c) of this section by all owners of the lots in such plat joining in the execution of such writing.

(Code 1995, § 151.48; Ord. of 2-15-1988)

Sec. 46-84. - Resubdivision procedures.

For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

(Code 1995, § 151.49; Ord. of 2-15-1988)

Sec. 46-85. - Zoning vested right.

- (a) *Purpose.* The purpose of this section is to implement the provisions of G.S. 160D-108.1 pursuant to which a statutory zoning vested right is established upon the approval of a site-specific vesting plan.
- (b) *Approving authority.* The town board of commissioners shall be the approving authority for zoning vested rights.

(c) *Establishment of a zoning vested right.*

- (1) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the town board of commissioners of a site-specific development plan, following notice and public hearing.
- (2) The town may approve a site-specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.
- (3) A site-specific development plan shall be deemed approved upon the effective date of the town board of commissioners' action.
- (4) Notwithstanding the above information, approval of a site-specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
- (5) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the town, including, but not limited to, all codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific development plan upon the expiration or termination of the vested right in accordance with this section.
- (6) A zoning vested right is not a personal right but shall attach to and run with the applicable property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.
- (7) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Site-specific vesting plan*, for the purposes of applying for zoning vested rights approval under this section, means a plan of land development submitted to the town by a landowner or agent. The plan shall be one of the following:

- a. A preliminary plat for a proposed subdivision that meets all requirements set forth in the town's subdivision regulations;
- b. A site plan for a group development as described in Chapter 54. or
- c. A preliminary plan for a development that provides information regarding the type (single-family, multifamily, commercial, etc.) and intensity (number of lots, number of units, approximate square feet of commercial space, etc.) of the proposed development such that it describes with reasonable certainty the type and intensity of development proposed for the site.

The town shall determine whether the plan describes with reasonable certainty the type and intensity of development proposed for the site.

(d) *Approval procedures and approving authority.*

- (1) Except as otherwise provided in this section, an application for site-specific vesting plan approval shall be processed in accordance with the procedures established by ordinance and shall be

considered by the town board of commissioners for the specific type of zoning or land use permit or approval for which application is made.

- (2) In order for a zoning vested right to be established upon approval of a site-specific development plan, the applicant must indicate at the time of application, on a form to be provided by the town, that a zoning vested right is being sought.
  - (3) Each map, plat, site plan, or other document evidencing a site-specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."
  - (5) Following approval or conditional approval of a site-specific development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.
  - (6) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this article.
- (e) *Duration.*
- (1) A zoning right that has been vested as provided in this section shall remain vested for a period of five years.
  - (2) A zoning permit, conditional use permit, or approval of a preliminary plat for a proposed subdivision shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.
- (f) *Termination.* A zoning right that has been vested as provided in this section shall terminate:
- (1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
  - (2) With the written consent of the affected landowner;
  - (3) Upon findings by the town, by ordinance after notice and a public hearing, that natural or manmade hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan;
  - (4) Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural planning, marketing, legal, and other consultant's fees incurred after approval by the town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
  - (5) Upon findings by the town board of commissioners, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the town board of commissioners of the site-specific vesting plan; or
  - (6) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site-specific vesting plan, in which case the town board of commissioners may, by ordinance after notice and a hearing, modify the affected provisions upon a finding that the change in state or federal law has a fundamental effect on the plan.
- (g) *Voluntary annexation.* A petition for annexation filed with the town under G.S. 160A-31 or 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. 160D-108. A statement that declares that no zoning vested right has been established under G.S. 160D-108, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

- (h) *Limitations.* Nothing in this section is intended or shall be deemed to create any vested right other than those established pursuant to G.S. 160A-385.1.
- (i) *Repeal.* In the event that G.S. 160A-385.1 is repealed, this section shall be deemed repealed and the provisions hereof no longer effective.

(Code 1995, § 151.50)

Secs. 46-86—46-113. - Reserved.

#### ARTICLE IV. - REQUIREMENTS

Sec. 46-114. - Minimum standards.

Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this article and paid for by the subdivider, unless other means of financing is specifically stated in this article. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

(Code 1995, § 151.65; Ord. of 2-15-1988)

Sec. 46-115. - Suitability of land.

- (a) Land which has been determined by the planning board on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct such conditions and to eliminate the dangers.
- (b) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the county health department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.
- (c) Flood prevention.
  - (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
  - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(Code 1995, § 151.66; Ord. of 2-15-1988)

Sec. 46-116. - Name duplication.

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the county.

(Code 1995, § 151.67; Ord. of 2-15-1988)

Sec. 46-117. - Subdivision design.

- (a) *Blocks.*
  - (1) The lengths, widths, and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.



