

**TOWN OF WEDDINGTON
REGULAR PLANNING BOARD MEETING
MONDAY, AUGUST 26, 2019 – 7:00 P.M.
WEDDINGTON TOWN HALL
1924 WEDDINGTON ROAD WEDDINGTON, NC 28104
AGENDA**

1. Open the Meeting
2. Determination of Quorum
3. Approval of Minutes – July 22, 2019 Regular Planning Board Meeting Minutes
4. Old Business
 - A. Discussion and Recommendation of text amendments to Chapter 46 - subdivision ordinance and Chapter 58 - Zoning Ordinance; section 58-58 R-CD and section 58-271 Conditional zoning district amendment procedure to address Conservation Subdivision Amendments
 - B. Discussion and Recommendation of a text amendment to add Article 14 Titled Soil Erosion and Sedimentation Control Ordinance to the Zoning Ordinance
5. New Business
6. Update from Town Planner and Report from the August Town Council Meeting
7. Adjournment

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MONDAY, JULY 22, 2019 – 7:00 P.M.
WEDDINGTON TOWN HALL
MINUTES
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1. Open the Meeting

Vice Chairman Walt Hogan called the meeting to order at 7:00 p.m.

2. Determination of Quorum

Quorum was determined with Vice Chairman Walt Hogan, Board members Tami Hechtel, Barbara Harrison, Jim Vivian, Steve Godfrey, and Gerry Hartman present. Chairman Brad Prillaman was absent.

Staff: Town Administrator/Planner Lisa Thompson, Town Clerk Karen Dewey

Visitors: Bill Deter

3. Approval of Minutes – June 24, 2019 Regular Planning Board Meeting Minutes

Motion: Board member Hartman made a motion to approve the June 24, 2019 Regular Planning Board Meeting Minutes
Second: Board member Harrison
Vote: The motion passed with a unanimous vote.

4. Public Hearing

A. Discussion and Consideration of a Temporary Use Permit for Christ Lutheran Church to hold a Community Movie Night on August 23, 2019 from 6:30 to 9:45 p.m.

Motion: Board member Hartman made a motion to open the public hearing.
Second: Board member Hechtel
Vote: The motion passed with a unanimous vote.

No one signed up to speak

Ms. Thompson presented the staff report: Matt Simpkins with Christ Lutheran Church has submitted an application for a Temporary Use Permit for a Movie Night and charity event to collect school supplies. The property is located at the corner of Rea Road and Reid Dairy Road. The event is August 23, 2019 from 6:30 to 9:45 p.m. Projected attendance is around 300 people and the event will include bounce houses, food trucks, music, games, and a movie on the lawn. All adjoining properties within 200 feet of the subject site have been notified in accordance with Section 58-13 of the Town of Weddington Zoning Ordinance.

Board member Harrison asked about parking and the need for an officer to direct traffic. Ms. Thompson responded that there is a controlled signal at the intersection and there will be volunteers to help traffic move in and out of the parking area and get parked appropriately. Board member Harrison asked if there was a rain contingency plan. Ms. Thompson introduced Elizabeth Buckley with the applicant-she responded that there is not a rain plan, the event would be cancelled.

Vice Chairman Hogan asked where the movie would be shown. Ms. Buckley responded that it would be behind the garage on the property, facing away from the road.

Vice Chairman Hogan asked about lighting for the parking area. Ms. Buckley responded that there are lights on the houses on the property, a streetlight, and portable lights. There is access to more portable lights, if needed.

Board member Godfrey asked about the potential for noise disturbing the neighbors. Ms. Buckley responded that the movie will start around 8 and the set up of the screen and equipment will help contain the noise.

Before issuing any temporary use permit, the Planning Board will make the following determinations:

- a. *The proposed temporary use will not materially endanger the public, health, welfare and safety:* The Planning Board unanimously agreed that, with the presence of security volunteers, as well as holding liability insurance and environmental health permits, this finding of fact is true.
- b. *The proposed temporary use will not have a substantial negative effect on adjoining properties:* The Planning Board unanimously agreed that, since all adjoining properties within 200 feet have been notified of this event and the Town has received no objections, this finding of fact is true.
- c. *The proposed temporary use is in harmony with the general purpose and intent of the ordinance and preserves its spirit:* The Planning Board unanimously agreed that this event promotes the spirit of community and the finding of fact is true.
- d. *The proposed temporary use is held no more than four times (4) per year at any particular location:* The Planning Board unanimously agreed that since this event is the second TUP application from the applicant for this year, this finding of fact is true.

Motion: Board member Hartman made a motion to close the public hearing
Second: Board member Harrison
Vote: The motion passed with a unanimous vote.

Motion: Board member Hartman made a motion to approve the Temporary Use Permit Application for Christ Lutheran Church to hold a community movie night and school supply drive on August 23, 2019 from 6:30 p.m. to 9:45 p.m. having found the application is consistent with the findings of fact.
Second: Board member Hechtel
Vote: The motion passed with a unanimous vote.

5. Old Business

- A. **Discussion and Recommendation of a text amendments to Chapter 46 - subdivision ordinance and Chapter 58 - Zoning Ordinance to address Conservation Subdivision Amendments**

Ms. Thompson reviewed the text amendments. There was a lot of reorganization, but she believes it is ready for Town Council. The Board should discuss the changes and make a recommendation tonight.

Board member Harrison expressed her concerns about the septic systems allowed in undivided conservation land if no room is available on the lots. She stated that she wants to be sure it's consistent. Ms. Thompson stated her agreement and that she would check to see if the septic fields are allowed on other homeowners' lots. Any septic lots will need easements for the owner. The Board agreed they needed clarification on the question of where septic fields are allowed.

Board member Harrison expressed her concern with the town ordinances getting involved with HOA establishment. Ms. Thompson explained the purpose of that text is to ensure HOA covenants and restrictions are established before any lots are sold and that this is existing language in the ordinance.

The Board discussed maintenance plans for open space and had questions about bonds. Ms. Thompson will check with the attorney regarding the town liability and bonding.

The Board agreed to table any recommendation of the text amendment until the August meeting. Ms. Thompson will get answers to questions and will communicate with the Board ahead of the next meeting.

The Board discussed the cul-de-sac length issue. Ms. Thompson stated that the text was changed to limit cul-de-sacs to number of houses rather than the length of the road. Board member Harrison expressed her continued concern. Board member Hartman suggested keeping the number of houses as a limit to the maximum length of a cul-de-sac but add a maximum limit as well. The Board agreed to the cul-de-sac limit of 16 houses or 1200 feet, whichever is less.

Ms. Thompson reviewed the changes in Chapter 58. The changes are only moving the maintenance plan and maintenance agreement requirements from zoning to the subdivision ordinance; and then conservation subdivisions are listed as conditional uses where our ordinance requires the plans to go through the CD rezoning process; which included a public involvement meeting-under that section, the conservation subdivision is exempted from that process as long as it is subject to the process and public meetings as required through the subdivision ordinance. This still needs attorney review and a few answers from NCDOT but should move forward for a public hearing possibly in October.

The Board agreed to staff bringing the texts together and table the recommendation for next month.

6. New Business

A. Discussion and Consideration of Minor Subdivision – Fox Run, Phase 1

Ms. Thompson presented the staff report: The applicant, Remington Homes, Inc. is seeking a minor subdivision for property located within the Red Fox Trail Subdivision. It is a total of 7.34 acres and is zoned R40 residential. There are four existing lots being subdivided to add one additional lot. Resultant lots all meet the minimum size requirement, the minimum front, side, and rear yard setback requirements, and are at least 120' wide at the established front setback. The proposed minor subdivision is in general conformity with the Town of Weddington Zoning and Subdivision Ordinances; therefore, staff recommends approval with the following conditions:

- Add a drainage easement along existing ditch, per Section 58-520 (b)
- Provide engineer's certification for drainage easement per Section 58-502 (c)
- Obtain approval from Union County Public Works

Motion: Board member Hartman made a motion to approve the Fox Run minor subdivision with conditions as listed by staff.

Second: Board member Harrison

Vote: The motion passed with a unanimous vote.

B. Land Use Plan Annual Review

Ms. Thompson presented the annual review: The Town is to conduct an annual review every July to determine its progress in achieving the land use plan goals, objectives and strategies. During this review, the Town should evaluate development decisions (e.g., zoning changes, subdivisions, building permits and public works projects) that have been made by the Town and other jurisdictions, growth trends, and the progress made in accomplishing the strategies listed in this Plan element. The result of the annual review may be to recommend revisions to policies, the future land use map, or the implementation program. Below is a list of items reviewed by the Planning Board and Town Council over the past year and how they continue comply with the plan:

Modification of Subdivision Ordinance for Weddington Acres cul-de-sac length

The town required both conservation and conventional subdivision to have the same cul-de-sac length requirements. The new requirement addresses volume and the disbursement of traffic versus a specific length. The ordinance continues to provide for connectivity where possible.

CZ: Weddington Community Fitness Center 5207 Weddington Road

The town reviewed surrounding uses to decide on the rezoning of the subject property. The community recreation center is required to be open for use to non-members; work with the Town to provide public service/community outreach programming quarterly; offer a free "trial" class to Weddington residents at least one day each week; and be available for Town sponsored community events. The town considered regulating the use, hours, and screening making the decision.

Text Amendment: Definition of Community Recreation Center

The discussion of the fitness center brought to light the issues with the town's list of uses and inconsistencies with the definition. The town redefined a community recreation center, aligning and supporting the goals of the land use plan.

CZ: Church Use at 315 Reid Dairy Road

The town reviewed the church use with regard to noise and lighting and made specific recommendations for a traffic study for any ancillary church use.

Text Amendment: Burning Land Clearing Vegetation

This text was introduced due to complaints of on-going burning operations of land clearing debris. It addressed a public nuisance issue.

Weddington Acres Final Plat; Falls at Weddington Final Plat Phase 3, Map1, Canisteo Final Plat

Reviewed plats to ensure compliance with preliminary plats, reviewed bond amounts and obtained maintenance agreements for the protection of open space and conservation lands.

Text Amendment: Town Lighting Ordinance

The Town Council hired a lighting engineer to assist with updates to the lighting ordinance. The new text addresses the color of LED lights and evaluates luminaire optical performance related to light trespass, sky glow, and high angle brightness control.

Weddington Swim and Racquet Club CUP amendment: change in lighting requirement

The town followed quasi-judicial procedures to amend inconsistencies on lit courts and hours of operation.

Text Amendment: Erosion Control Ordinance

Failures and deficiencies were reported from the Town's construction inspector with little to no action from NCDENR. The town developed a plan and ordinance to implement its own policy and penalties to get developers to adhere to erosion control plans. Erosion control will be delegated to the town after August 2019.

Text Amendment: Junk/Abandoned/Nuisance Vehicles

The town approved an ordinance to address several nuisance complaints throughout town.

Text Amendment: Conservation Subdivision

The Planning Board has been working through draft amendments to the subdivision ordinance to ensure a 4-step design process that gives the town more control to the layout of a site in relation to the land resources.

Recommendation: Tree Ordinance

Planning Board training – Several members attended quasi-judicial training. Staff will schedule a legislative update/training for the new year. Some members attended an on-site meeting and charette presented by Randall Arendt with staff, council, and members of the public.

The Town has a representative on the **Charlotte Regional Transportation Planning Organization** to stay informed and have input on road and thoroughfare plans. The town recently hired Kimley Horn to provide a level of service analysis on problem intersections. The town can now plan funding and apply for money locally or through the CRTPO.

The Town currently contracts with an outside agency for a part-time **code enforcement** officer to investigate complaints about violations of the Town's ordinance.

The Town continues to work with **engineering consultants** and **construction inspector** to ensure that all storm water detention ponds meet the Town's requirements and are inspected annually.

The Town utilizes the **Traffic Impact Analysis Ordinance** to minimize the impact of new construction on Town roads and infrastructures.

Motion: Board member Hartman made a motion to send the Land Use Plan Annual Review as amended to the Town Council for approval.

Second: Board member Godfrey
Vote: The motion passed with a unanimous vote.

7. Update from Town Planner and Report from the July Town Council Meeting

Ms. Thompson presented the update: Staff received construction plans for the property at the intersection of Hemby and Providence Roads. It will take about 2 months of review and Planning Board should see the plans in September or October. Staff has a pre-development meeting with a developer for subdividing property on Newtown Road south of Aero Plantation.

Council called for a public hearing at the August meeting for the Land Use Plan.

Council discussed park plans at the July meeting and agreed to slow down the planning process before getting to the construction plans to ensure Council agrees on development of the property.

8. Adjournment

Motion: Board member Hartman made a motion to adjourn the July 22, 2019 Regular Planning Board Meeting at 8:08 p.m.
Second: Board member Godfrey
Vote: The motion passed with a unanimous vote.

Approved: _____

Brad Prillaman, Chairman

Karen Dewey, Town Clerk

ARTICLE II. - PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

Sec. 46-36. - Plat required on any subdivision of land.

Pursuant to G.S. 160A-372, a final plat shall be prepared, approved, and recorded in accordance with the provisions of this chapter as a condition precedent to the subdivision of any land within the town.

Sec. 46-37. - Approval prerequisite to plat recordation.

Pursuant to G.S. 160A-373, no plat of a subdivision within the jurisdiction of the town, as established in section 46-3, shall be recorded by the county register of deeds or the Mecklenburg County register of deeds until it has been finally approved as provided herein. To secure such approval of a subdivision plat, the subdivider shall follow the procedures established in this article.

Sec. 46-38. –Preapplication Meeting

Any person contemplating the subdivision of property is strongly encouraged to have a preapplication meeting with the subdivision administrator in order that questions may be answered and that the subdivider may gain a better understanding of the requirements of this chapter. A preapplication meeting is required for conservation subdivisions.

Sec. 46-39. - Procedures for review of major and minor subdivisions.

Minor subdivisions shall be reviewed in accordance with section 46-40 and 46-41. Major subdivisions shall be reviewed in accordance with the procedures set forth in sections 46-42 through 46-47.

Minor Subdivisions

Sec. 46-40 – Preliminary Plat for minor subdivisions.

In order to facilitate the review and approval of a minor subdivision, a preliminary plat must be submitted to the zoning administrator along with a fee in accordance with a fee schedule adopted by the town council. No application shall be considered complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the Town's engineering and/or consulting services with respect to review of the preliminary plat prior to approval.

- (a) The subdivision administrator shall review the preliminary plat within ten days of its submission for general compliance with the requirements of this chapter and chapter 58, and 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 final plat, and shall approve, approve based on certain conditions, or disapprove the preliminary plat.
- (b) One copy of the preliminary plat along with the subdivision administrator's comments, recommendations, and/or conditions shall be returned to the subdivider and one copy of the same shall be retained by the subdivision administrator.
- (c) In the event the subdivider disagrees with the written comments and/or recommendations of the subdivision administrator, he may appeal the subdivision administrator's decision to the planning board.

- (d) In the event of an appeal of the subdivision administrator's decision, one copy of the preliminary plat along with the subdivision administrator's comments, recommendations, and his reasons for disapproval shall be forwarded to the planning board. In the event of an appeal of the subdivision administrator's decision, the planning board shall review and approve or disapprove the preliminary plat at its next regular meeting that follows at least 15 days after the subdivision administrator's recommendation regarding the preliminary plat, or at such other meeting as may be called by the planning board to consider same.
- (e) If the preliminary plat is not approved by the planning board, a written statement of the reasons for denial shall be provided to the subdivider, with a copy being returned to the subdivision administrator within seven days of disapproval. Upon making necessary changes, but not later than 180 days from receipt of the disapproved plat by the subdivider, the subdivider may resubmit the preliminary plat to the planning board for approval.
- (f) Preliminary plat approval of a minor subdivision shall constitute a vested right, as defined in G.S. 160A-385.1.

46-41- Final plat for minor subdivisions.

- (a) Upon approval of the preliminary plat the subdivider may proceed with preparation of the final plat in accordance with the requirements of this chapter. In the event that the subdivider fails to submit a proposed final plat within one year of approval of the preliminary plat, the approval of the preliminary plat becomes null and void, and the subdivider must begin the procedure as if no preliminary plat had been initially submitted, including the payment of another filing fee as required under this article.
- (b) *Number of Copies and Content*
 The subdivider shall submit at least 2 copies of the proposed final plat so marked to the subdivision administrator. The subdivider shall also submit a fee in accordance with a fee schedule adopted by the Town Council. No application shall be considered complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the final plat prior to final plat approval.
 - (1) The proposed final plat shall be prepared by a registered land surveyor currently licensed and registered 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.
 - (2) The proposed final plat shall be of such size as is suitable for recording with the appropriate county register of deeds and shall be of a scale of not less than one-inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.
 - (3) The final plat shall meet the specifications established in section 46-46.
 - (4) The following signed certificates shall appear on all 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 Weddington and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

_____	_____/_____/_____
Owner	Date

- b. Certificate of survey and accuracy in accordance with the standards and practice for land surveying in the state.

