ARTICLE XII

SUBDIVISION REGULATIONS

(amended 6 August 2012)

1201 PURPOSE AND APPLICABILITY

(A) TITLE. This Article shall be known as the subdivision regulations of the Town of West Jefferson, North Carolina.

(B) PURPOSE. The provisions of this Article are adopted pursuant to the authority conferred by Section 160A-371 through Section 160A-376 of the General Statutes of North Carolina for the purpose of providing for the orderly development of the Town of West Jefferson, North Carolina and its environs by regulating the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for future development of the town; to coordinate streets within subdivisions with existing or planned streets or with public facilities; to secure or protect adequate rights-of-way and easements for street or utility purposes including the dedication of rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11; to secure adequate spaces for recreation areas; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare; and to insure the proper legal description, documentation, and recording of subdivided land.

(C) JURISDICTION. The provisions of this Article shall apply to all subdivision activities, as defined in Section 1.2 of this Article, within the corporate limits and the extraterritorial zoning jurisdiction of the Town of West Jefferson, North Carolina as now or hereafter established.

(D) SEPARABILITY. If any section, paragraph, subdivision, clause or provision of this Article is adjudged invalid by a court of competent jurisdiction, such adjudication will apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Article will be deemed valid and effective.

(E) COMPLIANCE. All plats for the subdivision of land must conform to the requirements of this Article, and be submitted in accordance with the procedures and specifications established herein. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will not exempt the transaction from compliance with this Article. No utility shall be extended nor any permit be issued by an administrative agent of the Town of West Jefferson for the construction of any building or other improvement upon any land for which a plat is required until the requirements of this Article have been met and the final plat approved.

(F) EFFECTIVE DATE. These regulations shall become effective upon the date of their adoption by the Board of Aldermen of the Town of West Jefferson.

1202 DEFINITIONS AND RULES OF CONSTRUCTION.

(A) DEFINITIONS. As used in this Article, the following terms will have the meanings indicated in this section:

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

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

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

BUILDING SETBACK LINE. A line extending through a lot which is parallel to the front property line and between which and such line no building shall be erected.

CLUSTER DEVELOPMENT. A tract of land planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations, and in accordance with an approved site plan. The development on the tract is limited by overall density or intensity, rather than minimum lot dimensions.

CONSULTING ENGINEER. A North Carolina registered engineer appointed from time-to-time by the West Jefferson Board of Aldermen.

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

EASEMENT. A grant of one or more of the property rights by the property owner of a portion of land for a specified purpose and use by the public, a corporation or other entities.

LAND CLEARING AND INERT DEBRIS (LCID) LANDFILL. A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes meeting the standards of the State of North Carolina.

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

LOT, CORNER. A lot located at the intersection of two (2) or more streets, or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than one-hundred thirty-five degrees (135°).

LOT COVERAGE. That portion of the lot area, expressed as a percent that is covered by impervious surface cover.

LOT, DOUBLE FRONTAGE. A lot having frontage and access on two (2) or more public streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three (3) or more streets.

LOT, INTERIOR. A lot other than a corner lot with frontage on only one (1) street.

LOT, REVERSE FRONTAGE. A lot having frontage on two (2) or more streets, one of which is a minor or less important street in the community, the access to which is restricted to the minor street.

LOT, THROUGH. A lot other than a corner lot with frontage on more than one (1) street. See **LOT, DOUBLE FRONTAGE.**

LOT LINE. A line or series of connected line segments bounding a lot.

LOT LINE, FRONT. The line which separates the lot from a street right-of-way. Corner lots shall have only one front lot line.

LOT LINE, INTERIOR. A side lot line, which separates one lot from another lot.

LOT LINE, REAR. That lot line which is opposite and most distant from the front lot line, except in the case of a triangular lot, a line ten (10) feet in length, entirely within the lot, parallel to, and at the maximum distance from the front lot line, or a chord thereof if the front lot line is curved, shall be considered as the rear lot line for purposes of determining the required rear yard. In cases where neither of these conditions is applicable, the Zoning Administrator shall designate the rear lot line.

LOT LINE, SIDE. A lot line other than a front or rear lot line.

LOT OF RECORD. A lot described by plat or by metes and bounds which has been recorded in the office of the Ashe County Register of Deeds.

LOT WIDTH. The horizontal distance between the side lot lines at the building setback line as measured along a straight line parallel to the front lot line or parallel to the chord thereof.

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

OPEN SPACE. Land used for recreation, natural resource protection, amenities, and protection of important rural and town vistas and/or buffer yards. Open space may include, but is not limited to lawns, walkways, active recreation areas, playgrounds, wooded areas, and greenways.

PLANNING BOARD. The Planning Board of the Town of West Jefferson, North Carolina.

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

RESERVATION. An obligation, shown on a plat or site plan, to keep property free from development and available for public acquisition for a stated period of time. It is not a dedication or conveyance.

RESERVE STRIP. A strip of land (usually only a few feet wide) owned privately, and set aside around a subdivision in order to prevent access to adjacent property by way of subdivision streets.

REQUIRED DRAINAGE CHANNEL. The theoretical stream bed section which is required to discharge the runoff from a one-hundred (100) year storm.

REVIEW OFFICER. A person appointed by the Board of County Commissioners to review state mapping standards prior to authorizing a subdivision plat to be recorded by the Register of Deeds.

STORM, TEN (10) YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten (10) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

STORM, TWENTY-FIVE (25) YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in twenty-five (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.

STORM, ONE HUNDRED (100) YEAR. The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in one-hundred (100) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

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

STREET, ARTERIAL. A federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one (1) area or region to another; a thoroughfare. Also referred to as a major thoroughfare.

STREET, COLLECTOR. A public way designed primarily to connect minor streets with arterial streets and/or to provide direct connection between two (2) or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

STREET, MINOR RESIDENTIAL. Those streets whose primary function is to provide direct access to residential property.

STREET, MINOR NON-RESIDENTIAL. Those streets whose primary function is to provide direct access to commercial/industrial property.

STREET, CUL-DE-SAC. A short minor street having one (1) end open to traffic and the other permanently terminated by a vehicular turnaround.

STREET, RURAL. A street designed for and located in non-urban and non-urbanizing areas as classified by the town.

STREET, URBAN. A street designed for and located in urban or urbanizing areas as classified by the town.