- (2) Blocks shall not be less than 400 feet or more than 1,800 feet.
  - (3) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.
  - (4) Where deemed necessary by the board of commissioners, a pedestrian crosswalk at least 15 feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.
  - (5) Block numbers shall conform to the town street numbering system, if applicable.
- (b) *Lots.* All lots in new subdivisions shall conform to the zoning requirement, which means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of chapter 54. It is not sufficient merely for the average lot to meet the zoning requirements.
- (c) *Easements.* Easements shall be provided as follows:
- (1) *Utility easements.* Easements for underground or above ground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least ten feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines. The planning board will determine whether one easement is sufficient or whether several easements are necessary to accommodate the various facilities and the subdivider shall provide the required easements.
  - (2) *Drainage easements.* Where a subdivision is traversed by a stream or drainageway, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.

(Code 1995, § 151.68; Ord. of 2-15-1988)

Sec. 46-118. - Streets.

- (a) *Type of street required.* All subdivision lots shall abut on a public street. All public streets shall be dedicated to the town or the public as determined appropriate by board of commissioners. All public streets shall be built to the standards of the town and the state department of transportation as found in "Subdivision Roads Minimum Construction Standards." Public streets not dedicated to the town which are eligible for acceptance into the state highway system shall be constructed to the standards necessary to be put on the state highway system or the standards in this article, whichever is stricter, in regard to each particular item and shall be put on such system. Streets not dedicated to the town which are not eligible to be put on the state highway system because there are too few lots or residences shall, nevertheless, be dedicated to the public and shall be in accordance with the standards in this article or the standards necessary to be put on the state system shall be included with the final plat. If any street is proposed to intersect with a state maintained road, the subdivider shall apply for driveway approval as required by the North Carolina Department of Transportation.
- (b) *Subdivision street disclosure statement.* All streets shown on the final plat shall be designated in accordance with G.S. 136.102.6, and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into any municipal or the state system, before lots are sold, a statement explaining the status of the street shall be included with the final plat.
- (c) *Half streets.* The dedication of half streets of less than 60 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than 60 feet of right-of-way, not less than 60 feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider, provided that the width of the partial dedication is such as to permit the installation of such

facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

- (d) *Marginal access streets.* Where a tract of land to be subdivided adjoins a principal arterial street the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.
- (e) *Access to adjacent properties.* Where, in the opinion of the board of commissioners, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround provided.
- (f) *Nonresidential streets.* The subdivider of a nonresidential subdivision shall provide streets in accordance with F-4 of the North Carolina Roads, Minimum Construction Standards, July 1, 1979; and the standards in this article, whichever are stricter in regard to each particular item.
- (g) *Design standards.* The design of all streets and roads within the jurisdiction of this article shall be in accordance with the accepted policies of the state department of transportation, division of highways, as taken or modified from the American Association of State Highway Officials (AASHO) manuals. The North Carolina Department of Transportation, Division of Highways, Subdivision Roads Minimum Construction Standards, May 1, 1985 shall apply for any items not included in this article, or where stricter than this article.
- (h) *Other requirements.*
  - (1) *Through traffic discouraged on residential collector and local streets.* Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to ensure convenient access to parks, playgrounds, schools, or other places of public assembly.
  - (2) *Sidewalks.* Sidewalks may be required by the planning board on both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of four feet, and shall consist of a minimum thickness of four inches of concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six inches of concrete at driveway crossings.
  - (3) *Street names.* Proposed streets which are obviously in alignment with existing streets 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 in the county irrespective of the use of a suffix such as street, road, drive, place, court and the like. Street names shall be subject to the approval of the planning board.
  - (4) *Street name signs.* The subdivider shall be required to provide and erect street name signs to town standards at all intersections within the subdivision.
  - (5) *Permits for connection to state roads.* An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the division of highways.
  - (6) *Offset to utility poles.* Poles for overhead utilities should be located clear of roadway shoulders, preferably a minimum of at least 30 feet from the edge of pavement on major thoroughfares. On streets with curb and gutter, utility poles should be set back a minimum distance of six feet from the face of the curb.
  - (7) *Wheelchair ramps.* In accordance with G.S. 136-44.14, all street curbs in the state being constructed or reconstructed of maintenance procedures, traffic operations, repairs, corrections of utilities, or altered for any reason after September 1, 1973, shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