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to make acknowledgments 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 are not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following general form:

State of North Carolina, _____ County

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

Witness my original signature, registration number and seal this _____ day of _____, A.D. 20 _____.

Official Seal	_____ Registered Land Surveyor
	_____ Registration Number

I, (officer authorized to take acknowledgments), do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the _____ day of _____ (year).

Official Seal	_____ Signature of Officer
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(c) *Final Plat review and approval procedure for minor subdivisions.*

- (1) The proposed final plat shall be submitted to the subdivision administrator, who within ten days of receipt of said plats shall review same and shall submit same to the Planning Board along with comments and recommendations. The subdivision administrator can recommend approval, approval conditional upon certain modifications to bring the plat into compliance, or disapproval of the final plat with reasons for disapproval.
- (2) If septic is proposed, prior to approval of the final plat by the Planning Board, the subdivider shall submit a copy of the plat to the county health department, for review and comment. The plat must be returned to the subdivision administrator accompanied by written recommendations.
- (3) Following review and recommendation by the subdivision administrator, the Planning Board shall review the proposed final plat at or before its next regularly scheduled meeting.
- (4) If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance or disapproval, it shall return its written recommendations or reasons for such disapproval specifying the provisions of this chapter with which the final plat does not comply and a copy of the plat to the subdivider, and subdivision administrator, and upon the subdivider complying with the recommendations of the Planning Board, the plat may be resubmitted for approval by the Planning Board at its next meeting following ten days from receipt of the evidence of compliance by the subdivider with the Planning Board's recommendations.
- (5) If the Planning Board approves the final plat, it shall transmit a written approval through the administrator and 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 Weddington, North Carolina and that this plat has been approved by the planning board for recording in the Office of the Register of Deeds of _____ County.

_____/_____/_____ Date	_____ Chairman of the Planning Board Town of Weddington, North Carolina
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- (6) If the final plat is approved, the reproducible copy shall be recorded with the appropriate county register of deeds' office. The subdivider shall file the approved plat with the appropriate county register of deeds' office within 90 days of approval. Otherwise, such approval shall become null and void.

Major Subdivisions

Sec. 46-42. - Sketch plan for major subdivisions.

(a) *Sketch plan—Required.*

(b) *Number of copies and contents.*

(1) *Conventional Subdivision.*

- a. Prior to the application for approval of a preliminary plat, the subdivider shall submit to the subdivision administrator two copies of a sketch plan of the proposed subdivision along with a fee, in accordance with a fee schedule adopted by the Town Council. No application shall be considered complete or processed by the subdivision administrator unless it is accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the sketch plan prior to sketch plan approval.
- b. It shall contain the information listed in 46-46. It must meet the requirements and submittal schedule described in both the Traffic Impact Analysis Process and Procedures Manual, and Appendix C: Traffic Impact Analysis.
- c. A sketch plan for conventional subdivisions shall be prepared by an engineer or land surveyor currently licensed and registered in the state by the state board of registration for professional engineers and land surveyors.

(2) *Conservation Subdivision.*

The following information shall be submitted for all proposed conservation subdivisions:

- a. Existing resources and site analysis plan, which shall be prepared to provide the developer and the town with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site (for tracts of 100 acres or less) or 1,000 feet of the site (for tracts over 100 acres.) Conditions beyond the tract boundaries may be described on a more general basis from existing published data available from governmental agencies, and from aerial photographs and need not be as specific as those that are required for the development site. Unless otherwise requested by the subdivision administrator to facilitate readability, such plans shall be prepared at a scale of one-inch equals 100 feet or one-inch equals 200 feet, whichever would fit best on a single standard size sheet (24 inches by 36 inches). The following information shall be included in this plan:
 1. An aerial photograph enlarged to the same scale as the ER/SA Map, with the site boundaries clearly marked.
 2. Topography, the contour lines of which shall generally be at two-foot intervals, determined by photogrammetry. Slopes shall be clearly indicated when they are between ten and 15 percent, between 15 and 25 percent, or when exceeding 25 percent. Topography shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official USGS benchmarks. Such contour lines shall also be superimposed on the aerial photo, in a contrasting color to facilitate legibility.

3. The location and delineation of ponds, lakes, streams, ditches, natural drainage swales, wetlands, and floodplains. Additional areas of wetlands on the proposed development tract shall also be indicated, as evident from testing, visual inspection, or from the presence of wetland vegetation.
 4. Vegetative cover conditions on the property according to general cover type including cultivated land, permanent grass land, meadow, pasture, hedgerow, forestland and wetland, location of trees with a caliper in excess of 15 inches, the actual canopy line of existing trees and forestlands. Vegetative types shall be described by plant community, relative age and condition.
 5. Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service in the published soil survey for the county, and accompanying data published for each soil relating to its suitability for construction (and, in unsewered areas, for septic suitability).
 6. Ridge lines showing boundaries of catchment areas for stormwater runoff.
 7. A viewshed analysis showing the location and extent of views into the property from public roads and from public parks, and from the boundaries of lakes, ponds, and streams on the site.
 8. Geologic formations on the proposed development parcel, such as rock formations and outcroppings, and fault lines, based on available published information or more detailed data obtained by the applicant.
 9. All existing manmade features including, but not limited to, streets, driveways, farm roads, forest roads, buildings, foundations, walls, wells, drainage fields, dumps, utilities, fire hydrants, and sanitary sewers.
 10. Locations of all historic sites on the tract.
 11. Locations of trails that have been in public use (pedestrian, equestrian, bicycle, etc.).
 12. All easements and other encumbrances of property which are or have been filed of record with the county register of deeds.
 13. Total acreage of the tract, and the location and acreage of primary conservation lands.
- b. *A yield plan.* A yield plan designed to be density neutral (i.e., allow for the same number of lots as could be platted under applicable subdivision requirements as a conventional subdivision, with a minimum lot size of 40,000 square feet).
- Yield plans must be prepared with the sketch plan in accordance with the standards of this chapter, and must show all proposed lots, streets, rights-of-way, and other pertinent features that would be required for a sketch plan for major conventional subdivisions as identified in section 46-46. Although the yield plan must be drawn to scale, it need not be based on a field survey. However, the yield plan must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, considering the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal.
- c. A Sketch plan using the 4-step design process after a site walk is completed.

1. It shall contain the information listed in 46-46. It must meet the requirements and submittal schedule described in both the Traffic Impact Analysis Process and Procedures Manual, and Appendix C: Traffic Impact Analysis. See subsection (c)(2)
2. A sketch plan for a conservation subdivision shall be prepared by a registered landscape architect or by a physical planner with experience designing conservation subdivisions, working with a registered land surveyor or professional engineer currently licensed and registered in the state by the state board of registration for professional engineers, land surveyors or landscape architects. The landscape architect or physical planner shall have primary responsibility for the design of conservation areas and house locations; the surveyor or engineer shall have primary responsibility for streets, drainage, and lot lines.

(c) ***Sketch Plan review and approval procedure for major subdivisions.***

(1) Submission of Application and Fee

(2) Submission of Existing Resources and Site Analysis Map and Yield Plan; On-Site Visit; Mini-Charette (for conservation subdivision only)

- a. **On-Site Visit/Charette** After preparing the *Existing Resources and Site Analysis Map* and prior to the submission of a sketch plan, the applicant shall schedule time to walk the property with the subdivision administrator, Planning Board members, and adjacent property owners. The purpose of this visit is to familiarize staff and board members with the property's special features, and to provide them an informal opportunity to offer guidance to the applicant regarding the tentative location of Secondary Conservation Areas, potential house locations and street alignments.

A notice giving the date, time and purpose of the meeting shall be sent by the Town to adjacent property owners at least 10 days prior to the site walk.

The applicant shall distribute copies of the *Existing Resources and Site Analysis Plan* at the on-site meeting. Applicants, their site designers, and the landowner shall participate to show the town the property's special features. Comments made by town officials or staff and consultants shall be interpreted as being only suggestive and advisory. It shall be understood by all parties that no formal recommendations can be offered, and no official decisions can be made during this on-site visit. It is a Work Session of the Board and is duly noticed in the standard manner for all public meetings.

- b. **Design Charette:** Immediately following the site-visit the applicant shall sit down with the subdivision administrator and on-site visit attendees to review the findings and begin the 4-step process below.

Sketch plans shall be prepared as "overlay sheets" to be lain on top of the Existing Resources and Site Analysis Plan, both prepared at the same scale, to facilitate cross-comparison.

1. **Step One: Designation of Conservation Lands:** During the first step, all potential Conservation Areas, both Primary and Secondary, shall be identified, using the Existing Features/Site Analysis Map. Primary Conservation Areas shall consist of those features described in Section 46-75(e). Secondary Conservation Areas shall comprise at least half

of the remaining land and shall include the most sensitive and noteworthy natural, scenic, and cultural resources as described in Section 46-75 (e).

Guidance as to which parts of the remaining land to classify Secondary Conservation Areas shall be based upon discussions at the on-site meeting plus the design standards and specific conservation standards in Sections 46-75(e). An overall goal is to minimize fragmentation of the conservation lands and to maximize connectivity among its parts, and with conservation lands on adjoining properties.

2. Step Two: House Site Location: During the second step, potential house sites are tentatively located. Generally, house sites should be located no closer than 100 feet from Primary Conservation Areas. Such sites may be situated 50 feet from Secondary Conservation Areas to permit the enjoyment of scenic views without negatively impacting Primary Conservation Areas.
3. Step Three: Street Alignment and Trail Networks: The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical manner, and in laying out a network of informal trails connecting neighborhood areas with open space features within the conservation lands. When lots and access streets are laid out, they shall be located in such a way that avoids or at least minimizes impacts on both Primary and Secondary Conservation Areas.
4. Step Four: Drawing in the Lot Lines: The fourth step consists of drawing in lot lines around potential house sites. Each lot must contain a buildable area of sufficient size to accommodate a single-family detached dwelling and customary accessory uses, including, but not limited to, storage buildings and garages, patios and decks, lawns, and driveways. Individual wells and septic systems, where these are to be provided, may be located within the undivided conservation lands if sufficient space is not available on the lots.

(3) Sketch Plan submittal

The subdivision administrator shall, within 30 days of receipt of the sketch plan, review for general compliance with the requirements of this Chapter and Chapter 58. The subdivision administrator shall advise the applicant of any changes needed to the plans.

(4) Required Community Meeting

- a. Before the Planning Board review and approval for a conservation subdivision or prior to staff approval on a conventional subdivision, the applicant must provide the administrator with a written report of at least one community meeting held by the applicant.
- b. Reasonable notice of the required community meeting must be given to nearby property owners and to affected and interested parties in accordance with public notice policies.
 1. *Notice of public meeting*. Such notice shall, at a minimum, be given as follows:

A notice shall be sent by first class mail by the Town to adjacent property owners within 1,300 linear feet, as measured from the exterior boundaries of the proposed development up to the town limits, not less than ten days prior to the date of the meeting. The notification shall contain information regarding the meeting time and locations as well as

a general description of the proposal. The applicant shall reimburse the Town for all expenses incurred for such notifications.

- c. A meeting notification sign shall be posted by the Town in a conspicuous place at the property not less than ten days prior to the meeting.
- d. A report to the staff, which shall be included in the Planning Board report, with a listing of persons and organizations contacted about the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the application made by the applicant as a result of the meeting.
- e. The adequacy of the meeting and the meeting report must be considered by the Planning Board but is not subject to judicial review.

(5) Review and Action for sketch plan.

After completing review of the sketch plan and allowing reasonable time for receipt of comments from review agencies and public meetings, the subdivision administrator must:

- a. For a Conventional Subdivision: approve the sketch plan, approve the sketch plan with conditions or deny approval of the sketch plan and notify the applicant, in writing, of the decision. The subdivision administrators' action must be based solely on whether the sketch plan is consistent with the applicable provisions of this ordinance. If the sketch plan is not approved, the written notice to the applicant must state the reasons for denial.
- b. For a Conservation Subdivision: send the plan to the Planning Board to approve the sketch plan. The Planning Board can approve the sketch plan, approve the sketch plan with conditions or deny approval of the sketch plan and notify the applicant, in writing, of the decision. If the sketch plan is not approved, the written notice to the applicant must state the reasons for denial.

- (6) Under this chapter, sketch plan approval shall not constitute approval by the Town for common law vested rights. Sketch plan approval is merely a precursor to the submission of a preliminary plat requiring Town Council approval. Sketch plan approval is subject to be changed or modified and is not intended to provide a basis for common law vested rights claims.

Sec. 46-43. – Major subdivision preliminary plat submission and review.

- (a) *Applicability.* After sketch plan approval a preliminary plat shall be required prior to any land disturbing activities.
- (b) *Number of copies and contents.*
 - (1) Two copies of the preliminary plat shall be submitted to the subdivision administrator. The subdivider shall also submit a fee in accordance with a fee schedule adopted by the Town Council. No application shall be complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the preliminary plat prior to preliminary plat approval.
 - (2) The preliminary plat shall be of a size suitable for recording with the appropriate county register of deeds and shall be at a scale of not less than one-inch equals 200 feet. The preliminary plat shall be prepared by a registered land surveyor or engineer currently licensed and registered by

the state board for professional engineers and land surveyors. Maps may be placed on more than one sheet with appropriate match lines.

- (3) Preliminary plats shall meet the specifications in Section 46-46.
- (4) With subdivisions where individual septic tanks are the proposed method for wastewater treatment, the preliminary plat shall be accompanied by approval of the proposed lots for septic tanks by the county health department and a map of the subdivision showing the following:
 - a. All streets and property lines;
 - b. Proposed building area for each lot;
 - c. Septic tank drain field;
 - d. Site and repair area for each lot; and
 - e. Proposed well site for each lot.
- (5) *Permanent protection of conservation land and open space.* The required open space and or conservation land shall be subject to a conservation easement that will be held by the homeowners' association or 3rd party. If not held by the homeowners' association, the holders of the conservation easement shall be the state or appropriate department or agency thereof, or one or more conservation organizations, in any combination of two or more. Enforcement of the terms of the conservation easement shall be in accordance with applicable state law. All open space and Conservation land shall be permanently restricted from further subdivision through permanent easements. Any homeowners' association that is a holder of a conservation easement, shall be subject to and comply with all applicable requirements for homeowners' associations as set forth in state statutes. In addition, the following criteria shall be met:
 - a. The applicant for subdivision approval shall provide the town a description of the organization of the proposed association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for common facilities.
 - b. The proposed homeowners' association shall be established by the subdivision applicant and shall be operating (with financial underwriting by the applicant, if necessary) before the sale of any dwelling units in the development.
 - c. Membership in the homeowners' association shall be mandatory for all purchasers of lots within the subdivision and their successors in title.
 - d. The homeowners' association bylaws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his dues. Such dues shall be paid with the accrued interest before the lien may be lifted.
 - e. The homeowners' association shall annually provide to the town a listing of the names, addresses and telephone numbers of all their officers and board members.
 - f. Any proposed changes to common open space or the conservation easement that substantively affect the usage, location or maintenance of conservation land within the conservation subdivision must first be consented to and approved by 100 percent of the town council and 100 percent of all homeowners.

(6). *Maintenance plans and maintenance agreement:*

- a. The cost and responsibility of maintaining required open space and conservation land shall be borne by the fee simple owner of the required conservation lands, or by another party as specified in an executed, binding and enforceable maintenance agreement, who is a holder of the conservation easement.
- b. The applicant must submit, with an application for preliminary plat approval, a maintenance agreement that obligates either the property owner of the conservation land and open space, or other specified party as provided above, to implement the maintenance plan.
- c. The maintenance plan shall be submitted with an application for preliminary plat approval of the subdivision, and shall be in accordance with the following requirements:
 - 1.. The maintenance plan shall specify ownership of required open space and conservation land;
 - 2.. The maintenance plan shall establish a regular operation and maintenance program appropriate to the uses to be undertaken on the subject conservation land and open space,
 3. The maintenance plan shall specify required insurance and all maintenance and operating costs, and shall define the means for funding the maintenance plan on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs;
 4. Any changes to the maintenance plan shall be approved by the town council;
 6. The property owner of the open space and, if utilized, any other maintaining party by agreement, shall execute a release and indemnity of the town, in a form satisfactory to the town, for any claims or damages arising from the maintenance agreement and maintenance plan or performance thereof.