STREET, PARALLEL FRONTAGE ROAD. A public or private street adjoining or parallel to an arterial street designed to provide access to abutting property in place of the arterial.

STREET, PRIVATE. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor is it intended to be maintained by the public.

STREET, PUBLIC. A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of West Jefferson or the State of North Carolina.

STREET LINE. The outer boundary of a street right-of-way.

STREET ORIENTATION. The direction of the architectural front façade of a building in relation to the street.

STREET RIGHT-OF-WAY. Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of West Jefferson; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of West Jefferson; or has otherwise been established as a public street prior to the adoption of this Article.

SUBDIVIDER. A person engaging in the act of subdividing property.

SUBDIVISION. A subdivision will include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose (whether immediate or future) of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

(1) The combination or recombination of portions of parcels platted and recorded prior to the effective date of this Article, or portions of lots platted in compliance with this Article after its effective date, where the total number of lots is not increased and the resultant lots are equal to the standards of this Article and the appropriate zoning classification.

(2) The division of land into parcels greater than ten (10) acres where street right-of-way dedication or reservation is not involved.

(3) The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way.

(4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where street right-of-way dedication or reservation is not involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification. **[G.S. 160A-376(a)]**

SUBDIVISION, MAJOR. A subdivision not otherwise exempt from these regulations that involves any of the following:

(1) The creation of any new public street or street right-of-way, or improvements to an existing street.

(2) A future public school, park or greenway shown in any adopted plan or policy document.

(3) The extension of any needed right-of-way or easement for the water or sewer system operated by the Town of West Jefferson.

(4) The installation of drainage improvements through one (1) or more lots to serve one (1) or more other lots.

(5) The installation of a private wastewater treatment plant or a private water supply system for more than one (1) lot or building site.

(6) The division of land into five (5) or more lots where new right-of-way may or may not be created.

SUBDIVISION, MINOR. A subdivision that is not otherwise exempt from the provisions of this Article and that does not meet the criteria for the definition of a major subdivision.

TERRITORIAL JURISDICTION. The town limits and the extraterritorial area of the Town of West Jefferson as now or may be hereafter established.

THOROUGHFARE. See **STREET, ARTERIAL.**

THOROUGHFARE PLAN. The Thoroughfare Plan as adopted by the Board of County Commissioners of Ashe County and the Board of Aldermen of the Town of West Jefferson and as may from time to time be amended.

TOWN BOARD. The Board of Aldermen of the Town of West Jefferson.

VARIANCE. An action requesting consideration for relief from the strict enforcement of the standards of the Article where special circumstances or unusual considerations may exist on the parcel of land.

ZONING ADMINISTRATOR. Person responsible for the administration of this Article.

(B) RULES OF CONSTRUCTION. For the purposes of these regulations, the following rules of construction apply.

(1) These regulations will be construed to achieve the purposes for which they are adopted.

(2) In the event of any conflict in limitations, restrictions, or standards applying to a project, the provision more consistent with the West Jefferson Zoning Article shall apply.

(3) The words “shall,” “must,” and “will” are mandatory in nature, implying an obligation or duty to comply with the particular provision.

(4) The word “may” is permissive in nature except when used in the negative.

(5) References to “days” will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.

(6) The word "lot" includes the words "plot", "tract" and/or "parcel".

(7) The word "building" includes the word "structure".

(8) The word "person" includes a "firm, association, organization, partnership, trust, company, corporation and/or individual".

(9) The word "use" includes the terms "arranged", "designed" and/or "intended" for use, activity and/or purpose.

(10) Words used in the present tense shall include the future tense.

(11) Words used in the singular shall include the plural and words used in the plural shall include the singular.

1203 DECISION MAKING AND ADMINISTRATIVE BODIES.

(A) TOWN STAFF. In addition to any authority granted to the Zoning Administrator of the Town of West Jefferson, the Zoning Administrator and the employees under his or her direction, will have the following duties in accordance with these regulations.

(1) To review all requests for subdivision within the town's jurisdiction and decide whether such requests meet the requirements and intent of this Article. If such do meet the requirements and intent, staff shall forward the request to the Planning Board for review and recommendations and following review by the Planning Board to the Town Board for a decision. If such requests do not meet the minimum submittal requirements of this Article, staff shall not forward the request to the Planning Board.

(2) To review and provide comments on variance petitions.

(3) To maintain files and other public records related to the administration and enforcement of these regulations.

(4) To recommend and prepare amendments to the text of these regulations.

(5) To accept and file petitions for variances.

(6) To accept and file notices of appeal of an administrative interpretation or decision.

(7) To interpret the provisions of these regulations.

(8) To coordinate all local, state, and other appropriate agency review and comment on all subdivisions proposed under these regulations.

(9) To establish such procedures as necessary and proper for the administration of their responsibilities under these regulations.

(10) To approve for recordation in the Ashe County Register of Deeds those divisions of land which, according to the definition of subdivision found in Section 1202 (A), are not subject to the requirements of this Article.

(11) Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision or development Articles (i.e., zoning, floodplain, watershed Articles). Whenever the Article includes criteria for decisions that require an application of judgment, those criteria must provide adequate guiding standards for the entity charged with plat approval. **[G.S. 160A-371]**

(B) PLANNING BOARD. In addition to any authority granted to the Planning Board by the Town of West Jefferson, the Planning Board shall have the following powers and duties to be carried out in accordance with these regulations.

(1) To hear and make advisory recommendations on proposed amendments to the text of these regulations; to propose, as needed, amendments to change the text of these regulations.

(2) To hear and make advisory recommendations on requests for major and minor subdivisions.

(3) Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in the subdivision or development Articles (i.e., zoning, floodplain, watershed Articles). Whenever the Article includes criteria for decisions that require an application of judgment, those criteria must provide adequate guiding standards for the entity charged with plat approval. **[G.S. 160A-371]**

1204 AMENDMENTS.

(A) The Zoning Administrator may from time-to-time, and at the request of the West Jefferson Town Board or Planning Board shall prepare certain improvements to the text of the Subdivision Article to correct errors, update or modify the requirements, or otherwise improve the operation of the Article in regulating the subdivision of land.

(B) Amendments to this Article may only be enacted pursuant to public notice and public hearing on the proposed amendments. Notice of such public hearing shall be published once per week for two successive weeks in a newspaper of general circulation in the Town of West Jefferson. The notice shall be first published not less than ten (10) days nor more than twenty-five (25) days prior to the date fixed for the hearing. The notice shall indicate the date, time, and place of the hearing and shall include a statement of the substance of the proposed amendment.