(8) *Horizontal width on bridge deck.*

- a. The clear roadway widths for new and reconstructed bridges serving two-lane, two-way traffic shall be as follows:
  1. *Shoulder section approach.*
    - (i) *Under 800 ADT design year.* Minimum 28 feet face-to-face of parapets or rails or pavement width plus ten feet, whichever is greater.
    - (ii) *800 through 2,000 ADT design year.* Minimum 34 feet width face-to-face of parapets or rails or pavement width plus 12 feet, whichever is greater.
    - (iii) *Over 2,000 ADT design year.* Minimum 40 feet. Desirable 44 feet width face-to-face of parapets or rails.
  2. *Curbs and gutter approach.*
    - (i) *Under 800 ADT design year.* Minimum 24 feet face-to-face of curbs.
    - (ii) *Over 800 ADT design year.* Width of approach pavement measured face-to-face of curbs.
- b. Where curb and gutter sections are used on roadway approaches in height, in width of face-to-face of curbs, and in crown drop. The distance from face of curb to face of parapet or rail shall be one foot six inch minimum, or greater if sidewalks are required.
- c. The clear roadway widths for new and reconstructed bridges having four or more lanes serving undivided two-way shall be as follows:
  1. *Shoulder section approach.* Width of approach pavement plus width of usable shoulders on the approach left and right. Minimum eight feet; des. ten feet.
  2. *Curb and gutter approach.* Width of approach pavement measured face-to-face of curbs.

(Code 1995, § 151.69; Ord. of 2-15-1988)

Sec. 46-119. - Utilities.

- (a) *Water and sanitary systems.* The town water and sewer district board directs the town systems. Approval of a subdivision plat by the planning board is dependent on a written statement of agreement between the water and sewer district board and the subdivider. No action will be taken by either parties until this section is satisfied.
- (b) *Stormwater drainage system.* The subdivider shall provide a surface water drainage system constructed to standards found in the state department of transportation, as reflected in the Handbook for the Design of Highway Surface Drainage Structures, 1973, subject to review by the town engineer.
  - (1) No surface water shall be channeled or directed into a sanitary sewer.
  - (2) Where feasible, the subdivider shall connect to an existing storm drainage system.
  - (3) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
  - (4) Surface drainage courses shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distance, and courses shall be a sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control as required by state law and any locally adopted erosion and sedimentation control ordinances.

- (5) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one foot in each 200 feet of horizontal distance.
  - (6) Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with state law.
  - (7) Anyone constructing a dam or impoundment within the subdivision must comply with the state Dam Safety Law, G.S. 143-215.23 et seq. and 15A NCAC 2K.0103 et seq.
  - (8) In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (c) *Street lights.* All subdivisions in which the size of the smallest lot is less than 40,000 square feet shall have street lights installed at every intersection of roads within the subdivision and at all entrances to the subdivision in accordance with state department of transportation standards. The developer shall be required to pay to the electric company the cost of street lighting installation that exceeds four times the continuing annual revenue. If underground wiring of street lighting is requested by the developer or the town, the developer may be required to install all fixed items such as conduit, pads, handholds and pole foundations; the town will own and maintain the fixed items.
- (d) *Underground wiring.* All subdivisions in which the smallest lot is less than 40,000 square feet shall have underground wiring. This requirement may be waived the power lines existed above ground at the time of first approval of a plat by the planning board, or the power lines are located outside the boundaries of the parcel of land that contains the property covered by the subdivision plat. The subdivider shall be required to pay the charges for installation of the underground service, which charges will be made in accordance with the plan as filed with the state utilities commission.

(Code 1995, § 151.70; Ord. of 3-15-1988)

Sec. 46-120. - Other requirements.

- (a) *Placement of monuments.* Unless otherwise specified by this article, the Manual of Practice for Land Surveying, as adopted by the state board of registration for professional engineers and land surveyors under the provisions of 21 NCAC 56.0101 et seq., shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers, and other property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.
- (b) *Construction procedures.* No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities. No building, zoning or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of the ordinance from which this article is derived until all the requirements of this article have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the administrator of this article to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.
- (c) *Oversized improvements.* The town may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the town requires the installation of improvements in excess of the standards required in this article, including all standards adopted by reference, the town shall pay the cost differential between the improvement required and the standards in this article.

(Code 1995, § 151.71; Ord. of 2-15-1988)

Sec. 46-121. - Penalty.

- (a) Whenever the Subdivision Administrator determines that a person is violating any of the provisions of this ordinance or any plan, order, or condition issued pursuant to this ordinance, a written notice of violation may be issued. The notice of violation shall be delivered by personal delivery, electronic delivery, or first-class mail to the holder of the development approval or occupant and the landowner of the property involved, if the landowner is not the occupant or holder of the development approval. The notice of violation may be posted on the property. The subdivision administrator shall certify that the notice was provided.
- (b) The violation of any provision of this chapter shall subject the offender to a civil penalty in the amount of \$500.00 to be recovered by the town. Violators shall be issued a written citation which must be paid within ten days.
- (c) Each day's continuing violation of this chapter shall be a separate and distinct offense.
- (d) Notwithstanding subsection (b) of this section, this chapter may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.
- (e) Nothing in this section shall be construed to limit the use of remedies available to the town. The town may seek to enforce this chapter by using any one, all, or a combination of remedies.

(Code 1995, § 151.99; Ord. of 2-15-1988)