(c) *Preliminary Plat review and approval procedure for major subdivisions.*

- (1) Administrative Review. After reviewing the preliminary plat, the subdivision administrator may provide the subdivider with comments on the preliminary plat. If the subdivider intends to amend the preliminary plat as a result of any comments provided by the subdivision administrator, the subdivider shall notify the subdivision administrator of his intent to amend the preliminary plat within 15 calendar days after receiving those comments. After the subdivider submits any amended preliminary plat, the subdivision administrator will review the amended preliminary plat to ensure that it is complete, and the subdivision administrator may provide the subdivider with comments on the amended preliminary plat.
- (2) Review by Outside agencies. Once the preliminary plat has been received by the subdivision administrator, he shall determine the agencies to which the preliminary plat shall be submitted for review and recommendation including, but not limited to, the state department of natural

resources (including appropriate individual agencies within said department), public works, NCDOT, environmental health and the appropriate county board of education.

- (3) The preliminary plat shall be deemed ready for submission to the planning board at such time that the most recent version of the preliminary plat is complete, the subdivision administrator has received sufficient comments on the preliminary plat from all appropriate agencies, and either the subdivision administrator completed his review of that version and did not provide the subdivider with any comments or the subdivision administrator provided the subdivider with comments on that version but the subdivider did not notify the subdivision administrator within the 15-calendar-day time period, provided that he intends to amend the preliminary plat.
- (4) The Planning Board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 30 days of its first consideration of the plat or at its next regularly scheduled meeting following the meeting at which the plat was first considered, whichever occurs later and transmit its recommendation to the Town Council.
- (5) If the Planning Board does not make a written recommendation within the time set forth above, the subdivider may apply to the Town Council for approval or disapproval.
- (6) Conservation subdivisions are subject to the rezoning requirements including a public hearing per section 58-271.
- (7) If the Town Council approves the preliminary plat, such approval and conditions (if applicable) shall be noted on two copies of the plat. One copy of the plat shall be filed by the subdivision administrator and one copy shall be returned to the subdivider. If the Town Council 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 subdivision administrator, and one copy of the plat along with the conditions shall be returned to the subdivider. Once these conditions are met, the plat shall be resubmitted for approval by the Town Council and shall be filed in the town office by the subdivision administrator. If the Town Council disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One copy of the plat and the reasons shall be retained by the Town Council, and one copy shall be returned to the subdivider. If the preliminary plat is disapproved, the subdivider may make such changes as will bring the preliminary plat into compliance and resubmit the same for reconsideration by the Planning Board and Town Council.

Sec. 46-44. - Final Plat major subdivision

- (a) *Preparation of final plat and installation of improvements.* Upon approval of the preliminary plat by the Town Council, 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 chapter. Prior to initiation of the construction of utility and street improvements, plans shall have all necessary approvals from state agencies and appropriate county. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this chapter or guaranteed their installation as provided herein. No final plat will be accepted for review by the Town Council unless accompanied by written notice by the subdivision administrator acknowledging compliance with the improvement and guarantee standards

of this chapter. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time; such portion shall conform to all requirements of this chapter.

(b) *Improvement and guarantee standards.*

(1) *Optional agreement.* In lieu of requiring the completion, installation and, if applicable, dedication of all improvements prior to final plat approval, the Town may enter into an agreement with the subdivider whereby the subdivider shall guarantee completion of all required improvements as specified on the approved preliminary plat for that portion of the subdivision to be shown on the final plat within two years from the date of final plat approval, unless otherwise specified in the written agreement. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Town Council; provided, however, that all other requirements of this article are met. To secure this agreement, the subdivider shall provide either one or a combination of the following guarantees in an amount equal to 1.25 times the costs, as estimated by the subdivider and approved by the town planner or engineer, of installing all required improvements on the approved preliminary plat for that portion of the subdivision to be shown on the final plat. The amount shall be subject to the approval of the Town Council.

a. *Surety performance bond.* The subdivider shall obtain a performance bond from a surety bonding company satisfactory to the Town Council, as applicable. A surety bonding company must at minimum be: (1) registered to do business with the North Carolina Secretary of State; (2) licensed to issue surety bonds in the State of North Carolina by the North Carolina Department of Insurance; (3) rated at least "B+" by a reputable bond rating agency; and (4) possess a minimum of \$50,000,000.00 in assets. The Town Council may, within its sole discretion, insist upon alternative standards based upon the particular project, the estimated cost of completion of the improvements, and/or other factors indicating higher standards are warranted. The bond(s) must contain the following provisions: (1) the bond(s) shall remain in effect until such time as all improvements are installed and approved by the Town Council; (2) the surety bonding company, within 15 days of the town providing notice of default, shall take over and complete all improvements or pay the Town in cash the estimated costs of installing the improvements as determined by the Town's planner or engineer; and (3) the Town shall be able to draw upon the bond(s) in the event that the subdivider defaults upon its agreement with the Town in accordance with subsection (3). Any charges associated with cost calculation or verification shall be borne entirely by the subdivider.

b. *Letter(s) of credit.* The subdivider shall obtain an irrevocable letter(s) of credit issued by a commercial bank satisfactory to the town council. The commercial bank issuing the letter of credit must be: (1) organized under the laws of the United States of America or any state of the United States, or the District of Columbia; (2) authorized to do business in the State of North Carolina; (3) subject to regulation by the State of North Carolina or federal banking regulatory authorities; and (4) possess combined capital stock, surplus and undivided profits aggregating at least \$100,000,000.00. The Town Council may, within its sole discretion, insist upon alternative standards based upon the particular project, the estimated cost of completion of the improvements, and/or other factors indicating higher standards are warranted. The letter(s) of credit must contain the following provisions: (1) the letter(s) of credit shall be evergreen and shall not be subject to expiration until such time as all improvements are installed and approved by the Town Council, and shall require the issuing commercial bank to give at least 60 days' notice of its intent to terminate the letter(s) of credit, upon which the Town can draw upon the letter(s) of credit; (2) the Town shall be able

to draw upon the letter(s) of credit at any time on or before its expiration; (3) the commercial bank shall, upon written notification by the Town Council that the subdivider is in default, immediately pay to the Town the full amount, or any lesser amount of the letter(s) of credit, if requested by the Town Council; (4) the Town shall be able to draw upon the letter(s) of credit in the event that the subdivider defaults upon its agreement with the Town in accordance with subsection (2) of this section; and (5) the letter(s) of credit shall allow for presentment and collection at a location within a 30-mile radius of the town.

- c. *Cash or equivalent surety.* The subdivider shall deposit cash, or other instrument readily convertible into cash at face value, such as a certificate of deposit or treasury-issued security, either with the Town or in escrow with a financial institution designated as an official depository of the Town. The use of any instrument other than cash shall be subject to the approval of the Town Council.

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

1. Said escrow account shall be held in trust for the Town until released by the Town Council and may not be used or pledged by the subdivider in any other matter during the term of the escrow;
 2. That the financial institution shall, upon written notification by the Town Council stating that the subdivider is in default, immediately pay to the Town all funds in said account, excluding any interest earned; and
 3. That the duration of said escrow account(s) shall be until such time as all improvements are installed and approved by the Town Council, or until the subdivider provides the Town with an acceptable, alternative guarantee for the completion of installing all remaining required improvements on the approved preliminary plat for that portion of the subdivision to be shown on the final plat. Any charges associated with cost calculation or verification shall be borne entirely by the subdivider.
- (2) *Duration of financial guarantees.* The duration of a financial guarantee shall be of a reasonable period to allow for completion and acceptance of improvements. In no case shall the duration of the financial guarantee for improvements exceed 24 months, unless otherwise specified in the written agreement as described in subsection 46-44(b)(1). All subdivisions whose public improvements are not completed and accepted at least 30 days prior to the expiration of the financial guarantee shall be in default, unless said guarantee is extended with the consent of the Town Council to a future date not to exceed six months, or to a date determined by Council.
- (3) *Default.* Upon default by the subdivider, the Town Council, as applicable, may require the surety, the letter of credit issuer, or the financial institution holding the escrow account to pay all or a portion of the bond, letter of credit, or escrow account to the Town. Upon payment, the Town shall expend said funds to complete all or any portion of the required improvements as it deems necessary. For purposes of this section, default shall constitute any of the following: (1) failure on the part of the subdivider to complete, within the time period specified in the agreement in subsection (b)(1). of this section, the required improvements as specified on the approved preliminary plat for that portion of the subdivision to be shown on the final plat; (2) failure on the part of the subdivider to install any improvement in accordance with the specifications or the regulations in the Town's ordinances; or (3) transfer of ownership of any portion of the property or lots located within the subdivision to another person or entity under no legal obligation to

install the required improvements (e.g., foreclosure). If one of the above events occurs, nothing herein shall prevent the town from declaring default prior to the expiration of the time period specified in subsection (b)(1) of this section.

- (4) *Release of guarantee surety.* In its sole discretion, the Town Council may release a portion of any security posted as the improvements are completed and recommended for approval by the town planner, so long as the Town maintains the posted security in an amount equal to at least 1.25 times the estimated costs of installation of the remaining improvements. However, notwithstanding the above, nothing shall require the Town Council to release any portion of security posted until such time as all improvements are installed and approved by the Town Council. Within 30 days after receiving the town planner's recommendation, the Town Council shall approve or not approve said improvements. Once all required improvements on the preliminary plat for that portion of the subdivision to be shown on the final plat have been installed and approved, then all security posted for said improvements shall be released by the Town Council.

(c) *Number of copies and contents*

- (1) At least two copies of the final plat (additional copies may be required by the subdivision administrator to send to various agencies) shall be submitted to the subdivision administrator. A fee, in accordance with a fee schedule adopted by the Town Council, shall accompany such submission. No application shall be complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the final plat prior to final plat approval. Materials and drawing medium for the original shall be in accordance with the standards of practice for land surveying in the state, where applicable, and the requirements of the appropriate county register of deeds.
- (2) The final plat may be submitted in sections. In this case, at least one final plat section shall be submitted per year, on or before the anniversary date of preliminary plat approval. In no case shall preliminary plat approval for any section extend beyond five years from the date of approval.
- (3) Each phase's final plat must contain a comment stating common open space/conservation land requirements set forward by this chapter and Chapter 58 have been met.
- (4) The final plat shall conform substantially to the preliminary plat as approved, and if desired by the owner or subdivider, it may refer to that portion of the approved preliminary plat which he proposes to record as a final plat and begin selling within the following year.
- (5) The final plat shall meet all applicable specifications in Section 46-46 and the following signed certificates shall appear on each copy of the 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 Weddington 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.

_____	_____/_____/_____
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Owner	Date
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- b. Certificate of survey and accuracy in accordance with the standards and practice for land surveying in the state. On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgments 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 of the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following general form:

State of North Carolina, _____ County

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

Seal	_____
	Registered Land Surveyor

	Registration Number

I, (officer authorized to take acknowledgments) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the _____ day of _____ year).

	Signature of Officer
Official Seal	

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

I hereby certify that all streets and other required improvements have been installed in an acceptable manner and according to N.C. Department of Transportation and/or Town of Weddington 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 of Weddington have been given and received.

_____ Mayor of the Town of Weddington, North Carolina	_____/_____/_____ Date
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(6) *Addresses and cluster mailboxes.*

- a. Final plats must include the location of cluster mailbox units (CBU) to serve all the lots included on the plat. The plat must also include a note stating that all CBU locations will be approved by the USPS. If the roadways on the plat are labeled as public rights-of-way, then the plat must also include a note stating that all CBU locations must be approved by NCDOT.
- b. The applicant may request an address for the property following final plat approval. All addresses will be assigned by the Union County Tax Administrator's office.
- c. Every lot shall display the distinctive house number assigned to that lot by Union County and recognized by Union County Emergency Services. The individual house number shall be no less than four inches in height and shall be in a contrasting color to the background. The house number shall be displayed in one of the following fashions:
 1. If the number is displayed on a house, the number shall be placed upon the front of the house in such a position as to remain plainly visible to all traffic coming to the premises from either direction, or
 2. If a house is more than 100 feet from the roadway or is not clearly visible from the roadway, the number shall be displayed within 50 feet of the roadway, and on a surface that is plainly visible to all traffic coming to the premises from either direction.

(d) *Review and approval procedure for final plat for major subdivisions.*

- (1) Within two years following the approval of the preliminary plat, the subdivider shall submit a final plat as set forth in this subsection.
- (2) Failure to submit a final plat within two years after preliminary plat approval shall render the preliminary plat null and void.
- (3) The proposed final plat shall be submitted to the subdivision administrator for review and comment. During the review of the final plat, the subdivision administrator may appoint a registered land surveyor to confirm the accuracy of the final plat. If any error is found which exceeds five percent of the figures shown on the proposed final plat, the costs of the review shall be charged to the subdivider. The subdivision administrator shall note his comments regarding the proposed final plat and the costs of the review, which shall be paid by the subdivider before the final plat approval of the Town Council.
- (4) The Planning Board shall recommend approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within 31 days of its first consideration of the proposed final plat.
- (5) The Planning Board shall transmit all copies of the plat and its written recommendations to the Town Council, through the subdivision administrator.

- (6) If the Planning Board recommends disapproval of the final plat, it shall instruct the subdivider concerning the resubmission of a revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this chapter, and resubmit same for reconsideration by the planning board, or may appeal the decision to the Town Council.
- (7) In the event the Planning Board fails to make a written recommendation to the Town Council within the time specified in this section, the subdivider may apply to the Town Council for approval of the proposed final plat.
- (8) If the Town Council approves the final plat, such approval shall be shown on each copy of the plat by the signed certificate specified below.
- (9) The mayor shall not execute any mylars without first obtaining written certification from the subdivision administrator that the mylars are identical to those approved by the Town Council.
- (10) The certification of approval for recording shall take the following general form:

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

_____ Mayor of the Town of Weddington, North Carolina	DATE
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- (11) In the event the proposed final plat is disapproved by the Town Council, the reasons for such denial shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the town clerk, as part of the town council proceedings, and one copy of the plat and a copy of the reasons shall be submitted to the subdivider.
 - (12) If the proposed final plat is disapproved, the subdivider may make such changes as will bring the proposed final plat into compliance, and resubmit same for reconsideration by the Town Council, provided such resubmission is made within 180 days from the date of disapproval. Otherwise, the subdivider must begin the subdivision plat approval process as though no plat had been previously submitted for consideration by the town.
 - (13) The subdivider shall file the approved final plat within 90 days of approval; otherwise such approval shall be null and void, and the subdivider must begin the procedure for approval from the sketch plan stage, with payment of the required fee.
- (e) All conservation lands shall be recorded at the county register of deeds in their entirety concurrent with the initial recordation of the final plat.

Sec. 46-46. - Information to be contained in or depicted on preliminary and final plats.

The sketch plan, preliminary and final plats shall depict or contain the information indicated in the following table. An 'X' indicates that the information is required. Preliminary plat information is only required for major subdivisions.