(C) All text amendments must be referred to the Planning Board for a recommendation prior to final action by the elected officials. An action to defer a recommendation for cause will constitute an action for the purposes of this article.

1205 SUBDIVISION REVIEW PROCEDURE

(A) APPROVAL LEVELS.

(1) The subdivision review procedure shall consist of two levels of required approval:

a) *Preliminary Plat* (including required Construction Plans); and,

b) *Final Plat*

(2) Preliminary Plat approval shall be a prerequisite to Final Plat approval.

(3) Prior to Preliminary Plat application, the subdivider may submit to the Zoning Administrator a sketch plan showing the concept of the proposed subdivision. The subdivider may at that time discuss the proposed subdivision with the Zoning Administrator and become familiar with the Subdivision Regulations. This procedure does not require formal application or fee.

(B) SUBDIVISION TYPES.

(1) The subdivision review procedure shall consist of two types of subdivisions: major subdivisions and minor subdivisions.

(2) Major subdivisions are those subdivisions which involve more than five lots or more than ten acres, those subdivisions which involve the dedication of new street segments (but not simply widening), those subdivisions where special developments are involved as permitted by the Zoning Article, and those subdivisions that involve dedication or reservation of land for open space, school sites and other public purposes. All other subdivisions shall be considered to be minor subdivisions.

(C) APPROVAL AUTHORITY.

The approval authority for the levels and types of subdivision approval shall be as follows:

(1) *Preliminary Plats.*

(A) Major Subdivisions - Planning Board
(B) Minor Subdivisions - Zoning Administrator

(2) *Final Plats.*

(A) Major Subdivisions - Planning Board
(B) Minor Subdivisions - Zoning Administrator

(D) PLAN AND PLAT REQUIREMENTS.

Plans and plats and supporting documents and material for the levels of subdivision approval shall be submitted in the form as provided for in the standards for such submittals contained in Section 1210.

(E) PLAN AND PLAT SUBMITTAL AND REVIEW PERIODS.
Plans and plats, in the proper form, shall be submitted to the Zoning Administrator for review and consideration of approval by the appropriate agency, according to the following schedule:

(Note: The Zoning Administrator may refuse to accept the submission of any plans, plats or supporting documents which in his opinion do not meet the standards for such submittals as contained in the Zoning Administrator's Mapping Standards and this Article.)

(1) *Preliminary Plats - Minor Subdivisions.* Plats may be submitted at any time. The Zoning Administrator shall either approve, approve conditionally or deny the approval of the Preliminary Plats within thirty days of receipt. Approval, conditional approval or denial shall be in written and/or drawn form and dated.

(2) *Preliminary Plats - Major Subdivisions*. Plats may be submitted at any time provided, however, in order to be eligible to be placed on an agenda of a Planning Board meeting, such submittal shall have been filed with the Zoning Administrator at least thirty (30) days prior to that meeting. The Planning Board shall approve, approve with conditions, or deny of the Preliminary Plat within thirty-five (35) days of its first consideration. The decision shall be in written and/or drawn form and dated.

(3) *Final Plats* - Plats may be submitted at any time provided, however, in order to be eligible to be placed on an agenda of the Planning Board meeting, such submittal shall have been filed with the Zoning Administrator at least thirty (30) days prior to that meeting. The Planning Board shall approve, approve with conditions, or deny the Final Plat within thirty-five (35) days of its first consideration. The decision shall be in written and/or drawn form and dated.

(F) EFFECT OF APPROVALS - PREREQUISITES.

(1) Preliminary Plat approval shall constitute tentative approval of the Final Plat if the Final Plat is in substantive agreement with the Preliminary Plat and shall entitle the subdivider to proceed to prepare street, storm drainage and utility construction plans, if applicable, and/or proceed to prepare the Final Plat. Approval of construction plans shall entitle the subdivider to proceed with construction of subdivision improvements for the Preliminary Plat and no construction, including grading, shall proceed without such approval. In addition, the Planning Board may require, as a prerequisite to Preliminary Plat approval, the submittal for review and approval of all or part of subdivision construction plans in order to ascertain the feasibility of all or part of a proposed subdivision.

(2) If a Final Plat of all or part of the area shown on a Preliminary Plat is not recorded in the Office of the Register of Deeds within twenty-four (24) months of approval of the Preliminary Plat, or if there is a lapse of more than twenty-four (24) months between the recording of sections, the Zoning Administrator may require the resubmittal of the unrecorded portion as a Preliminary Plat.

(3) Final Plat approval shall entitle the subdivider to record the Final Plat. A Final Plat must be recorded in the Office of the Register of Deeds within thirty (30) days of its approval by the Zoning Administrator.

(4) No Final Plat shall be approved for recording until all required subdivision improvements have been installed and approved or until the subdivider supplies an appropriate Guarantee of Installation as provided for in this Article.

(5) In addition, no Final Plat shall be approved for recording unless such plat is in substantial agreement, as determined by the Board of Aldermen, with the approved Preliminary Plat. Final Plats not in substantial agreement shall be resubmitted as Preliminary Plats as provided for herein.

(6) After the Final Plat is recorded, lots as shown on the plat may be sold or otherwise conveyed by reference to the Plat. Building permits may be authorized to be issued provided all improvements have been installed and inspected and approved by the Zoning Administrator. The subdivider shall provide the Zoning Administrator with a certified copy of the recorded Final Plat.

(7) Approval and recording of the Final Plat shall constitute dedication by the subdivider of the right-of-way of each public street and utility and drainage easement shown on such plat. Such dedication, however, does not constitute acceptance by the town of such right-of-way, nor does it constitute acceptance for maintenance or for other purposes of the improvements within such rights-of-way and easements such as pavements, sidewalks, drainage facilities and other utility lines. Such right-of-way and utility improvements may be accepted by the Board of Aldermen by resolution upon completion by the subdivider and inspection by the appropriate town staff. In addition, land designated on an approved and recorded Final Plat as public open space and similar public purposes shall be considered to be offered for dedication until the town has by resolution accepted such dedication and such land is deeded to the town. Until such dedication has been accepted, land so offered may be used for open space purposes by its owner or his designees and the town shall be held harmless of any liability involving such land. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use without the express approval of the Board of Aldermen.

(8) Decisions on approval or denial of preliminary or final plats may be made only on the basis of standards explicitly set forth in this Article. Where the Article includes criteria for decisions that require an application of judgment, such judgment shall be based upon those criteria. **[G.S. 160A-371]**

(G) PRE-SALE CONTRACTS. The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision Article or recorded with the register of deeds, provided the contract does all of the following:

(1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.

(2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.

(3) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.

(4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision Article or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision Article and recorded with the register of deeds. **[G.S.160A-375(b)]**

1206. SUBDIVISION DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

(A) GENERAL.

(1) All proposed subdivisions subject to the regulations of this Article shall comply with this section and shall be so planned as to facilitate the most advantageous development of the entire community.

(2) The general design of the subdivision shall take advantage of and be adjusted to the contour of the land so as to produce usable building sites and streets of reasonable gradients. Subdivision Plats shall be drawn in consideration of the suitability of the land and its capability to support and maintain the proposed development. Due consideration shall be given to such factors as topography, rock outcrops, flood damage prevention, erosion control, wetland preservation, storm water management, solar energy, tree preservation, noise and pollution control, habitat for endangered species, areas of historical, archaeological or architectural significance, and land use relationships in addition to other factors including those prescribed by this Article.

(3) The Planning Board may require the subdivider to prepare an Environmental Impact Statement (EIS) pursuant to NCGS 113A-8 as part of the Preliminary Plat for any subdivision of two acres or more where in the Planning Board's opinion one or more of the suitability factors outlined in the paragraph above, or any similar environmental factor, is a significant issue regarding the particular subdivision. The Planning Board may waive the EIS where an EIS or equivalent document is required by a state or federal agency for the same or essentially the same factor(s).

(4) The subdivider shall install the improvements specified herein and such improvements shall be at no cost to the town, except as set forth herein and except as may be otherwise provided for in the town policies. No improvements shall be installed until construction plans have been approved by the town and such other agency as may be appropriate or as required by law. As provided for in Section 1207. (F) a Final Plat may be recorded prior to installation of any or all required improvements provided that a financial guarantee in a form acceptable to the town is given by the subdivider as provided for in this Article.

(B) SUBDIVISION AND STREET NAMES.

(1) In no case shall the name of a proposed subdivision duplicate or be phonetically similar to an existing subdivision name within the jurisdiction unless the proposed subdivision lies adjacent to or is in close proximity to the existing subdivision.

(2) Proposed streets which are obviously in alignment with others already existing or proposed and named shall bear the names of the existing or proposed ones. In no case shall the names of proposed streets duplicate or be phonetically similar to other existing street names in the jurisdiction irrespective of the addition of a prefix, suffix or word such as street, avenue, place, drive or court.

(3) Naming of proposed streets shall be coordinated with the Ashe County E-911 Coordinator and/or other departments responsible for addressing.

(C) BLOCKS.

(1) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use or when abutting a water area.

(2) Blocks shall not be less than 400 feet nor more than 1,320 feet in length.

(D) LOTS.

(1) The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision, for the type development contemplated, and in consideration of the method of providing water and sewer facilities to the lots.

(2) It is the intent of this Article that lot size, shape and orientation shall be controlled by the provisions of the West Jefferson Zoning Article and the types of development permitted by that Article. The configuration of lots in subdivisions designed for non-residential purposes may be omitted on the Final Plat. The final lot sizes may be determined on a lot by lot basis provided each meets the minimum requirements of the Zoning Article for the district in which located. Every lot shall have sufficient area, dimensions and shape to permit a principal building to be constructed thereon in conformance with the applicable provisions of the Zoning Article. Lots shall be designed so as to provide positive drainage away from building sites and individual lots shall be coordinated with the general storm drainage plan for the subdivision. Lot boundaries shall be made to coincide with natural and pre-existing man-made drainageways to the extent practicable to avoid the creation of lots that can be built upon only by altering such drainageways. Lotting arrangements shall be made with due consideration given to not disturbing wetlands, rock outcrops and other such natural features.

Side lines of lots should be at or near right angles or radial to street lines. All lots must have public street access and frontage meeting the requirements set forth in the Zoning Article unless other development types are provided for in that Article. Parcels created through the subdivision process which are not intended for building purposes shall be so designated and perpetually bound as "not-buildable" unless subsequently released through the subdivision process.

(E) STREETS AND STREETS IMPROVEMENTS.

The proposed street system shall extend existing and projected streets at not less than the required minimum width and shall be in conformance with the following criteria:

(1) *Street Design Criteria.* Collector and Minor Residential/Non-residential designs and construction within public street rights-of-way shall be constructed with a minimum right-of-way width of forty (40) feet; minimum. However, there only needs to be thirty (30) feet of pavement from shoulder to shoulder. Figure 12-1 shows the dimensions below: vehicle lane width of ten (10) feet; minimum bicycle lane/walking lane width of five (5) feet; minimum shoulder width of four (4) feet.

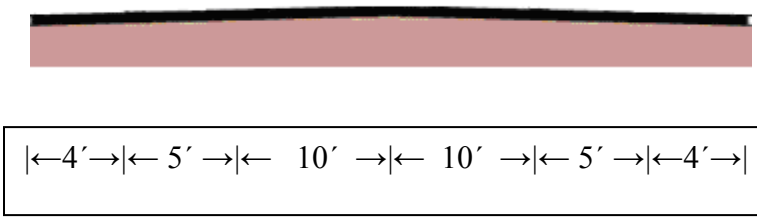


Figure 12-1

(2) *Street Classification.* The final determination of the classification of streets in a proposed subdivision shall be made by the Planning Board.

(3) *Conformance with Adjoining Street System.* The planned street layout of a proposed subdivision shall be compatible with existing or proposed streets and their classifications on adjoining or nearby tracts.

(4) *Access to Adjoining Property.* Where in the opinion of the Planning Board it is desirable to provide for street access to adjoining property, proposed streets shall be extended to the boundary of such property.

(5) *Reserve Strips, Half Streets and Private Streets.* Reserve strips and non-access easements adjoining street rights-of-way for the purpose of preventing access to or from adjacent property, (except those required to prevent access to Thoroughfares), private streets and half streets shall not be permitted under any condition.