Information	Sketch Plan	Preliminary Plat	Final Plat
Title block containing the subdivision name		X	X
Location (including township, county and state)		X	X
Date or dates survey was conducted and plat prepared		X	X
A scale (not less than 100 feet per inch) listed in words and figures (Except for requirements at the sketch plan phase)	X	X	X
North arrow	X	X	X
A vicinity map with north arrow showing the relationship between the proposed subdivision and surrounding area	X	X	X
The names, addresses and telephone numbers of all owners, subdivider, mortgagees, registered land surveyors, land planners, architects, landscape architects and professional engineers responsible for the subdivision	X	X	X
The registration numbers and seals of the professional engineers and land surveyors		X	X
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented shown	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
Streets and Lots of adjoining developed properties within 300'	X		
The names of owners of adjoining properties		X	X
The names of any adjoining subdivisions of record or proposed and under review		X	X

Required Buffers	X	X	X
Minimum building setback lines		X	X
The zoning classifications of the tract to be subdivided and on adjoining properties	X	X	
Existing property lines on the tract to be subdivided and on adjoining properties	X	X	X
Existing buildings or other structures, watercourses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	X	X	X
Proposed lot lines, lot sizes, block numbers, and approximate dimensions	X	X	X
Percentage of Open Space Required and Provided	X	X	
The lots numbered consecutively throughout the subdivision		X	X
Marshes, swamps, rock outcrops, wetlands, ponds or lakes, streams or stream beds and any other natural features affecting the site	X	X	X
The exact location of the flood hazard, floodway and floodway fringe areas from the town's FEMA maps in compliance with chapter 58, article XIII of the Weddington Code of Ordinances	X	X	X
Septic tank suitability data furnished by the appropriate county health department	X	X	
The proposed street layout with approximate pavement and right-of-way width, terminal vistas and street end "closes"	X		
A yield plan with a 40,000 sq ft minimum and showing 9,000 sq ft of buildable area.	X		
Proposed roads with horizontal and vertical alignment		X	X
Existing and platted roads on adjoining properties and in the proposed subdivision		X	X

Rights-of-way, location and dimensions		X	X
Pavement widths		X	X
Proposed grades (re: Roads)		X	X
Design engineering data for all corners and curves		X	X
Typical road cross-sections		X	X
Road names		X	X
A driveway permit for any road is proposed to intersect with a state-maintained road as required by the state department of transportation,		X	X
The location and dimensions of all utility and other easements	X	X	X
A landscape/buffer plan		X	
The location and dimensions of all buffer strips	X	X	X
The location and dimensions of all pedestrian or bicycle paths	X	X	X
The location and dimensions of all school sites, both existing and proposed	X	X	X
The location and dimension of all parks and recreation areas with specific type indicated	X	X	X
The existing and proposed uses of land within the subdivision and the existing uses of land adjoining it.	X	X	
The location and dimensions of areas to be used for purposes other than residential with the purpose of each stated	X	X	X
The future ownership (dedication or reservation for public use to governmental body, homeowners' association, or for tenants remaining in subdivider's ownership) of recreational and open space lands		X	X
Acreage in total tract to be subdivided	X	X	

Acreage in parks and recreational areas and other nonresidential uses	X	X	
Total number of parcels created	X	X	
Acreage in the smallest lot in the subdivision and the average lots size		X	
Limits of Disturbance and Tree Protection Fencing		X	
Linear feet in streets		X	
Union County Environmental Health approval of the proposed lots for septic tanks and wells	X	X	
a Traffic Impact Assessment as required by the Traffic Impact Analysis Process and Procedures Manual, and Appendix C: Traffic Impact Analysis.	X	X	
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is listed on the U.S. Department of Interior's National Register of Historic Places or is designated as a local historic property by the county	X	X	X
The accurate locations and descriptions of all monuments, markers and control points			X
An erosion control plan		X	X
A copy of any proposed deed restrictions or similar covenants. The developer shall submit to the town evidence that the developer has created a homeowners' association whose responsibilities will include perpetual maintenance of any streets that for any reason are not accepted by NCDOT. Such evidence shall include filed copies of the articles of incorporation, declarations and homeowners' association bylaws		X	X
A separate map drawn at the same scale as the preliminary plat showing only proposed streets and lot lines, topography with contour intervals of no greater than ten feet (at the discretion of the subdivision administrator, contour intervals of five feet may be required), and an accurate mapping of soil classifications found on the site and general depths thereof		X	
A copy of notification submitted to the Facilities Director of Union County		X	X

Public Schools and the Chairman of the Board of Education, stating the number of lots requested in the plat application			
A copy of the approved roadway plan submitted to the appropriate office of the state department of transportation for any major subdivision		X	
A copy of permits from Army Corps of Engineers, pursuant to section 58-342		X	
The location and dimensions of all drainage easements as defined in article XIII of chapter 58, including P.E. certification when required		X	X
Compliance with section 58-338, "setbacks from streams"	X	X	X
Establishment of flood protection elevation (FPE) in accordance with section 58-338		X	X
Drainage, stormwater management plan and wetland protection plan demonstrating compliance with chapter 58, article XIII, division 6 of the Weddington Code of Ordinances	X	X	X
A lighting plan in accordance with Article IV		X	

Sec. 46-47. - Vacation of plats.

- (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 filing a written instrument with the subdivision administrator to which statement a copy of such plat shall be attached, declaring the same to be vacated.
- (b) Such an instrument shall be approved by the town council which 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) through (c) of this section by all owners of the lots in such plat joining the execution of such writing.

Sec. 46-48. - Resubdivision procedures.

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

Sec. 46-49. - Maintenance of dedicated areas until acceptance.

All facilities and improvements shall be maintained by the owner until an offer of dedication is accepted by the appropriate public authority or, for private facilities, until a maintenance agreement is executed with the town.

Secs. 46-50—46-71. - Reserved.

ARTICLE III. - REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION AND MINIMUM STANDARDS OF DESIGN

Sec. 46-72. - General adherence to article provisions.

Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this chapter and paid for by the subdivider. 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.

Sec. 46-73. - Suitability of land.

- (a) Land which has been determined by the town council on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.
- (b) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by a structural engineer and a soils expert determine that the land is suitable for the proposed development.
- (c) All subdivision proposals shall be consistent with the need to minimize flood damage. See section 46-75 (f) below.
- (d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems, if available, located and constructed to minimize flood damage.

Sec. 46-74. - Subdivision and street naming.

The name of the subdivision and the names of the streets within the subdivision shall not duplicate or closely approximate the name of an existing subdivision or any existing streets within the county.

Sec. 46-75. - Subdivision Design Standards.

- (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 1,500 feet in length. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where blocks will result in less traffic through residential subdivisions from adjoining business areas, the town council may authorize block lengths in excess of 1,500 feet.

- (3) Blocks shall have sufficient width to allow two rows of lots of minimum depth except where single row 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.
- (b) *Lot dimensions.*
- (1) All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located.
 - (2) All minimum lot dimensions may be increased in order to meet any applicable requirements of the appropriate county health department.
- (c) *Location of house sites.* Applicants shall identify house site locations in the tract's designated development areas designed to fit the tract's natural topography, be served by adequate water and sewerage facilities, and provide views of and/or access to adjoining conservation lands in a manner consistent with the preservation of the conservation lands.
- (d) *Orientation of residential lot lines.*
- (1) Side lot lines shall be substantially at right angles or radial to street lines.
 - (2) Double frontage lots shall be avoided wherever possible.
- (e) *Panhandle Lots.* Panhandle lots and other irregular shaped lots may be approved in cases where such lots would not be contrary to the purpose of this chapter, heighten the desirability of the subdivision, and, where necessary, enable a lot to be served by water and/or a waste disposal system. All panhandle lots shall have a minimum road frontage width of 35 feet thereby providing an access strip to the lot. The length of said strip shall not exceed 200 feet. Said strip shall not be used to determine lot area or width or setback lines.
- (f) *Lots in floodplains.* Lots within floodplains shall not be approved for recordation unless the following provisions are met:
- (1) *Lots wholly subject to flooding.* No proposed residential building lot that is wholly subject to flooding, as defined herein, shall be approved.
 - (2) *Lots partially subject to flooding.*
 - a. No proposed residential building lot that is partially subject to flooding as defined herein shall be approved unless there is established on the lot plan a contour line representing an elevation no lower than two feet above the base flood line as defined in section 58-229. All buildings or structures designed or intended for residential purposes shall be located on such a lot such that the lowest useable and functional part of the structure shall not be below the elevation of the base flood line, plus two feet.
 - b. For the purpose of this subsection, the term "useable and functional part of structure" shall be defined as being inclusive of living areas, basements, sunken dens, basement, utility rooms, crawl spaces, attached carports, garages and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits, and wiring, but shall not include water lines or sanitary sewer traps, piping and cleanouts; provided that openings for same serving the structure are above the base flood line.
 - c. Where only a portion of the proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than 10,000 square feet. The useable lot area shall be determined by deducting from the total lot area, the area of all yard setbacks required by the applicable zoning regulations and any

remaining area of the lot lying within the area of the base flood (100-year flood) as shown on the Flood Boundary and Floodway Map described in section 58-229.

(g) *Easements.* Easements shall be provided as follows:

- (1) *Utility easements.* A utility easement of not less than five feet in width shall be provided to the side and rear of each lot and in other locations where deemed necessary. This requirement may be waived by the subdivision administrator if the subdivider can certify on the final record plat where accommodations for such utilities are to be located. Lots in minor subdivisions are exempt from this requirement upon certification that they may be serviced by existing utilities along the public rights-of-way. Wider easement widths may be required if determined necessary by the utility company involved.
- (2) *Drainage easements.* Where a subdivision is traversed by a stream or drainageway, an easement shall be provided conforming with the lines of such a stream and shall be of sufficient width as will be adequate for the purpose and in accordance with section 58-520. Other drainage easements may be required for the proper drainage of all lots.
- (3) *Access easements.* Private and recorded easements created according to subsection 46-76(a) that provide access from an easement lot to a public road.

(h) *Stream valleys, swales, springs, and other lowland areas.* Stream valleys, swales, springs and other lowland areas are resources that warrant restrictive land use controls because of flooding hazards to human life and property, their groundwater recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. They are generally poorly suited for on-site subsurface sewage disposal systems. Accordingly, the following activities shall be minimized in such areas:

- (1) Disturbance to streams and drainage swales.
- (2) Disturbance to year-round wetlands, areas with seasonally high-water tables and areas of surface water concentration.
- (3) Because of their extreme limitations, stream valleys, swales and other lowland areas may warrant designation as conservation lands. They may also require adjoining buffer lands to be included as conservation lands, to be determined by an analysis of the protection requirements of such areas as determined by the town council on a case-by-case basis upon finding that designation of such areas as conservation land would have significant and positive long-term environmental impact on the conservation lands.

(i) *Forestlands.*

- (1) Forestlands often occur in association with stream valleys and wet areas, poor and erodible agricultural soils, and moderate to steep slopes. Forestlands serve many functions, including soil stabilizers, particularly on moderate to steep slopes, a means of ameliorating harsh microclimatic conditions in both summer and winter, a source of wood products, natural wildlife habitats, and visual buffers.
- (2) Because of their resource values, all forestlands on any tract proposed for a conservation subdivision shall be evaluated to determine the extent to which they should be designated partly or entirely as conservation lands. Evaluation criteria include: configuration and size, present conditions, site potential (i.e., the site's capabilities to support forestlands, based upon its topographic, soil and hydrologic characteristics), ecological functions (i.e., in protecting steep slopes, erodible soils, maintaining stream quality and providing for wildlife habitats), relationship to forestlands on adjoining properties and the potential for maintaining continuous forestland areas.

- (3) The evaluation of the tract's forestlands shall be undertaken consistent with the town's land audit. This evaluation shall be submitted as a report and made a part of the application for a sketch plan. At a minimum, that report shall include one or more maps indicating boundaries and conditions of forestland areas.
- (4) In designing a conservation subdivision, the applicant shall be guided by the following standards:
- a. Proposed site improvements shall be located, designed and constructed to minimize the loss or degradation of forestland areas.
 - b. Disturbance or removal of forestlands occupying environmentally sensitive areas shall be undertaken on a limited, selective, as needed basis. In particular, areas to be designed around and conserved, whenever possible, include the following: areas with a high diversity of tree species and tree ages; areas without invasive species; and individual trees of significant diameter. Because different tree species have different growth characteristics, certain species become significant at different diameters. For example, fast-growing species such as conifers become significant at 15 inches dbh. Relatively fast-growing hardwoods such as sweet gum and sycamore become significant at 12 inches dbh. Other hardwoods such as oaks and maples become significant at 12 inches dbh. Understory trees such as dogwood, redbud, waterbeechn, and holly become significant at 8 inches dbh.
 - c. No clearing or earth disturbance, except for soil analysis for proposed sewage disposal systems, shall be permitted on a site before preliminary plat approval.
- (j). *Slopes.* Moderately sloping lands (ten to 15 percent) and steeply sloping lands (over 15 percent) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.
- (1) For both conventional and conservation subdivisions, development in areas containing slopes of 15 to 25 percent shall be minimized. The only permitted grading beyond the terms described above, shall be in conjunction with the siting of a dwelling, its access driveway and the septic system.
 - (2) For both conventional and conservation subdivisions, no site disturbance shall be allowed on slopes exceeding 25 percent except grading for a portion of a driveway accessing a dwelling when it can be demonstrated that no other routing which avoids slopes exceeding 25 percent is feasible.
 - (3) Grading or earthmoving on all sloping lands of 15 percent or greater shall not result in earth cuts or fills whose highest vertical dimension exceeds six feet, except where in the judgment of the town's consulting engineer, no other available alternatives exist for construction of roads, drainage structures and other public improvements, in which case such vertical dimensions shall not exceed 12 feet. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill. Finished slopes of all cuts and fills shall be as required to minimize disturbance of natural grades.
- (k). *Significant natural areas and features.* Natural areas containing rare or endangered plants and animals, as well as other features of natural significance may exist in the town. Subdivision applicants shall take all reasonable measures to protect significant natural areas and features identified by the applicant's existing resources and site analysis plan, as required in subsection 46-42(d)(1), by incorporating them into proposed conservation lands.
- (l). *Rural road corridors and scenic viewsheds.* All applications shall preserve the viewsheds along rural roads by incorporating them into conservation lands or otherwise providing for building setbacks and architectural designs to minimize their intrusion. Views of developable lots from exterior roads and

abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping to the greatest degree possible.

(m) *Design standards Specific to Conservation Land.* Standards to be followed regarding the design of the conservation land are as follows:

- (1) Except as otherwise permitted, conservation lands shall be free of all structures except historic buildings, stone walls, and structures related to conservation land uses. The town council may approve structures and improvements required for storm drainage, sewage treatment and water supply within such conservation land on finding that such facilities would not be detrimental to the conservation land, and that the acreage of lands required for such uses is not credited towards minimum conservation acreage requirements for the tract, unless the land they occupy is appropriate for passive recreational use.
- (2) Conservation lands shall not include parcels smaller than three acres, have a length-to-width ratio of less than 4:1, or be less than 75 feet in width, except for such lands specifically designed as neighborhood greens, playing fields or trail links. Exceptions to this requirement may be granted, on a case-by-case basis, where, due to topography, shape, size, or location of the tract, such requirements are determined by the town council when reviewing the preliminary plat to be infeasible, impractical, or serve no meaningful purpose.
- (3) Conservation lands shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe and convenient pedestrian access to conservation land.
- (4) Conservation lands shall be interconnected wherever possible to provide a continuous network of conservation lands within and adjoining the subdivision.
- (5) Conservation lands shall provide buffers to adjoining parks, preserves or other protected lands.
- (6) Except as provided herein, conservation lands shall be provided with pedestrian pathways for use by the residents of the subdivision. Public access shall be provided on such trails if they are linked to other publicly accessible pathway systems within the town. Provisions shall be made for access to the conservation lands, as required for land management and emergency purposes. Access to conservation lands for agricultural or horticultural purposes may be appropriately restricted for public safety purposes and to prevent interference with agricultural or horticultural operations.
- (7) Conservation lands shall be undivided by streets, except where necessary for proper traffic circulation.
- (8) Conservation lands shall be made subject to such agreement with the town and such conservation easements shall be duly recorded in the office of the county register of deeds for the purpose of permanently preserving the common open space for such uses.
- (9) Conservation lands shall be located in a manner that is consistent with the town's land use plan and the town's conservation land audit, which identifies an interconnected network of conservation lands.

(n) *Delineation of conservation lands.* The delineation of conservation lands shall be as provided for in subsection 58-58(4).

- (1) The minimum percentage and acreage of required conservation lands shall be calculated by the applicant and submitted as part of the sketch plan. At a minimum, 50 percent of the gross acreage of the tract will be required to be retained as conservation land. When a subdivision lies on both sides of a major or minor thoroughfare, all attempts should be made to have 50 percent of each side's gross acreage designated as conservation land. However, the town may

allow flexibility on the distribution of conservation land in situations where there is greater logic to preserving special features on one side of the road, or due to locating homes on the other side due to the relative absence of special site features with greater conservation value.

Not more than 20 percent of the minimum required area of conservation lands shall be comprised of wetlands, submerged lands, steep slopes, floodways, or land under high voltage electrical transmission lines (conducting 69 kilovolts or more).

- (2) Proposed conservation lands shall be designated using the existing resources and site analysis plan (submitted with the sketch plan) as a base map.
- (3) In delineating secondary conservation areas, the applicant shall use the following tier system as a guide, with those lands included in tier A having the highest priority for preservation; provided, however, that in certain portions of the town, the priorities defined may be altered by the town in order to maximize achievement of the goals and objectives of maintaining open space through conservation subdivisions:
 - a. Tier A, highest priority.
 1. Forestlands.
 2. Steep slopes (greater than 25 percent)
 3. Viewsheds from thoroughfares
 - b. Tier B, medium priority.
 1. Farmlands, meadows, pastures, and grasslands
 2. Historic sites.
 - c. Tier C, lowest priority.
 1. Moderate Steep slopes. (15-25%)
 2. Rock formations.
 3. Lands adjacent to parks.
 - d. Conservation areas shall be identified with wooden signs and accessed by trails leading from the street system. Trail heads shall be identified either with signage or with short sections of split-rail fencing.