(6) *Intersections.* Streets shall be designed so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than 60 degrees. Streets crossing natural areas or streams shall cross at or near to right angles as possible within limits of topographic conditions. Offset intersections are to be avoided. A minimum intersection offset of 125 feet shall be maintained.

(7) *Cul-de-sacs.*

(a) Cul-de-sacs should not be used to avoid connection with an existing street, to avoid the extension of a thoroughfare or collector street, or to avoid connection to adjoining property.

(b) Permanent dead end streets shall not exceed 800 feet in length unless necessitated by topography or property accessibility and approved by the Planning Board. Measurement shall be from the point where the centerline of the dead end street intersects with the centerline of a through street to the center of the turnaround of the cul-de-sac. Cul-de-sacs shall be provided with a turn-around meeting town standards.

(c) Where one cul-de-sac extends from another cul-de-sac, the end of each cul-de-sac shall be no more than 800 feet from a through street as measured by the centerline of the streets.

(8) *Marginal Access Streets.* Where a tract of land to be subdivided adjoins a thoroughfare, the subdivider may be required to provide a marginal access street parallel to the thoroughfare or provide
for through lots on a local street for the lots to be developed adjacent to the thoroughfare. Where through lots are established, such lots may be prevented from having direct access to the thoroughfare by driveways through the use of reserve strips or non-access easements.

(9) *Utilities, Street Lights and Storm Drainage Within Streets.* Utilities, street lights, sidewalks, storm drainage and other such facilities to be placed within the street right-of-way shall be placed in accordance with town standards. All utilities shall be placed underground.

(10) *Pavement, Curb and Gutter and Pavement and Side Ditch.* Pavement, curb and gutter to be placed in public streets shall be placed in accordance with town standards.

(11) *Connection to State Streets.* An approved permit is required to connect to any existing state system street.

(a) North Carolina General Statutes 136-102.6 "Compliance of Subdivision Streets with Minimum Standards of the Board of Transportation Required of Subdividers" requires that new public streets outside the town limits and changes to existing streets inside the town limits that are the responsibility of NCDOT be in accordance with the Minimum Right-of-Way and Construction Standards established by the Board of Transportation for acceptance on the State highway system. It is the intent of these standards and requirements, as set forth, to complement and not to conflict with the requirements of NCDOT as stated in NCGS 136-102.6. In all cases the most restrictive limitation or requirement or the requirement causing the highest standard of improvement shall govern. All street improvements shall be designed and installed in accordance with town standards and the approved construction plans. The subdivider's engineer shall furnish the town with a certified statement that all street improvements installed in the subdivision meet the minimum standards of the chapter.

In addition, street improvements, in accordance with the street design guidelines shall be installed in the following situations:

(i) Any existing street segment that has not been accepted for maintenance by either the town or the North Carolina Department of Transportation, and that is to serve as the required frontage for one or more lots created pursuant to this Article, shall be improved and dedicated to the public, as provided for above, in such a way that the street segment meets the standards of this Article for the particular classification of street, including right-of-way width. Such street segment shall be directly connected to the existing public street system by way of at least one public street accepted for maintenance by either the Town of West Jefferson or the North Carolina Department of Transportation. No subdivision shall be permitted on any street that is an "island" not connected directly to the public street system.

(ii) Subdivisions that adjoin existing streets maintained by either the town or NCDOT shall dedicate additional street right-of-way necessary to meet the minimum width requirements for the type of classification of the adjoining street. When any part of the subdivision is on both sides of an existing street, the entire minimum right-of-way shall be provided. When the subdivision is located on only one side of an existing street, one-half of the minimum right-of-way, measured from the centerline of the existing street, shall be provided. The improvement requirements of this Section shall not apply to the subdivision of lots fronting on established streets that have already been accepted for maintenance by the town or NCDOT.

(iii) The Planning Board may require pavement and widening or pavement and widening and curb and gutter for turning lanes along any existing or proposed street that forms a significant entrance to a proposed subdivision where in the opinion of the Board such improvements are necessary in order to provide for safe vehicular movement into and out of the proposed subdivision.

(iv) In cases where a street is stubbed into adjoining property future extension and such street serves as the frontage for one or more lots which are not corner lots, the Planning Board may require the paving of a temporary turn-around in a form similar to a cul-de-sac on such street where in their opinion such turn-around is necessary for the public convenience, safety and service. Temporary easements for such purposes may be required.

(F) DRINKING WATER IMPROVEMENTS.

(1) **Connection Encouraged/Required**. All subdivisions shall be encouraged to connect to the system owned and operated by the by the Town. Any subdivision in Town Limits which has public water system lines available to it shall be required to extend the public water system throughout the subdivision to each lot located therein. All required water line extensions shall include appropriate valves, hydrants, taps and service to the property line of each lot as required by the standards of the Town.

(2) **Submittal and Approval of Construction Plans**. A complete set of construction plans for the proposed system shall be prepared and sealed by a registered engineer and submitted to the Town following approval of the preliminary plat or concurrent with the review and approval of the preliminary plat. These plans shall be reviewed by the Town Engineer at the subdivider's cost and approved by the NC Department of Natural Resources, Division of Water Quality. The Fire Department shall also review the proposed plans as to the location of fire hydrants and size of mains.

(3) **Approval and Installation of Required Improvements**. No final plat shall be approved until the construction plans for the proposed water system have been approved and the lines installed and approved or a financial guarantee has been provided to the Town for their installation in accordance with Section 1.7 of this Article.

(4) **Size and Location of Water Lines**. No water mains shall be less than six (6) inches in diameter and they shall be laid out so as to create a complete circuit, with no dead-end lines in excess of 300 feet. A fire hydrant shall be placed at any dead-end. All water lines shall be installed within the street right-of-way where possible, and upon dead-end streets, shall be extended to the terminus of the street.

(5) **Connection to Town Water System**. The subdivider of the subdivision shall pay to the Town the costs of all materials necessary to connect to the Town's water system. This cost shall include, but not be limited to tapping sleeves, tees, valves, valve boxes, encasement and pipes. The Town shall furnish labor and equipment for the connection at no cost to the subdivider. Payment for materials shall be made in advance of construction.

(6) **Installation of Taps and Meters**. The subdivider shall install at his expense the water taps as the system is constructed. The tap shall include all materials except the water meter. The subdivider has the option of furnishing and installing the meter, per town specifications, or the water meter shall be furnished and installed by the Town at the Town's current meter installation rate. A waiver of this regulation may be granted by the Town in situations where it is not feasible for taps to be installed during construction, such as when lots are so large that the subdivider does not know where the builder will construct his house. In the latter situation, the Town will provide materials and labor and charge the full tap fee in effect at the time. Payment shall be made in advance.

(7) **Materials**. All materials installed by the subdivider shall be approved by the Town and inspected prior to installation. All construction shall be inspected prior to being covered.

(8) **Individual Water Systems (wells)**. Where a public water supply is not available or to be provided, a written statement from the Ashe County Health Department shall be submitted with the preliminary plat indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply. The statement from the Health Department shall be based upon a field investigation.

(9) **Water System Improvements are Required Improvements**. In any case where a public drinking water system and/or supply system intended to serve more than two (2) lots is proposed to be installed in a subdivision as part of the plan approval process, such system shall be considered to be a "Required Improvement" within the context of this section regardless of whether such a system is an extension of the Town system or not and such system shall be required to be installed by the subdivider. This requirement includes both facilities within the subdivision and off-site facilities which are essential to providing the service to the property.

(G) SANITARY SEWER IMPROVEMENTS.

(1) **Connection Encouraged/Required**. All subdivisions shall be encouraged to connect to the system owned and operated by the by the Town. Any subdivision in Town Limits which has public sewer system lines available to it shall be required to extend the public sewer system throughout the subdivision to each lot located therein. All required sewer line extensions shall include appropriate manholes, lift stations, pumps, clean outs, taps and service to the property line of each lot as required by the standards of the town.

(2) **Submittal and Approval of Construction Plans**. A complete set of construction plans for the proposed system shall be prepared and sealed by a registered engineer and submitted to the Town following approval of the preliminary plat or concurrent with the review and approval of the preliminary plat. These plans shall be reviewed by the Town Engineer at the subdivider’s cost and approved by the NC Department of Natural Resources, Division of Water Quality.

(3) **Approval and Installation of Required Improvements**. No final plat shall be approved until the construction plans for the proposed sewer system have been approved and the lines installed and approved or a financial guarantee has been provided to the Town for their installation in accordance with Section 1207 of this Article.

(4) **Size and Location of Sewer Lines**. No sewer mains shall be less than eight (8) inches in diameter. All sewer lines shall be installed within the street right-of-way where possible.

(5) **Connection to Town Sewer System**. The subdivider of the subdivision shall pay to the Town the costs of all materials necessary to connect to the Town's sewer system. This cost shall include, but not be limited to manhole materials, pre-cast junction boxes, manhole lids and pipe. The Town shall furnish labor and equipment for the connection at no cost to the subdivider. Payment for materials shall be made in advance of construction.

(6) **Installation of Sewer Taps.** The subdivider shall install at his expense the sewer taps as the system is constructed. The tap shall include all materials. A waiver of this regulation may be granted by the Town in situations where it is not feasible for taps to be installed during construction, such as when lots are so large that the subdivider does not know where the builder will construct his house. In the latter situation, the Town will provide materials and labor and charge the full tap fee in effect at the time. Payment shall be made in advance.

(7) **Materials**. All materials installed by the subdivider shall be approved by the Town and inspected prior to installation. All construction shall be inspected prior to being covered.

(8) **Individual Systems (Septic)**. Where a public sewer system is not available or able to be provided, a written statement from the Ashe County Health Department shall be submitted with the preliminary plat indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of sewage disposal. The statement from the Health Department shall be based upon a field investigation. The field investigation for sewage disposal shall include a sufficient number of percolation tests (in accordance with state standards) to determine the absorption capacity of the soil and test holes at least six (6) feet deep (as needed) to determine the depth to the ground water table, and the presence of rock formations or other impervious strata.

(9) **Sewer System Improvements are Required Improvements**. In any case where a public sewer system intended to serve more than two (2) lots is proposed to be installed in a subdivision as part of the plan approval process, such system shall be considered to be a "Required Improvement" within the context of this section regardless of whether such a system is an extension of the Town system or not and such system shall be required to be installed by the subdivider. This requirement includes both facilities within the subdivision and off-site facilities which are essential to providing the service to the property.

(H) STORM DRAINAGE IMPROVEMENTS.

(1) A comprehensive storm drainage system shall be planned and implemented for each subdivision in accordance with the general standards and requirements of this section. The general storm drainage plan shall be shown on the Preliminary Plat. Detail plans where required shall be submitted as part of the construction plan requirement. Where easements are required, they shall be noted on the Final Plat.

(2) Storm drainage plans shall be considered on an individual basis depending upon the situation within a given subdivision. Generally the following standards shall apply:

(a) *Types of drainage ways requiring treatment.*

(i) Those draining one acre of land or more.

(ii) Those carrying storm water runoff from public streets either existing or proposed.

(iii) Those carrying storm water runoff from large impervious surfaces other than streets.

(b) *Design Storms.*

(i) Open drainage channel - 25 year storm.

(ii) Enclosed systems - 10 year storm for collectors and 25 year storm for street crossing conduits and immediate downstream areas.

(c) *Types of Treatment.*

(i) Enclosed subsurface drains.

(ii) Open, unimproved channel.

(iii) Open, improved channel.

(iv) Open channel with flood plain and open space dedicated to the town. This option shall not be available except in cases where the Board of Aldermen agrees to accept such dedication prior to Final Plat approval.

(d) *Easements.*

(i) Maintenance easements may be required depending upon the size of the drainage way and the maintenance responsibility as determined by the town. In any case where maintenance is to be the responsibility of the property owner, the town may require a right to enter for maintenance purposes where in the future the Board of Aldermen may determine that the public health, safety, or general welfare constitutes a public necessity for such maintenance.

(I) SIDEWALK IMPROVEMENTS.

(1) Due to topographical restrictions sidewalks separate from the streets will not be required. However, a bicycle lane/walking lane with a minimum width of five (5) feet will be designated with a striped line on the street's pavement. This line will help the street's users differentiate from the vehicle travel lanes and the bicycle lane(s)/walking lane(s).

(J) EASEMENTS.