(o) *Resource conservation standards for site preparation and cleanup.*

(1) *Protection of vegetation from mechanical injury.* Where earthwork, grading, or construction activities will take place in or adjacent to forestlands, or other significant vegetation or site features, the town shall require that the limit of disturbance be delineated, and vegetation protected through installation of temporary fencing or other approved measures. Such fencing shall be installed prior to the commencing of, and shall be maintained throughout, the period of construction activity.

(2) *Protection of vegetation from excavations.*

- a. When digging trenches for utility lines or similar uses, disturbances to the root zones of all woody vegetation shall be avoided.
 - b. If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as quickly as possible.
- (3) Conservation subdivisions shall be designed to harmonize with the existing terrain, so that mass grading can be minimized, and the natural character of the underlying land will be preserved, to the maximum extent feasible. Site designers shall therefore lay out streets and house lots to conform to the existing topography as much as possible.
- (p) *Utilities.* All utility lines (electric, water, sewer, telephone, gas, etc.) shall be located underground in all subdivisions.
 - (q) Shade trees shall be shown within the cleared right-of-way at 40-foot intervals along both sides of proposed streets, in areas where trees have been removed or did not previously exist. Such trees shall be capable of attaining a mature height of at least 40 feet and shall generally be of a local native species such as frequently found in the natural woodlands of the area, although other species such as sycamore and linden are also good choices. Non-native trees with invasive tendencies such as Norway maple shall be avoided.
 - (r) *Neighborhood Green Required.* To the greatest extent feasible, each conservation subdivision should provide at least one neighborhood green, not less than 10,000 sf in area, planted with shade trees at 40' intervals around the edge.

Sec. 46-76. - Road standards

- (a) *Public roads.*
 - (1) All subdivision lots, except as provided herein and in section 58-10, shall abut public roads.
 - (2) Exceptions to the public road frontage requirements shall be as follows: Any lot or tract shall be allowed to have easement lots created for construction of single-family dwellings as the principal use. Creation of such lots is made necessary by virtue of the fact that development of said property by conventional means (i.e., extension of public street) is impractical due to the disproportionate costs of required improvements as compared to the relative value of lots created and is within the spirit and intent of this chapter. These lots shall be created as follows:
 - a. The applicant shall submit an application to the planning board with a sketch plat showing the proposed easement lots for approval to proceed further as specified in this section.
 - b. All access easements shall be at least 45 feet in width and shall meet or exceed the state department of transportation minimum standards for subdivision road width where possible. The travel surface of said easement shall be at least 16 feet in width. The travel surface need not be paved. The easement shall be maintained at all times in a condition that is passable for service and emergency vehicles.
 - c. The creation of easement lots shall follow the procedures of a minor subdivision as outlined in section 46-40. In addition, a statement shall be placed on the subdivision plat acknowledging that said lots were being created upon a privately maintained and recorded easement, and a statement indicating the parties responsible for maintaining the easement.
 - d. Creation of such easement lots and access easements shall not impair future extension of an adequate system of public streets to serve such lots.

- e. Easement lots shall not be further subdivided unless the newly created lots abut a public road. Any additional subdivision of easement lots shall be a major subdivision and shall be reviewed using the major subdivision plat approval process.
- f. If public road access becomes available to easement lots, all affected lot owners shall have the easement terminated of record.

(3) *Subdivision street disclosure statement.* All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designated as a public street and shall be conclusively presumed an offer of dedication to the public. Before the approval of a final plat, the developer shall submit to the town evidence that the developer has created a homeowners' association whose responsibility it will be to maintain common areas and streets. Such evidence shall include filed copies of the articles of incorporation, declarations and homeowners' association bylaws. Where streets are dedicated to the public but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street shall be included with the final plat. A written maintenance agreement with provision for maintenance of the street until it is accepted as part of the state system.

(b) *Marginal access drive.* Where a tract of land to be subdivided adjoins a thoroughfare as designated on the adopted LARTP or the Comprehensive Transportation Plan maps, and the lots front the thoroughfare, the subdivider shall be required to provide a marginal access drive parallel to the thoroughfare. A marginal access drive shall meet the following requirements:

- (1) The marginal access drive shall be a minimum of 18' wide and located on a shared access easement that is a minimum 25' wide.
- (2) The access easement shall be a minimum of 50' from the thoroughfare right of way;
- (3) Existing screening shall be kept and/or supplemented between the thoroughfare and access easement
- (4) The marginal access drive shall be built to NCDOT specifications.
- (5) A recorded shared access agreement shall be provided prior to approving the final plat.

(c) *Street design and standards.* Minimum street right-of-way and pavement widths, as well as other engineering design standards shall be in accordance with the minimum design criteria for subdivision roads as established from time to time, by the division of highways, state department of transportation publication entitled "Subdivision Roads: Minimum Construction Standards", except where modified by the Town of Weddington Roadway Standards.

(d) *Culs-de-sac.*

- (1) Permanent dead-end streets shall not provide sole access to more than 16 dwelling units or 1,200 linear feet, whichever is less. Measurement shall be from the point where the centerline of the dead-end street intersects with the center of a through street to the center of the turnaround of the cul-de-sac. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to right-of-way line on the street approaching the turnaround.

When cul-de-sacs end in the vicinity of an adjacent undeveloped property capable of being developed in the future, a right-of-way or easement shall be shown on the final plan to enable the street to be extended when the adjoining property is developed. Cul-de-sacs in conservation subdivisions shall generally include a pedestrian connection to the open space behind the lots they serve, preferably at the end of the cul-de-sac.

- (2) Cul de sacs shall generally be designed with central islands (preferably teardrop shaped) where trees are retained or planted. Cul-de-sac pavement and right-of-way diameters shall be in accordance with NCDOT design standards. Designs other than the "bulb" end design with a circular right-of-way will be subject to the approval of the Division Engineer of the Division of Highways, North Carolina Department of Transportation and the town council after review on an individual basis.

Cul-de-sacs less than 600 feet long shall generally be designed as "closes", with two one-way streets bounding a central "boulevard island" not less than 35 feet across. This can be easily accomplished by extending the outer edges of the turning half-circle perpendicularly to the street from which the cul-de-sac springs. The central open space offers opportunities for tree planting and "rain garden" infiltration areas for stormwater (particularly when the street pavement is sloped inward toward the central open space).

(e) *Street layout.*

- (1) *Conformity to existing maps or plans.* Streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, and to the proposed use of land to be served by such streets. Streets shall be designed and laid out in a manner that minimizes adverse impacts on the conservation lands. To the greatest extent practicable, wetland crossings and new streets or driveways traversing steep slopes shall be avoided.
- (2) *Continuation of adjoining streets.* The proposed street layout shall be coordinated with the street system of the surrounding area. Where possible, existing principal streets shall be extended. Street connections shall be designed so as to minimize the number of new culs-de-sac and to facilitate easy access to and from homes in different part of the tract (and on adjoining parcels). In certain cases where standard street connectivity is either not possible or not recommended, the town may require the installation of one or more emergency access gates leading to a gravel drive connecting with the adjacent property or roadway. The homeowner's association is responsible for the maintenance, testing and repairs of all functions of emergency access gates. An annual inspection and test of the gate shall be performed and the results submitted to town hall. Any homeowner's association that is found to be in violation shall be required to maintain a service agreement with a qualified contractor to ensure year-round maintenance and to submit a copy of the service agreement to Town Hall.
- (3) *Large tracts or parcels.* Where land is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further resubdivision.
- (4) *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 offered for dedication to assure convenient access to parks, playgrounds, schools, or other places of public assembly.
- (5) *Ingress and Egress.* Two points of ingress and egress onto an adjoining public road from subdivision containing more than 15 lots is required. In conservation subdivisions, proposals for more than two points of ingress and egress onto any adjoining public road shall be allowed on a case-by-case basis only when determined by the town council that it would not have a negative impact on traffic levels and patterns and the viability of the conservation subdivision.
- (6) Developable lots shall be accessed from interior streets, rather than from roads bordering the tract. Single loaded streets are encouraged to the greatest degree feasible.

- (7) Streets shall be designed, wherever practicable, with green “terminal vistas”, for example by situating some conservation areas and other open space along the outside edges of street curves (for greater visibility). In addition, other visible open space shall be provided, such as in neighborhood greens that are bordered by streets on several sides, or along non-curving sections of the street system, wherever practicable.
- (f) *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 both the Charlotte and Monroe Offices of the Division of Highways.
- (g) *Reservation of future right-of-way.* Whenever a tract of land to be subdivided includes any part of a thoroughfare shown on the Comprehensive Transportation Plan or LARTP adopted by the town, and whenever such right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the major or minor thoroughfare must be platted in the location and to the width specified in the plan. The subdivider is responsible for the reservation of the right-of-way. All measurements involving minimum lot standards under this chapter will be made at the edge of the full/future right-of-way.
- (h) *Improvements within the town limits.*
- (1) Approval of the final plat shall be subject to the subdivider having installed the improvements hereinafter designated or having guaranteed, to the satisfaction of the town council, the installation of said improvements.
 - (2) The following requirements shall apply to all streets within the corporate town limits of the town, or if annexation of the subdivision to the town is desired or required by the subdivider:
 - a. *Grading.* All streets shall be graded to their full right-of-way width. Finished grade, cross-section and profile shall be in accordance with the Town of Weddington Standards and the state department of transportation standards, as established herein.
 - b. *Paving.* Road base and paving shall be installed in accordance with the Town of Weddington Standards and the state department of transportation standards, as established herein.
 - c. *Street signs.* Appropriate street name signs which meet the standards of town/county specifications shall be placed at all street intersections at the subdivider's expense.

46-77 Buffering

- (a) *Buffering thoroughfares.*
- (1) Residential developments shall be designed so that lots face toward either internal subdivision streets or toward existing state roads across conservation land such as “foreground meadows”.
 - (2) Where the side or rear yards of lots may be oriented toward existing thoroughfares roads a buffer at least 100 feet wide of existing woodland providing adequate visual screening throughout the year is required. The buffer width may be reduced to 50 feet if plantings are installed to include year-round screening.
 - (3) Earthen berms are not a permitted design approach as they are inherently nonrural and would inappropriately alter the rural character of the R-CD, even if landscaped.

- (4) If the required buffer exceeds 15 percent of the total acreage of the parcel, the zoning administrator may reduce the required buffer to an amount equal to 15 percent, provided that sufficient evergreens are planted to create an effective visual buffer, as described above

(b) *Buffering other uses*

The buffer requirement is 50 feet between homes in the proposed subdivision and any other non-residential use. Section 58-8 in the zoning ordinance lists the required plantings of trees and shrubs within buffers and the standards for planting.

- (c) The preliminary plat shall be accompanied by a statement providing for buffer area permanent maintenance by a method acceptable to the town. Maintenance of the buffer by the town shall not be an acceptable method.

Sec. 46-78. - Placement of monuments.

Unless otherwise specified by this chapter, the Standards of Practice for Land Surveying, as adopted by the state board of registration for professional engineers and land surveyors, under the provisions of 21 N.C. Admin. Code 56, shall apply when conducting surveys for subdivisions, to determine the accuracy for surveys and placement of monuments, control corners, markers, and 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.

(Ord. No. 04-09-13, § 406, 9-13-2004)

Sec. 46-79. - Connection to public water lines.

- (a) If county or municipal water lines are located within one-half mile of a subdivision of ten to 39 lots, or one mile of a subdivision of 40 lots or more, where the distances are measured along the roadway to the nearest edge of the property, then the developer must connect to these lines to provide water service and fire protection for the subdivision. Extensions to the county water system shall be made in conformance with the policies and procedures set forth in the current Union County Water and Sewer Extension Policy as approved by the board of county commissioners and Town of Weddington.
- (b) There may be times when the county cannot issue new water permits due to lack of available capacity. If a developer is denied permits for this reason, the town may allow the use of individual domestic wells to serve a proposed development provided that the developer still installs water lines to county specifications as initially approved for fire flow only. The developer shall be responsible for proving to the town that capacity is not available. A determination of what capacity is available and whether to allow the use of individual domestic wells shall lie within the sole discretion of the town.
- (c) The proposed water lines must still meet all the requirements of the Union County Water and Sewer Extension Policy, including providing fire flow protection to the development and taps and meter boxes for each developable lot. If the county and town approve these plans then the use of wells may be approved as an interim measure until such time as water capacity becomes available. The developer will be required to provide written proof that Union County will charge the lines for fire hydrant use.
- (d) As a condition of approval of the proposed development, the developer or property owner shall require these lots with domestic use wells connect to the county system at such time as the county indicates water capacity is available. Individual wells may be converted to irrigation use at the property owners expense provided such conversion is in conformance with the Union County Building Code and Union

County Water and Sewer Specifications. The developer and/or property owner shall be responsible for any fees and charges from the county as a condition of connection to the county water system.

- (e) The use of community wells for domestic needs is discouraged and will only be allowed if the water system is built to Union County Water and Sewer Specifications. The system must be capable of meeting the water needs of the community including domestic, irrigation and fire flow requirements and an agreement exists with the county for: 1) the conditions under which the system becomes part of the county system; and 2) an arrangement is made with the county to tap into the county system for working fire hydrants according to the county specifications.

Sec. 46-80. - Blasting.

- (a) Blasting permits are issued by the Union County Fire Marshal.
- (b) Any applicant for a blasting permit shall submit a copy of said application to the town along with a certificate of insurance evidencing all insurances carried by the applicant.
- (c) After receipt of blasting permit from the Union County Fire Marshal the applicant shall send a copy of the blasting permit to the town. The applicant shall notify in writing the town and all occupants and owners of residences and businesses adjoining the property where the blasting will occur of the intention to use explosives at least 48 hours before each blast.
- (d) Hours of detonation. Hours of detonation shall be limited to daylight hours, no earlier than 8:00 a.m. or later than 5:00 p.m., Monday through Friday, except by special exception specifically authorized by the town administrator. Blasting shall also be prohibited on the following legal holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

Sec. 58-58. - R-CD residential conservation district.

The R-CD residential conservation district is established to allow uses that are similar in nature to other residential (R) districts in the town. The R-CD district provides a means of protecting conservation lands, especially those areas that contain primary and secondary conservation lands. Following are the regulations for conservation subdivisions and other land uses in the R-CD district:

(1) *Permitted uses.*

- a. Single-family dwellings.
- b. Agricultural uses. Structures housing poultry or livestock (other than horses) and waste removed from any structure shall be located no closer than 150 feet from any property line except that structures housing horses shall be located no closer than 60 feet from any property line. Corrals for bovine and equine animals are exempt from these setbacks.
- c) Horse farm and academy. Structures housing horses shall be located no closer than 60 feet from any property line. Waste removed from any such structure shall be located no closer than 150 feet from any property line.
- d. Family care home for up to six clients, provided such home is not located within a one-half-mile radius from an existing family care home.
- e. Essential services, classes I and IV.
- f. Customary home occupations in accordance with [section 58-7](#).
- g. Day care centers, small group.
- h. Habitat preserve or other similar conservation use.
- i. Conventional subdivisions, provided that a minimum of ten percent of the gross area, exclusive of any required minimums along thoroughfares, of the subdivision consists of common open space. The ten percent open space requirement shall not apply in conventional subdivisions where each of the resultant lots has an area that equals or exceeds five acres. Any further subdivision of the tract into lots less than five acres in size shall require ten percent open space. Any such open space areas as herein provided, shall consist of principally viewsheds from the road, where applicable. Where a viewshed is not appropriate, open space shall consist of primary and/or secondary conservation lands, to the extent that they are found on the tract in question.

(2) *Conditional uses.* The following uses may be permitted by the town council in accordance with [section 58-271](#); provided that no such uses shall be allowed within a conservation subdivision. The council shall address review criteria for each use which is contained in [section 58-271](#). The council shall address any additional review criteria for these land uses as may be contained in [section 58-88](#):

- a. Churches, synagogues and other places of worship.
- b. Public and private schools serving all grades, including preschool facilities.
- c. Golf courses (except on conservation lands), parks, playgrounds and community recreational centers.

- d. Country clubs.
- e. Emergency governmental service facilities, including police, fire and rescue.
- f. Cemeteries.
- g. Essential services, classes II and III.
- h. Telecommunication towers.
- i. Public libraries.
- j. Amateur radio towers. An amateur radio tower may also be located on a lot that contains another principal use or structure. In no instance, however, shall the amateur radio tower be located in the front yard of a lot containing another principal structure.
- k. Government or town facility.
- l. Land application of biosolids.
- m. Conservation subdivisions.
- n. Agritourism.

(3) *Standards for developments not located within a conservation subdivision.*

a. *Minimum lot area:*

- 1. Single-family dwellings: 40,000 square feet, except five acres on an easement lot not located within a conservation easement. However, an easement lot may be a minimum of 40,000 square feet when created within a conservation easement of at least 25 acres that is dedicated to a conservation organization.
- 2. Cemeteries and essential services, class III: Five acres.
- 3. Churches: Three acres.
- 4. Public and private schools: Ten acres.
- 5. Horse farms or academies: Five acres.
- 6. Agricultural uses: A minimum of 40,000 square feet; provided, however, that a minimum of five acres shall be required for any agricultural use containing one or more livestock animals having a mature adult weight of 250 pounds or greater. Notwithstanding this requirement, lots whose agricultural use consists exclusively of one horse shall be required to have a minimum of 40,000 square feet of contiguous fenced land area designed to accommodate the horse. Such lots containing two horses shall be required to have a minimum of 80,000 square feet of contiguous fenced land area designed to accommodate the two horses.
- 7. Essential services, classes I and IV: None.
- 8. Planned residential development: 35 acres.
- 9. Libraries: Three acres.
- 10. Lots containing amateur radio towers: 40,000 square feet.
- 11. All other uses: 40,000 square feet.
- 12. Government or town facilities.

b. *Minimum front yard setback (except as provided in article IV of this chapter):*

- 1. Essential services, class III: 300 feet.
- 2. Telephone repeater stations, transmitting facilities and public utility stations: 200 feet.

3. Single-family dwellings and mobile homes: 50 feet.
4. Essential services, class IV: Ten feet.
5. Lots containing amateur radio towers: 1.5 times the height of the tower.
6. Essential services, class I: None.
7. All other uses: 75 feet.

c. *Minimum lot width:*

1. Essential services, classes I and IV: None.
2. All other uses: 120 feet, measured at the front yard setback.

d. *Minimum side yard setback:* (Side yard setback shall be increased by ten feet on the side yard facing a street on all corner lots.)

1. Single-family dwellings and mobile homes: 15 feet, provided that if a buffer is provided at the side of the lot pursuant to subsection [46-76\(d\)](#), the side yard setback shall be measured from the nearest edge of the buffer area.
2. Churches, schools, governmental facilities, libraries, government or town facility, telephone repeater stations: 50 feet.
3. Essential services, class III: 100 feet.
4. Telephone repeater stations, transmitting facilities and public utility substations: 75 feet.
5. Essential services, class IV: Ten feet.
6. Lots containing amateur radio towers: 1.5 times the height of the tower.
7. Essential services, class I: None.
8. All other uses: 15 feet.

e. *Minimum rear yard setback:*

1. Single-family dwellings and mobile homes: 40 feet; provided that if a buffer is provided at the rear of the lot pursuant to subsection [46-76\(d\)](#), the rear yard setback shall be measured from the nearest edge of the buffer area.
2. All essential services, class III: 100 feet.
3. Telephone repeater stations, transmitting facilities and public utility substations: 75 feet.
4. Essential services, class IV: Ten feet.
5. Lots containing amateur radio towers: 1.5 times the height of the tower.
6. All other uses: 40 feet.

f. *Maximum building height (except as permitted in [section 58-15](#)):*

1. Essential services, class IV: Ten feet.
2. Lots containing amateur radio towers: 100 feet.
3. All other uses: 35 feet.

- g. *Permitted uses of open space.* No use or development shall be allowed on the required open space except as follows:
1. Conservation of open land in its natural state (for example, forestlands, fields or meadows).
 2. Pastureland.
 3. Forestry, in keeping with established best management practices for selective harvesting and sustained-yield forestry.

(4) *Standards for developments located in conservation subdivisions.*

a. *Dimensional standards.*

1. Minimum lot sizes: One of the primary differences between conventional subdivisions and conservation subdivisions is that although the overall allowable density levels between the two are the same, conservation subdivisions allow much smaller lot sizes. Accordingly, lots containing single-family dwellings may have a minimum area of 12,000 square feet. Easement lots are not permitted in a conservation subdivision.
2. Minimum lot width at building line: 80 feet.
3. Minimum street frontage: 30 feet.
4. Yard regulations: Variations in the principal building position and orientation on the lot are encouraged, but shall observe the following minimum standards:
 - i. Front yard: 20 feet.
 - ii. Rear yard: 30 feet.
 - iii. Side yard: 30 feet separation for principal buildings, adjacent lots, with no side yard less than five feet. The streetside side yard on a corner lot (i.e., the lot fronting a street that is not the "front yard") shall be at least 15 feet.

Notwithstanding the provisions of this subsection, all principal dwelling units within a conservation subdivision shall be set back at least 100 feet from all external road rights-of-way (i.e., rights-of-way of roads that are external to the proposed subdivision), as depicted on the most current version of the local thoroughfare plan. In addition, all principal dwelling units shall otherwise be set back a minimum of 50 feet from the external boundaries of the conservation subdivision.

5. Maximum building height: 35 feet.
 6. Garages with front-facing loading bays shall be recessed a minimum of two feet from the front facade of the house and visually designed to form a secondary building volume.
- b. *Design standards.* Lot lines shall not encroach upon the designated conservation lands. A minimum of 95 percent of building lots within the subdivision must share at least one lot line with another lot in the subdivision.
- c. *Conservation land uses.* Except as provided herein, most types of structural development are not allowed on primary conservation lands and required secondary conservation lands.

1. *Principal uses permitted outside of primary and required secondary conservation lands.* Single-family dwellings.
2. *Principal uses permitted on primary and required secondary conservation lands.* No use or development shall be allowed on primary and required secondary conservation lands except as follows:
 - i. Conservation of open land in its natural state (e.g., forestlands, fields or meadows).
 - ii. Agricultural uses, including raising crops or livestock, nurseries and associated buildings, excluding residences, provided that such buildings are specifically needed to support an active, viable agricultural or horticultural operation, and are architecturally compatible with the neighborhood setting. Specifically excluded, but not limited to, are commercial livestock operations involving swine, poultry and mink.
 - iii. Pastureland.
 - iv. Horse farms or academies.
 - v. Forestry, in keeping with established best management practices for selective harvesting and sustained yield forestry.
 - vi. Neighborhood uses such as village greens, commons, picnic areas, community gardens, trails and similar low-impact, passive recreational uses.
 - vii. Noncommercial recreational areas, such as playing fields, playgrounds, courts and bikeways, provided such areas do not consume more than half of the minimum required conservation land or five acres, whichever is less. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces. Notwithstanding the above, golf courses, their parking areas, and associated structures, shall not be allowed on any required conservation lands.
 - viii. Water supply and sewage disposal systems and stormwater detention areas designed, landscaped and available for use as an integral part of the conservation area.
 - ix. Easements for drainage, access, sewer or water lines or other public purposes.
 - x. Underground utility rights-of-way. Above ground utility and street rights-of-way may traverse conservation lands but street rights-of-way shall not count toward the minimum required conservation land. Fifty percent of the utility rights-of-way may be counted toward the minimum required conservation land.

(5) *Permanent protection of open space.* The required open space for all major subdivisions shall be subject to a conservation easement that will be held by the homeowners' association that shall meet the criteria in Section 46-43(b)(5).

(6) *Maintenance Plans and Agreements.* The applicant for all major subdivisions must submit, with an application for preliminary plat approval, a maintenance agreement that obligates

either the property owner of the open space and conservation land, or other specified party as provided above, to implement the maintenance plan per 46-43(b)(6)

Sec. 58-271. - Conditional zoning district amendment procedure.

- (a) Conservation Subdivisions shall be rezoned as a conditional district through the legislative process at the preliminary plat phase. They shall be exempt from the application requirements and process below, with the exception of reviewing the construction plans, and provided that all applicable provisions of this section and article II, chapter 46 are followed and that Town Council follows the action of making a Land Use Plan Consistency Statement required in subsection (h) below and by GS 160A-383.
- (b) *Traffic impact analysis.* The applicant shall be required to meet the requirements described in both the Traffic Impact Analysis Process and Procedures Manual, and Appendix C: Traffic Impact Analysis.
- (c) *Application.*
 - (1) Petitioning for a conditional zoning district and can be initiated only by the owner of the property or by his authorized agent or the Town of Weddington. All applications must include a site plan, drawn to scale, and supporting text, all of which will, if approved, become a part of the amendment. The site plan, drawn by an architect, landscape architect, or engineer licensed to practice in the state, shall include any supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined requirements of this chapter, will govern the development and use of the property. The applicant shall, at a minimum, include as part of the application each of the items listed below:
 - a. A boundary survey showing the total acreage, present zoning classifications, date and north arrow.
 - b. The names, addresses and the tax parcel numbers of the owners of all adjoining properties.
 - c. All existing easements, reservations, and rights-of-way on the property to be rezoned.
 - d. Proposed principal uses. For residential uses this shall include the number of units and an outline of the areas where the structures will be located. For nonresidential uses, designation of the areas within the development where particular types of uses will occur, with reference made to the list of uses found in subsection 58-60(1).
 - e. Lot sizes for residential and nonresidential uses and proposed outparcels, as applicable.
 - f. Detailed information on the number, height, size and location of structures.
 - g. All proposed setbacks, buffers, screening and landscaping required by this chapter or otherwise proposed by the applicant.

- h. All existing and proposed points of access to public streets from the development.
 - i. A detailed description of all proposed phasing of development for the project.
 - j. Number, location, type and size of all signs proposed to be erected by the developer at entrances to the site. Additionally, a general description of other proposed signs including number, location, type and size of all commercial signs. Actual approval of signs shall be a part of the design review provided for in subsection (h)(8) of this section.
 - k. Exterior treatments of all principal structures including proposed materials and general architectural design.
 - l. Delineation of areas within the regulatory floodplain as shown on official flood hazard boundary maps for county.
 - m. Existing and proposed topography at five-foot contour intervals or less.
 - n. Scale and physical relationship of buildings relative to abutting properties. This may be accomplished by providing existing and proposed topographic elevation cross-sections of the site showing proposed structures relative to existing adjacent properties.
 - o. Lighting plan and proof of conformity to the article IV of chapter 14.
- (2) Said site plan, including all additional information shown on it, shall constitute part of the application for rezoning to a conditional zoning district. The zoning administrator, on a case-by-case basis and at his sole discretion, may specify how many copies of the application the applicant must submit in order to have enough copies for review. No application shall be deemed complete unless accompanied by a fee in accordance with the most recently adopted fee schedule adopted by the town council. Furthermore, the applicant acknowledges that he/she will reimburse the town for all engineering and consulting services associated with the review of the conditional zoning request prior to any zoning permits being issued by the town for such project.
- (3) It is further acknowledged that the town reserves the right to approve a rezoning to a B-1(CD), B-2(CD) or MX conditional district simultaneously with the approval of a sketch plan for a major subdivision, providing that all applicable provisions of this section and article II, chapter 46 are followed. Furthermore, an application to rezone property to a conditional zoning district will also require the applicant to submit all construction plans for infrastructure improvements, individual buildings, and signs as provided in subsection (h)(8) of this section.
- (d) *Additional requirements.* When reviewing an application to rezone property to a conditional zoning district, the planning board and/or town council may request additional information in addition to that required in subsection (a) of this section, as they deem necessary.
- (e) *Public involvement meeting.* Once the requisite copies of the application have been submitted to the town and the requisite fees have been paid, a public involvement meeting (PIM) shall be scheduled and held. Such meetings shall occur prior to any recommendation by the planning staff and approval by the town council. The PIM is designed to provide an opportunity for community involvement in accordance with the following requirements:

- (1) The applicant shall provide an agenda, schedule, location and list of participants such as landscape architects, engineers, etc., to answer questions from citizens and service providers for the project in cooperation with the planning staff.
 - (2) The PIM shall be a minimum of four hours. Two hours shall be scheduled during normal business hours to allow service providers (such as the state department of transportation, utilities, or the state department of environment and natural resources) to participate as needed and to allow citizens to appear at a convenient time throughout the period. It is strongly recommended that this portion of the PIM take place at the proposed development site. In addition, a two-hour evening period shall be scheduled at the Town Hall or other nearby location agreed upon by the applicant and planning staff.
 - (3) Notice of public involvement meetings shall, at a minimum, be given as follows:
 - a. A public notice shall be sent by the town to a newspaper having general circulation in the town not less than ten days or more than 25 days prior to the date of the PIM.
 - b. A notice shall be sent by first class mail by the town to the owners of all properties that lie within 1,300 feet of the exterior boundaries of the proposed development. The applicant shall furnish the town with mailing labels that depict the names and addresses of all such owners. Such notice shall be mailed to said property owners not less than ten days prior to the date of the PIM. The notification shall contain information regarding the PIM time and location, as well as a general description of the proposal.
 - c. A PIM notification sign shall be posted by the town in a conspicuous place at the property not less than ten days prior to the PIM. The sign shall indicate the date, time and location of the PIM.
 - d. The applicant shall reimburse the town for all expenses incurred to provide the notifications required by this subsection.
 - (4) Town staff will keep notes of citizen comments received during the PIM. In addition, all service provider comments shall be recorded by the town, including, but not limited to, all correspondence, reports and oral comments by service providers. After town review, this information will be available at the Town Hall and at subsequent meetings concerning the project. When practical, comments, ideas and suggestions presented during the PIM should be incorporated by the developer into the proposed development.
 - (5) Following the PIM, the applicant shall have the opportunity to make changes to the application to take into account information and comments received. One or more revised copies of the application shall be submitted to the zoning administrator for review. No additional fee shall be required to be paid for making such changes provided the zoning administrator receives the revised application within 30 days following the PIM. If a revised application is not received during said 30-day period, or if the applicant otherwise notifies the zoning administrator in writing that no revised application will be submitted, the zoning administrator shall review the original application.
- (f) *Zoning administrator approval.* The zoning administrator shall have up to 30 days following any revision of the application (or up to 60 days following the PIM, if no revision is submitted) to make comments. If the administrator forwards no comments to the applicant by the end of said period, the application shall be submitted to the planning board for their review without

any further comment. If the zoning administrator provides the applicant with comments on the application, the applicant shall have ten days after receiving the comments to inform the zoning administrator whether the application will be further revised. If the applicant informs the zoning administrator that the application will not be further revised, the zoning administrator shall submit the application to the planning board for their review at the next regularly scheduled meeting. If the applicant informs the zoning administrator that the application will be further revised, the zoning administrator shall not submit the current application to the planning board. Once the applicant submits a revised application, it shall be subject to review in accordance with this section.

(g) *Planning board review.* The applicant shall submit at least ten copies of the application to the zoning administrator for transmittal to the planning board and other appropriate agencies. The zoning administrator shall present any properly completed application to the planning board at its next regularly scheduled meeting occurring at least 15 days after the application has been deemed complete and ready for submission to the planning board in accordance with subsection 58-271(d)(4) of this section. The planning board may, by majority vote, shorten or waive the 15-day time period provided in this section for receipt of a completed application. The planning board shall have 30 days from the date that the application is presented to it to review the application and to take action. If such period expires without action taken by the planning board, the application shall then be transferred to the town council without a planning board recommendation.

(1) A planning board member shall not vote on any conditional zoning amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

(2) Upon making a recommendation, the planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and with any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the town council that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the town council.

(h) *Action by town council.* Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standards of review as apply to general use district zoning decisions. Conditional zoning district decisions shall take into account applicable adopted land use plans for the area and other adopted land use policy documents and/or ordinances. Prior to making a decision on rezoning a piece of property to a conditional zoning district, the town council shall hold a public hearing. Notice of such public hearing shall be given as prescribed in subsection 58-270(g).

(1) A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each application for a rezoning to a conditional district.