To provide for electric, telephone and gas service, community antenna television distribution systems, water and sewer lines and other such facilities within the subdivision, appropriate utility easements not to exceed 30 feet shall be provided on the Final Plat. The locations of such easements shall be as determined by the Zoning Administrator and based upon the approved construction plans. All utilities shall be placed underground. In addition, storm drainage easements may be required in order to carry out the storm drainage improvements as required in Section 1207 (I).

(K) STREET NAME SIGNS.

In subdivisions located outside the town limits, the subdivider shall install street name signs at appropriate locations in accordance with the standards and specifications of Ashe County. Inside the town limits the subdivider shall install standard street name signs in accordance with the town's standards and specifications.

(L) TRAFFIC CONTROL SIGNS AND MARKINGS.

In subdivisions outside the town limits, the subdivider shall install traffic control signs and pavement markings in accordance with the standards and specifications of the North Carolina Department of Transportation. Inside the town limits, the subdivider shall install traffic control signs and pavement markings in accordance with the town's standards and specifications.

(M) STREET LIGHTS.

Inside the town limits the subdivider shall install street lighting at appropriate locations in the subdivision in accordance with town standards. Outside the town limits the subdivider shall install the wiring for future street light installation at appropriate locations in the subdivision in accordance with town standards. All wiring shall be underground.

(N) MONUMENTS.

The subdivider shall install such monuments and other property markers as are required by North Carolina General Statutes Chapter 39, Article 5A and as are specified by the "Standards of Practice for Land Surveying" in North Carolina.

NOTE: Electric power, telephone, cable television, natural gas lines and other utilities which are proposed to be installed in the subdivision, and which are required to be shown on construction plans are not "Required Improvements" within the context of this section. Since the installation of such improvements are by agreement between the subdivider and the appropriate utility company the execution of such agreements between the subdivider and the utility companies are deemed to satisfy the construction and installation requirements of this Article as long as they are installed in the public right-of-way or easement in accordance with town standards for such installations.

(O) SUBDIVISION ENTRANCE SIGNS AND LANDSCAPED MEDIANS.

The Planning Board may permit subdivision entrance signs and landscaped medians provided they are entirely contained on private property and provided that the Planning Board determines that a satisfactory arrangement is in place to provide perpetual maintenance.

(P) PHASING.

Subdivisions may be designated to be constructed and platted in phases. Provided, however, the Planning Board may not approve a phasing plan when in its opinion such phasing will not provide for adequate public facilities to support any such phase or phases independent of the overall subdivision plan. In approving phases the Planning Board may require that additional streets, water and sewer facilities or other required public facilities be constructed as part of the phase or phases in order to ensure that sufficient public facilities will be in place to support such phase or phases independent of any future subdivision development.

1207 GUARANTEE OF REQUIRED IMPROVEMENTS; WARRANTY AGAINST DEFECTS

(A) PERFORMANCE GUARANTEE

In lieu of requiring the completion of all required improvements prior to Final Plat approval, the subdivider may provide the Town with a Performance Guarantee described below insuring that all required improvements shall be completed by a specified date.

(1) *Cash or Equivalent Security.*

(a) The subdivider may provide cash or equivalent security subject to the approval of the town. The amount of deposit shall be equal to 120% of the estimated cost of installing all required improvements. The cost estimate shall be the responsibility of the subdivider and certified by the Town's engineer at the subdivider's cost, but the approval of the final cost estimate shall be made by the Zoning Administrator.

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

(i) That said escrow account shall be held in trust until released by the Town and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and

(ii) That in the case of a failure on the part of the subdivider to complete said improvements within the time allotted, the financial institution shall, upon notification by the town and submission by the town to the financial institution of the amount needed to complete the improvements, immediately pay to the town funds to complete the improvements, up to the full balance of the escrow account.

(2) *Governmental Guarantee.*

In any case where a required improvement is to be provided by the State of North Carolina or any local government other than the town, the subdivider may provide, in lieu of the types of financial guarantee as provided for above, a letter from the appropriate State or local government official guaranteeing the installation of the improvement in the required manner and within the time allotted. Provided, however, in any case where the cost of such improvement exceeds $10,000 as determined by the town, such governmental Guarantee shall be in form of an approved Project Budget chapter where local government is to be the provider and an equivalent document where the State is to be the provider.

(B) DURATION OF FINANCIAL GUARANTEES.

(1) 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 18 months.

(2) All subdivisions whose public improvements are not completed and accepted at least thirty days prior to the expiration of the financial guarantee shall be considered to be in default, unless said guarantee is extended with the consent of the Town to a future date certain not to exceed six months.

(C) DEFAULT.

(1) Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as specified in the escrow agreement, the surety or the financial institution holding the escrow account shall, if requested by the town, pay all or any portion of the escrow fund to the town up to an amount needed to complete the improvements based on an estimate by the town. Upon payment, the town, at its discretion, may expend such portion of said funds as deemed necessary to complete all or any portion of the required improvements. The town shall return to the subdivider any funds not spent in completing the improvements.

(2) Default on a project does not release the subdivider from liability/responsibility, financial or otherwise, for the completion of the improvements.

(D) RELEASE OF GUARANTEE SECURITY.

The Zoning Administrator may release a portion or all of any security posted as the improvements are completed and approved by the Administrator. Prior to such release the subdivider shall provide the Zoning Administrator with set of "as built" drawings certified by his Engineer.

(E) WARRANTY AGAINST DEFECTS.

(1) Prior to the approval of the Final Plat or acceptance by the town of any improvements in any subdivision, the subdivider shall furnish to the town a written warranty against defects which shall guarantee the material and workmanship for a period of not less than one year from the date of such acceptance. Such warranty shall be accompanied by a financial guarantee payable to the town equal to at least 50% of the cost of the installation of such improvements as determined by the Zoning Administrator. Such financial guarantee as provided for in Section 1208, (A) of this Article.

(2) Upon successful performance of the improvements, as determined by the Board of Aldermen for the one year period, the financial guarantee shall be returned to the subdivider. Upon the failure of an improvement to perform within the generally accepted standards for the type improvement as determined by the Board of Aldermen, the subdivider shall be notified and given a reasonable period of time to correct the defects. Should the subdivider fail to act, fail to act in a timely manner, or otherwise fail to correct the defect(s), the Board of Aldermen shall find the subdivider in default and proceed in the same manner as provided for in Section 1208, (C) of this Article.

1208 LEGAL PROVISIONS AND ENFORCEMENT

(A) INTERPRETATION, PURPOSE AND CONFLICT.