(2) Once the public hearing has been held, the town council shall take action on the application. The town council shall have the authority to:

a. Approve the application as submitted;

- b. Deny approval of the application;
 - c. Approve the application with modifications that are agreed to by the applicant; or
 - d. Submit the application to the planning board for further study. The application may be resubmitted to the planning board with any modifications that are agreed to by the applicant. The planning board shall have up to 30 days from the date of such submission to make a report to the town council. Once the planning board issues its report, or if no report is issued within that time period, the town council can take action on the application in accordance with this subsection.
- (3) In the town council's sole discretion, it may hold additional public hearings on an application at any time before it takes a final vote to approve or deny that application.
- (4) A town council member shall not vote on any conditional zoning amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.
- (i) *Conditions to approval of application.* In approving an application for the reclassification of a piece of property to a conditional zoning district, the planning board may recommend, and the town council may request that reasonable and appropriate conditions be attached to approval of the application. Any such conditions may relate to the relationship of the proposed use to the surrounding property, to proposed support facilities (e.g., parking areas, pedestrian circulation systems), to screening and landscaping, to the timing of development, to street and right-of-way improvements, to water and sewer improvements, to provision of open space, or to any other matters that the planning board or town council may find appropriate or the applicant may propose. Such conditions to approval may include dedication of right-of-way or easements for streets and/or utilities to serve the development. The applicant shall have a reasonable opportunity to consider and respond to any such proposed conditions prior to final action by the town council.
- (j) *Review of plans and construction documents.*
- (1) If the town council approves the application, the applicant's plans and construction documents will be subject to review in accordance with this section.
- (2) Where the DRB exists when the applicant submits any plans for review under this section, the DRB will review the plans in accordance with the following procedures. If no DRB exists when the applicant submits a set of plans for review, the functions of the DRB will be performed by the town planning board.
- a. *Review of building schematics, landscape plans and signs.*
1. The applicant shall submit to the planning staff for review and comment detailed plans and schematic designs for all buildings on the site, landscaping on the site and signs on the site. The planning staff may provide such submitted plans to town consultants or to other third parties to assist the town's review. The applicant shall reimburse the town for all costs and expenses that the town incurs in reviewing plans under this section.
 2. The applicant need not submit plans for all buildings, landscaping and signs simultaneously, and may instead submit multiple sets of plans, each of which shall be separately and independently reviewed. Notwithstanding this provision,

the DRB or the town council need not review plans submitted to it if, in its sole discretion, it determines that it cannot effectively review those plans without simultaneously reviewing plans for other buildings, landscaping and/or signs.

3. If the zoning administrator determines that a set of plans submitted by the applicant is complete and contains all information necessary to determine if those plans satisfy the standards specified in this subsection, the zoning administrator shall forward those plans to the DRB.
4. The DRB shall have 60 days from the date a set of plans is submitted to it to recommend to the town council whether it should approve those plans. The DRB's recommendation will be based solely upon its determination of whether the plans and schematic designs satisfy the standards specified in this section and meet the requirements of the town's architectural design standards (see chapter 14, article V). If the DRB recommends that any plans not be approved, it shall state the reasons for that recommendation in writing and shall inform the applicant that it may withdraw those plans.
5. A set of plans shall be submitted to the town council at its next regularly scheduled meeting that occurs at least 15 days after the DRB issues its recommendation on those plans. The applicant may withdraw any plans before they are submitted to the council, and the council will not review any plans that are withdrawn. If the DRB makes no recommendation to the council within 60 days after a set of plans are submitted to it, the plans shall be submitted to the town council for review without a DRB recommendation.
6. The town will approve any plans submitted to it unless those plans either violate any requirements of this chapter, including any requirements applicable to the particular conditional zoning district at issue, violate any requirements, standards or conditions contained in the applicant's rezoning application, violate any requirements, standards, or conditions that are imposed under subsection (g) of this section, or will cause the development not to be in harmony with its surrounding area (collectively, the provisions of this subsection constitute the standards referenced in this section).
7. After reviewing plans submitted to it, the town council shall have the authority to:
 - i. Approve the plans;
 - ii. Deny approval of the plans;
 - iii. Approve the plans with any modifications that are agreed to by the applicant; or
 - iv. Submit the plans to the DRB for further study. The plans may be resubmitted to the DRB with any modifications that are agreed to by the town council and the applicant. The DRB shall have 30 days from the date plans are resubmitted to it to make another recommendation to the town council on whether those plans should be approved. If the DRB makes no recommendation to the council within that time frame, the plans shall be resubmitted to the town council for its review.

8. No building may be constructed unless plans for that building have been approved by the town council in accordance with the process described in this subsection. No landscaping may begin unless plans for that landscaping have been approved by the town council in accordance with the above process. No signs may be erected unless the plans for those signs have been approved by the town council in accordance with the process described in this subsection.

b. *Review of other construction documents.*

1. Other than schematic designs and plans for buildings, landscaping and signs, all other plans, designs and other documents concerning any other construction or development activities will be reviewed in accordance with this subsection. Documents subject to review under this subsection will be referred to generically as construction documents. Construction documents include, by example only and without limitation, plans for all road improvements, stormwater detention, preconstruction and postconstruction best management practices and grading, soil and erosion control.

2. The applicant shall submit all construction documents to the town's zoning administrator for review. The applicant shall reimburse the town for all costs and expenses the town incurs in reviewing construction documents. The zoning administrator will approve all construction documents unless they violate the standards of this section. No construction or development contemplated by any construction document may be begun unless and until the zoning administrator has approved that construction document in accordance with this subsection.

c. *Post approval review.* After any and all plans and construction documents for an improvement have been approved, the town staff or other town representatives will periodically inspect that improvement during the construction process and may halt any construction or development that violates the standards. Following completion of the project, the applicant shall request a final inspection. If all improvements and all other development satisfies the standards, the town will issue a certificate of zoning compliance.

(k) *Changes to an approved conditional zoning district.*

(1) Except as provided in this section, a request to change the site plan or the conditions governing an approved conditional zoning district shall be processed in accordance with this section as a new application to rezone property to a conditional zoning district.

(2) The zoning administrator shall have the delegated authority to approve an administrative amendment to an approved conditional zoning district site plan or to the governing conditions without the requested change having to be approved as a new application in accordance with this section. Such administrative amendments shall include only those changes that do not significantly alter the site plan or its conditions and do not significantly impact abutting properties.

(3) No administrative amendment may increase the amount of allowed nonresidential development by more than ten percent of the approved square footage or 1,000 square feet, whichever is less. No administrative amendment may increase the amount of residential development by more than ten percent of the approved square footage, if a

maximum square footage for residential development was imposed or may increase the maximum number of allowed dwelling units by more than five.

- (4) Any request for an administrative amendment shall be in writing, signed by the property owner, and it shall detail the requested change. The applicant must provide any additional information requested by the zoning administrator. Accompanying the written request must be the applicable fee for administrative review, if any, that is required by the current town fee schedule. Any decision by the zoning administrator to approve or deny a request for an administrative amendment must be in writing and must state the grounds for approval or denial. The zoning administrator shall always have the discretion to decline to exercise the authority delegated by this section because the zoning administrator is uncertain if the requested change would qualify as an administrative amendment or because the zoning administrator determines that a public hearing and town council consideration is appropriate under the circumstances. If the zoning administrator declines to exercise the authority delegated by this section, the applicant can only apply for a rezoning in accordance with this section.
- (l) *Statement of readiness.* The petitioner shall submit a statement indicating readiness to proceed with the proposed development by filing with the town council no later than ten days of the approval of the conditional zoning district, a statement signed by the owner or owners of the proposed development that the actual construction shall begin within one year from the date the conditional zoning district was approved, and that the construction shall be completed within 18 months from the approval of the conditional zoning district. In the event the planning board and the town council find that the intent of this section has not been met or that construction has not begun and has not been completed within 18 months, the town may initiate the rezoning of the property in accordance with article IX of this chapter. Notwithstanding the above, nothing shall prohibit a reasonable extension of the 18-month limit by the town council.



SOIL EROSION and SEDIMENTATION CONTROL

October 2019

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ORDINANCE NO. _____

AN ORDINANCE TO PROVIDE FOR THE CONTROL OF SOIL EROSION AND SEDIMENTATION.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the, Town of Weddington, hereby adopts the following ordinance.

~~SECTION 458.601~~ Title |

This ordinance may be cited as the of Weddington, Soil Erosion and Sedimentation Control Ordinance.

~~SECTION 258.602~~ Purpose |

This ordinance is adopted for the purposes of:

- (a) regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
- (b) establishing procedures through which these purposes can be fulfilled.

~~SECTION 358.603~~ Definitions |

As used in this ordinance, unless the context clearly indicates otherwise, the following definitions apply:

- (a) Accelerated Erosion - means any increase over the rate of natural erosion as a result of land-disturbing activity.
- (b) Act - means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it as amended from time to time.
- (c) Adequate Erosion Control Measure, Structure, or Device - means one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity, as such controls are specified in the Ordinance-
- (d) Affiliate – means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another

person.

- (e) Being Conducted - means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.
- (f) Borrow - means fill material which is required for on-site construction and is obtained from other locations.
- (g) Buffer Zone - means the strip of land adjacent to a lake or natural watercourse.
- (h) Coastal Counties - means the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.
- (i) Commission - means the North Carolina Sedimentation Control Commission.
- (j) Completion of Construction or Development - means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
- (k) Department - means the North Carolina Department of Environment and Natural Resources.
- (l) Director - means the Director of the Division of Energy Mineral and Land Resources of the Department of Environment and Natural Resources.
- (m) Discharge Point - means that point at which storm water runoff leaves a tract of land.
- (n) District - means the Union County Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes.
- (o) Energy Dissipator - means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.
- (p) Erosion - means the wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.
- (q) Ground Cover - means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.
- (r) High Quality Waters - means those classified as such in 15A NCAC 2B.0101(e) (5) - General Procedures, which is incorporated herein by reference to include

further amendments pursuant to G.S. 150B-14(c).

- (s) High Quality Water (HQW) Zones –means, for the Coastal Counties, areas within 575 feet of ~~High Quality~~High-Quality Waters; and for the remainder of the state, areas within one mile and draining to HQW's.
- (t) Lake or Natural Watercourse – means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.
- (u) Land-disturbing Activity - means any use of the land by any person in 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.
- (v) Local Government - means any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.
- (w) Natural Erosion - means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.
- (x) Parent – means an affiliate that directly, or indirectly through one or more intermediaries, controls another person.
- (y) Person - means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
- (z) Person Conducting ~~land~~Land-Disturbing Activity - means any person who may be held responsible for a violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.
- (aa) Person Responsible for the Violation - means:
 - (1) the developer or other person who has or holds himself out as having financial or operation control over the land-disturbing activity; or
 - (2) the landowner or person in possession or control of the land that has directly or indirectly allowed the land-disturbing activity, or benefited from it or failed to comply with a duty imposed by any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

- (bb) Phase of Grading - means one of two types of grading: rough or fine.
- (cc) Plan - means an erosion and sedimentation control plan
- (dd) Sediment - means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.
- (ee) Sedimentation - means the process by which sediment resulting from accelerated erosion has been or is being transported off the sit of the land-disturbing activity or into a lake or natural watercourse.
- (ff) Siltation - means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.
- (gg) Storm Drainage Facilities - means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.
- (hh) Storm Water Runoff - means the surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.
- (ii) Subsidiary – means an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.
- (jj) Ten-Year Storm - means the storm water runoff resulting from precipitation of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.
- (kk) Tract - means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.
- (ll) Twenty-five Year Storm - means the storm water runoff resulting from precipitation of an intensity expected to be equaled or exceeded on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.
- (mm) Uncovered - means the removal of ground cover from, on, or above the soil surface.
- (nn) Undertaken - means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of

land.

- (oo) Velocity - means the average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.
- (pp) Waste - means surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.
- (qq) Working Days - means days exclusive of Saturday and Sunday, ~~and Federal and State holidays~~ during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

~~[It is suggested for local programs to also exclude Federal and State holidays, unless work is being conducted on these holidays.]~~

SECTION 458.604

Scope and Exclusions

- (a) Geographical Scope of Regulated Land-Disturbing Activity. This ordinance shall apply to land-disturbing activity within the territorial jurisdiction of the Town of Weddington, ~~and to the extraterritorial jurisdiction of the Town of Weddington,~~ as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.
- (b) Exclusions from Regulated Land-Disturbing Activity. Notwithstanding the general applicability of this ordinance to all land-disturbing activity, this ordinance shall not apply to the following types of land-disturbing activity:
 - (1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 - (i) forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.
 - (ii) dairy animals and dairy products.
 - (iii) poultry and poultry products.
 - (iv) livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
 - (v) bees and apiary products.

- (vi) fur producing animals.
 - (vii) mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.
- (2) An Activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and any related land-disturbing activity on the tract.
- (3) An activity for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.
- (4) A land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).
- (5) An activity which is essential to protect human life during an emergency.
- (6) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
- (7) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2
- (c) Plan Approval Requirement for Land-Disturbing Activity. No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a Plan approval therefor from the Town of Weddington.
- (d) Protection of Property - Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.
- (e) More Restrictive Rules Shall Apply - Whenever conflicts exists between federal, state, or local laws, ordinance, or rules, the more restrictive provision shall apply.

- (f) Plan Approval Exceptions. Notwithstanding the general requirement to obtain a Plan approval prior to undertaking land-disturbing activity, a Plan approval shall not be required for land-disturbing activity that does not exceed [redacted] square feet in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

~~SECTION 58.605~~

Mandatory Standards for Land-Disturbing Activity |

No land-disturbing activity subject to the control of this ordinance shall be undertaken except in accordance with the following mandatory standards:

(a) Buffer zone

- (1) Standard Buffer. No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity.

- (i) Projects On, Over or Under Water. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.
- (ii) Buffer Measurement. Unless otherwise provided, the width of a buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

- (2) Trout Buffer. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Commission may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal.

- (i) Projects On, Over or Under Water. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

Commented [LT1]: Can we remove if we don't have trout waters?

- (ii) Trout Buffer Measurement. The 25-foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank to the nearest edge of the disturbed area.
 - (iii) Limit on Land Disturbance. Where a temporary and minimal disturbance has been permitted as an exception to the trout buffer, land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of ten percent (10%) of the total length of the buffer zone within the tract to be disturbed such that there is not more than 100 linear feet of disturbance in each 1000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the Director.
 - (iv) Limit on Temperature Fluctuations. No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations in the trout waters, as set forth in 15 NCAC 2B.0211 "Fresh surface Water Classification and Standards."
- (b) Graded Slopes and Fills. The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within ~~21~~14 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.
- (c) Fill Material. Unless a permit from the Department's Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding twelve (12) inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.
- (d) Ground Cover. Whenever land-disturbing activity that will disturb more than one acre is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in Section ~~58.608~~58.608(b)(5) of this ordinance, provisions for a ground cover sufficient to restrain erosion must be accomplished within 15 working days or ~~90~~60 calendar days following completion of construction or development, whichever period is shorter.

- (e) Prior Plan Approval. No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract unless, thirty (30) or more days prior to initiating the activity, a Plan for the activity is filed with and approved by the Town of Weddington. An erosion and sedimentation control plan may be filed less than 30 days prior to initiation of a land-disturbing activity if the plan is submitted under an approved express permit program. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved.

The Town of Weddington shall forward to the Director of the Division of Water Resources a copy of each Plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

- (f) The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

- (g) Design Standards for The Upper Neuse River Basin (Falls Lake Watershed) |
In addition to any other requirements of State, federal, and local law, land-disturbing activity in the watershed of the drinking water supply reservoir that meets the applicability requirements of Session Law 2009-486, Section 3. (a), shall meet all of the following design standards for sedimentation and erosion control:

- (1) Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of the 25-year storm that produces the maximum peak rate of runoff as calculated according to procedures set out in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States.
- (2) Sediment basins shall be planned, designed, and constructed so that the basin will have a settling efficiency of at least 70 percent for the 40-micron size soil particle transported into the basin by the runoff of the two-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States.
- (3) Newly constructed open channels shall be planned, designed, and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit steeper side slopes or where the side slopes are stabilized by using mechanical devices, structural devices, or other ditch liners sufficient to restrain accelerated erosion. The angle for side slopes shall be sufficient to restrain accelerated erosion.

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- (4) For an area of land-disturbing activity where grading activities have been completed, temporary or permanent ground cover sufficient to restrain erosion shall be provided as soon as practicable, but in no case later than seven calendar days after completion of grading. For an area of land-disturbing activity where grading activities have not been completed, temporary ground cover shall be provided as follows:
- (a) For an area with no slope, temporary ground cover shall be provided for the area if it has not been disturbed for a period of 14 calendar days.
 - (b) For an area of moderate slope, temporary ground cover shall be provided for the area if it has not been disturbed for a period of 10 calendar days. For purposes of this Item, "moderate slope" means an inclined area, the inclination of which is less than or equal to three units of horizontal distance to one unit of vertical distance.
 - (c) For an area of steep slope, temporary ground cover shall be provided for the area if it has not been disturbed for a period of seven calendar days. For purposes of this Item, "steep slope" means an inclined area, the inclination of which is greater than three units of horizontal distance to one unit of vertical distance.

~~SECTION 658.606~~

Erosion and Sedimentation Control Plans

- (a) Plan Submission. A Plan shall be prepared for all land-disturbing activities subject to this ordinance whenever the proposed activity will disturb more than one acre on a tract. Three (3) copies of the Plan shall be filed with the Town of Weddington; a copy shall be simultaneously submitted to the Union County Soil and Water Conservation District at least 30 days prior to the commencement of the proposed activity.
- (b) Financial Responsibility and Ownership. Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the Plan, the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance. Except as provided in subsections (b1) or (j) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

- (b1) If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.
- (c) Environmental Policy Act Document. Any Plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Town of Weddington shall promptly notify the person submitting the Plan that the 30-day time limit for review of the Plan pursuant to this ordinance shall not begin until a complete environmental document is available for review.
- (d) Content. The Plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this ordinance. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for Plan preparation may be obtained from the Town of Weddington on request.
- (e) Soil and Water Conservation District Comments. The District shall review the Plan and submit any comments and recommendations to Town of Weddington within 20 days after the District received the Plan, or within any shorter period of time as may be agreed upon by the District and the Town of Weddington). Failure of the District to submit its comments and recommendations within 20 days or within any agreed-upon shorter period of time shall not delay final action on the Plan.
- (f) Timeline for Decisions on Plans. The Town of Weddington will review each complete Plan submitted to them and within 30 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a complete Plan within 30 days of receipt shall be deemed approval. The Town of Weddington will review each revised Plan submitted to them and within 15 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a revised Plan within 15 days of receipt shall be deemed approval.

- (g) Approval. The Town of Weddington shall only approve a Plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. The Town of Weddington shall condition approval of Plans upon the applicant's compliance with federal and state water quality laws, regulations and rules. The Town of Weddington may establish an expiration date, not to exceed three (3) years, for Plans approved under this ordinance.
- (h) Disapproval for Content. The Town of Weddington, may disapprove a Plan or draft Plan based on its content. A disapproval based upon a Plan's content must specifically state in writing the reasons for disapproval.
- (i) Other Disapprovals. The Town of Weddington shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The Town of Weddington may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (j) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:
 - (1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice.
 - (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due.
 - (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article.
 - (4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the Town of Weddington pursuant to subsection (i) of this section, the local government shall so notify the Director of the Division of Energy, Mineral, and Land Resources within 10 days of the disapproval. The Town of Weddington shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section 58.617(a), the applicant may appeal the local government's disapproval of the plan directly to the Commission.

For purposes of this subsection, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

- (j) The Town of Weddington administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.
- (1) The Town of Weddington may transfer a plan if all of the following conditions are met:
 - a. The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.
 - b. The Town of Weddington finds all of the following:
 1. The plan holder is one of the following:
 - I. A natural person who is deceased.
 - II. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
 - III. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
 - IV. A person who has sold the property on which the permitted activity is occurring or will occur.
 2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
 3. The successor-owner is ~~the sole claimant of the right to~~ engage in the permitted activity.
 4. There will be no substantial change in the permitted activity.
 - (2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.
 - (3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
 - (4) Notwithstanding changes to law made after the original issuance of the plan, the Town of Weddington may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Town of Weddington from requiring a revised plan pursuant to G.S. 113A-54.1(b).

(k) Notice of Activity Initiation. No person may initiate a land-disturbing activity before notifying the agency that issued the Plan approval of the date that land-disturbing activity will begin.

- (l) Preconstruction Conference. When deemed necessary by the approving authority a preconstruction conference may be required.
- (m) Display of Plan Approval. A Plan approval issued under this article shall be prominently displayed until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.
- (n) Required Revisions. After approving a Plan, if the Town of Weddington either upon review of such Plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Town of Weddington, shall require a revised Plan. Pending the preparation of the revised Plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved Plan, the Town of Weddington determines that the Plan is inadequate to meet the requirements of this ordinance, the Town of Weddington, may require any revision of the Plan that is necessary to comply with this ordinance.
- (o) Amendment to a Plan. Applications for amendment of a Plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Town of Weddington, the land-disturbing activity shall not proceed except in accordance with the Plan as originally approved.
- (p) Failure to File a Plan. Any person engaged in land-disturbing activity who fails to file a Plan in accordance with this ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved Plan shall be deemed in violation of this ordinance.
- (q) Self-Inspections. The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1.

Where inspections are required by Section 158.606 (p?) of this Ordinance and G.S. 113A-54.1(e), the following apply:

Commented [LT3]: Model ordinance says section 6 (p) – check reference?

Commented [KD4R3]: Maybe section (q)?

- (i) The person who performs the inspection shall make a record of the site inspection by documenting the following items:
- (a) all of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including but not limited to sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have initially been installed and do not significantly deviate (as defined in Sub-item (1)(e) of this Rule) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation;
 - (b) the completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;
 - (c) the location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate (as defined in Sub-item (1)(e) of this Rule) from the approved erosion and sedimentation control plan. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;
 - (d) that maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices and devices have been performed. Such documentation shall be accomplished by completing, dating and signing an inspection report (the general storm water permit monitoring form may be used to verify the maintenance and repair requirements); and
 - (e) any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and

sedimentation control plan or by completing, dating and signing an inspection report. A significant deviation means an omission, alteration or relocation of an erosion or sedimentation control measure that prevents the measure from performing as intended.

- (ii) The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.
- (iii) The inspection shall be performed during or after each of the following phases of a plan:
 - (a) installation of perimeter erosion and sediment control measures;
 - (b) clearing and grubbing of existing ground cover;
 - (c) completion of any phase of grading of slopes or fills that requires provision of temporary or permanent ground cover pursuant to G.S. 113A-57(2);
 - (d) completion of storm drainage facilities;
 - (e) completion of construction or development; and
 - (f) quarterly until the establishment of permanent ground cover sufficient to restrain erosion or until the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved and the agency that approved the plan has been notified. If the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved, the new owner or person in control shall conduct and document inspections quarterly until the establishment of permanent ground cover sufficient to restrain erosion.

SECTION 758.607

Basic Control Objectives

An erosion and sedimentation control Plan may be disapproved if the Plan fails to address the following control objectives:

- (a) Identify Critical Areas - On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

- (b) Limit Time of Exposure - All land-disturbing activities are to be planned and conducted to limit exposure to the shortest feasible time.
- (c) Limit Exposed Areas - All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
- (d) Control Surface Water - Surface water runoff originating upgrate of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- (e) Control Sedimentation - All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
- (f) Manage Storm Water Runoff - When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, a Plan is to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

~~SECTION 858.608~~

Design and Performance Standards

- (a) Except as provided in Section 58.608(b)(2) of this ordinance, erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices", or other acceptable calculation procedures.
- (b) HQW Zones. In High Quality Water (HQW) zones the following design standards shall apply:
 - (1) Limit on Uncovered Area. Uncovered areas in HQW zones shall be limited at any time to a maximum total area of twenty acres within the boundaries of the tract. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director.
 - (2) Maximum Peak Rate of Runoff Protection. Erosion and sedimentation control measures, structures, and devices within HQW zones shall be planned, designed and constructed to provide protection from the runoff of the twenty-five year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States

Commented [LT5]: Can we go higher? Storm water is 100 year

Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

- (3) Settling Efficiency. Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70% for the 40 micron (0.04 millimeter) size soil particle transported into the basin by the runoff of that two year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
- (4) Grade. Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.
- (5) Ground Cover. Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.

SECTION 958.609

Storm Water Outlet Protection

- (a) Intent. 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.
- (b) Performance standard. Persons shall conduct land-disturbing activity so that the post construction velocity of the 10-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:
 - (1) the velocity established by the Maximum Permissible Velocities Table set out within this subsection; or
 - (2) the velocity of the ten-year storm runoff in the receiving watercourse prior to development.

Commented [LT6]: Higher?

If condition (1) or (2) of this Paragraph cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the “prior to development” velocity by 10%.

Maximum Permissible Velocities Table

The following is a table for maximum permissible velocity for storm water discharges in feet per second (F.P.S.) and meters per second (M.P.S.):

<u>Material</u>	F.P.S.	M.P.S.
Fine sand (noncolloidal)	2.5	.8
Sandy loam (noncolloidal)	2.5	.8
Silt loam (noncolloidal)	3.0	.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (Colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

- (c) Acceptable Management Measures - Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Town of Weddington recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:

- (1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
 - (2) Avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in place-lieu of closed drains and high velocity paved sections;
 - (3) Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;
 - (4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and
 - (5) Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.
- (d) Exceptions - This rule shall not apply where it can be demonstrated to the Town of Weddington, that storm water discharge velocities will not create an erosion problem in the receiving watercourse.

~~SECTION 1058.610~~ Borrow and Waste Areas

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department's Division of Waste Management shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

~~SECTION 1158.611~~ Access and Haul Roads

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

~~SECTION 1258.612~~ Operations in Lakes or Natural Watercourses

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel.

Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.

~~SECTION 13~~58.613 Responsibility for Maintenance |

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this Ordinance, the Act, or any order adopted pursuant to this ordinance or the Act. After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

~~SECTION 14~~58.614 Additional Measures |

Whenever the Town of Weddington, determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

~~SECTION 15~~58.615 Existing Uncovered Areas |

- (a) All uncovered areas existing on the effective date of this ordinance which resulted from land-disturbing activity which, exceed one (1) acre, that are subject to continued accelerated erosion, and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.
- (b) The Town of Weddington, shall serve upon the landowner or other person in possession or control of the land a written notice to comply with the Act, this ordinance, a rule or order adopted or issued pursuant to the Act by the Commission or by the Town of Weddington. The notice to comply shall be sent by registered or certified mail, return receipt requested, or other means provided in GS 1A-1, Rule 4. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits of compliance.
- (c) The Town of Weddington reserves the right to require preparation and approval |

of a Plan in any instance where extensive control measures are required.

- (d) This rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

~~SECTION 16~~58.616 Fees

- (a) The Town of Weddington, ~~may~~established a fee schedule for the review and approval of Plans ~~and~~.

~~(b) In establishing the fee schedule, the _____ shall~~ considered the administrative and personnel costs incurred for reviewing the Plans and for related compliance activities.

~~SECTION 17~~58.617 Plan Appeals

- (a) Except as provided in Section 58.617(b) of this ordinance, the appeal of a disapproval or approval with modifications of a Plan shall governed by the following provisions:

- (1) The disapproval or modification of any proposed Plan by the Town of Weddington, shall entitle the person submitting the Plan to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modifications.
- (2) A hearing held pursuant to this section shall be conducted by the Town of Weddington, ~~(appropriate local agency)~~Planning Board, within 30 days after the date of the appeal or request for a hearing.
- (3) The agency conducting the hearings shall make recommendations to the governing body of the Town of Weddington, within ~~_____~~30 days after the date of the hearing on any Plan.
- (4) The Governing Body of the Town of Weddington, will render its final decision on any Plan within ~~_____~~30 days of receipt of the recommendations from the agency conducting the hearing.
- (5) If the Town of Weddington upholds the disapproval or modification of a proposed Plan following the hearing, the person submitting the Plan shall then be entitled to appeal the Town of Weddington's decision to the Commission as provided in G.S. 113A-61(c) and 15A NCAC 4B .0118(d)

Commented [LT7]: Planning Board holds the hearing?

~~[NOTE: THE APPEALS PROCEDURES ABOVE ARE INCLUDED ONLY TO ENSURE THAT EACH LOCAL ORDINANCE CONTAINS PROCEDURES FOR APPEALS. THE PROCEDURE SHOULD BE WRITTEN TO CONFORM~~

~~TO APPLICABLE EXISTING PROCEDURES, OR AS CREATED FOR THE ADMINISTRATION OF THE ORDINANCE.]~~

- (b) In the event that a Plan is disapproved pursuant to Section 58.606(i) of this ordinance, the applicant may appeal the Town of Weddington's disapproval of the Plan directly to the Commission.

~~SECTION 1858.618~~ Inspections and Investigations

- (a) Inspection. Agents, officials, or other qualified persons authorized by the, Town of Weddington, will periodically inspect land-disturbing activities to ensure compliance with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the measures required in the Plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each Plan.
- (b) Willful Resistance, Delay or Obstruction. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Town of Weddington, while that person is inspecting or attempting to inspect a land-disturbing activity under this section.
- (c) Notice of Violation. If the Town of Weddington determines that a person engaged in land-disturbing activity has failed to comply with the Act, this ordinance, or rules, or orders adopted or issued pursuant to this ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under GS 1A-1, Rule 4. The notice shall specify a date by which the person must comply with the Act, or this ordinance, or rules, or orders adopted pursuant to this ordinance, and inform the person of the actions that need to be taken to comply with the Act, this ordinance, or rules or orders adopted pursuant to this ordinance. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this ordinance.
- (d) Investigation. The Town of Weddington, shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.
- (e) Statements and Reports. The Town of Weddington , shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

~~SECTION 1958.619~~ Penalties

(a) Civil Penalties

- (1) Civil Penalty for a Violation. Any person who violates any of the provisions of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, is subject to a civil penalty. The maximum civil penalty amount that the Town of Weddington may assess per violation is five thousand dollars (\$5,000.00). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is twenty-five thousand dollars (\$25,000).
- (2) Civil Penalty Assessment Factors. The governing body of the Town of Weddington shall determine the amount of the civil penalty based upon the following factors:
 - (i) the degree and extent of harm caused by the violation,
 - (ii) the cost of rectifying the damage,
 - (iii) the amount of money the violator saved by noncompliance,
 - (iv) whether the violation was committed willfully, and
 - (v) the prior record of the violator in complying or failing to comply with this ordinance.
- (3) Notice of Civil Penalty Assessment. The governing body of the Town of Weddington shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4. A notice of assessment by the Town of Weddington shall direct the violator to either pay the assessment, contest the assessment within 30 days by filing a petition for hearing with the Town of Weddington (as directed by procedures within the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program), or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the North Carolina General Statutes and a stipulation of the facts on which the assessment was based.

(4) Final Decision: The final decision on contested assessments shall be made by the governing body of the Town of Weddington in accordance with (the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program.)

(5) Appeal of Final Decision. Appeal from the final decision of the governing body of the Town of Weddington shall be to the Superior Court of the county where the violation occurred. Such appeals must be made within 30 days of the final decision of the governing body of the Town of Weddington

~~[Note: The foregoing procedures are offered as guidance to local governments, to ensure that civil penalties are accompanied by remission requests and appeal procedures, including hearings opportunities.]~~

(6) Collection. If payment is not received within 60 days after it is due, the Town of Weddington may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court of the county where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three (3) years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

(7) Credit of Civil Penalties. The clear proceeds of civil penalties collected by the Town of Weddington under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Penalties collected by the Town of Weddington may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs by each Town of Weddington for the prior fiscal year.

[In any event, the cost percentage shall not exceed twenty percent (20%) of penalties collected.]

(b) Criminal Penalties. Any person who knowingly or willfully violates any provision of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who knowingly or willfully initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor which may included a fine not to exceed \$5,000 as provided in G.S.

§ 113A-64.

~~SECTION 2058.620~~ Injunctive Relief

- (a) Violation of Local Program. Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the Town of Weddington, or any term, condition, or provision of an approved Plan, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the Town of Weddington, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.
- ~~(b)~~ Abatement of Violation. Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this ordinance.
- ~~(c)~~ Stop Work Orders. The Erosion Control Inspector may issue ~~SECTION 20~~ Injunctive Relief (a stop-work order per 58-3; if he finds that a land-disturbing activity is being conducted in) Violation of this Section or of any rule adopted or order issued pursuant to this Section, that the violation is knowing and willful, and that either:
- (a) Off-site sedimentation has eliminated or severely degraded a use in a lake or natural watercourse or that such degradation is imminent.
 - (b) Off-site sedimentation has caused severe damage to adjacent land or that such damage is imminent.
 - (c) The land-disturbing activity is being conducted without an approved plan.

Commented [LT8]: Does this fit here or does it need its own section?

~~SECTION 2158.621~~ Restoration After Non-Compliance

The Town of Weddington may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57 (3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this ordinance.

~~SECTION 2258.622~~ Severability

If any section or section or sections of this ordinance is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

~~SECTION 2358.623~~ Effective Date

|

This ordinance becomes effective on _____. [In establishing an effective date, the local government should consider the need for lead-time to orient and educate those affected by full implementation of the ordinance.]