In interpreting and applying the provisions of this Article, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this Article to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Article imposes a greater restriction or imposes higher standards than those required by other Articles, rules, regulations, or by easements, covenants, or agreements the provisions of this Article shall govern so that, in all cases, the most restrictive limitation or requirement, or the requirement causing the highest standard of improvement, shall govern. Provided, however, in any case where the Zoning Article specifically permits a development type not otherwise provided for in this Article, the Zoning Article shall prevail.

(B) EFFECT UPON OUTSTANDING PRELIMINARY PLATS.

(1) Nothing herein contained shall require any change in any Preliminary Plat which has received approval by the town prior to the time of the adoption of this Article provided that such Preliminary Plat has been processed to completion and a Final Plat recorded in the Office of the Register of Deed within 18 months after the time of the adoption of this Article. If the Final Plat of all or part of the area shown on any previously approved Preliminary Plat is not recorded in the Office of the Register of Deeds within 18 months after the time of the adoption of this Article, such non-recorded area shall be subject to all the provisions of this Article.

(2) After the effective date of this Article, any Final Plat to be recorded based upon any outstanding Preliminary Plat shall follow the Final Plat approval procedures of this Article including the Guarantee of Installation provisions.

(3) In addition, nothing herein contained shall require any change in any Final Plat which has received approval by the town prior to the time of the adoption of this Article provided that such Final Plat is prosecuted to completion in accordance with the terms of approval. In the event of default or the failure of the subdivider to perform in accordance with the conditions as approved, the town may, at its option, take lawful action pursuant to the Subdivision Article in existence-at the time of the Final Plat approval or this Article.

(C) EFFECT UPON NEW TERRITORY ADDED TO JURISDICTION.

(1) At any time when new territory is added to the jurisdiction of this Article, such new territory shall immediately become subject to the provisions of this Article. Any proposed subdivision or any subdivision in progress within such new territory shall proceed only in accordance with the following:

(a) Any subdivision for which a Final Plat has been recorded in the Register of Deeds Office pursuant to the approval of another local government, but which is subject to an outstanding guarantee to such local government for the installation of subdivision improvements, shall remain under the subdivision control of such local government until such time as such subdivision shall have been processed to completion. Provided, however, the town may not accept the dedication of any street or street improvements unless such street and street improvements meet the standards of this Article and the town's Policy for Acceptance of streets for use and maintenance by the town.

(b) All other subdivisions shall meet all of the requirements of this Article and it shall be the responsibility of the subdivider of any proposed subdivision or subdivision in progress to receive approval as provided for in this Article before proceeding with any development. The subdivider shall arrange a conference with the Zoning Administrator who shall determine the level and type of approval required and provide the subdivider with an approval track for the particular case.

(D) MODIFICATIONS.

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

(E) AMENDMENT.

The Board of Aldermen may from time to time amend the terms of this Article after a public hearing has been held and notice given as required by North Carolina General Statutes 160A-364. However, any proposed amendment shall be submitted to the Planning Board for review and recommendation prior to Board of Aldermen action. The Planning Board shall have 45 days from the date such amendment is first submitted for review to the Board to make its recommendation. If the Planning Board fails to make its recommendation within the specified time, it shall be deemed to have recommended in favor of the amendment.

(F) LIABILITY.

Acceptance of dedication of lands or facilities located within the jurisdiction of this Article but outside the town limits shall not place on the town any duty to open, operate, repair or maintain any street, utility line, or other land or facility and the town shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.

(G) VALIDITY.

If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article. The Board of Aldermen hereby declares that it would have passed this Article and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

(H) VIOLATIONS; PENALTY.

(1) After the effective date of this Article, no subdivision plat of land within the jurisdiction of this Article shall be filed or recorded until it shall have been submitted to and approved by the appropriate approval authority.

(2) The Zoning Administrator shall not certify for recording a plat of subdivision of land subject to this Article that has not been approved in accordance with this Article nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the provisions of this Article.

(3) Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the Town of West Jefferson, thereafter subdivides his land in violation of the Article or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such Article and recorded in the office of the Ashe County Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town of West Jefferson may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision Article. Building permits required pursuant to G.S. 160A-417 [153A-357] may be denied for lots that have been illegally subdivided. In addition to other remedies, the Town of West Jefferson] may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct. **[G.S. 160A-376(a)]**

(4) In order to properly enforce the provisions of the subdivision regulations as stated in this Article prior to the beginning of any construction, reconstruction, use, or alteration of any land, building, or structure, the appropriate permit must be obtained from the Zoning Administrator. No permit will be issued unless there has been a determination made that the proposed use, building, or structure complies with the requirements of this Article.

1209 APPLICATION AND PROCESSING FEES.

(A) Fees for the submittal of preliminary and/or final subdivision plats shall be established, and from time to time revised, by the Board of Aldermen of the Town of West Jefferson and shall be collected when a subdivision application is submitted. Fees shall be collected by the Zoning Administrator, Town Clerk, or an administrative agent designated by the Town Board to administer the subdivision Article.

(B) Fees for variances and appeals of administrative decisions or interpretations shall be in accordance with the fee schedule established by West Jefferson Board of Aldermen and shall be collected by the Zoning Administrator, Town Clerk, or an administrative agent designated by the Town Board to administer the subdivision Article.

1210 PLAT SUBMISSION AND REQUIRED CERTIFICATES

(A) MAPPING STANDARDS.

Town of West Jefferson
Subdivision Article

The following are the Standards of Maps to be submitted as part of the subdivision process. These standards are intended to be general and the subdivider may be required to file more maps than required or provide more information depending upon the circumstances of the particular case.

NUMBER AND TYPE OF MAP TO BE SUBMITTED			
MAP	**INITIAL REVIEW**	**PLANNING BOARD / ~~BOARD OF ALDERMEN~~ REVIEW**	**TOWN FILE (as approved)**
Preliminary Plat			
Minor	3 copies (1 reproducible)		4 copies (1 reproducible)
Major	3 copies (1 reproducible)	10 copies (1 reproducible)	4 copies (1 reproducible)
Construction Plans	4 sets (1 reproducible)		1 Set (as built) mylar*
Final Plat	3 copies	8 copies (1 reproducible)	7 copies (1 mylar)

All maps shall be drawn to scale. The scale shall be not less than 1" = 200'. Construction plans shall be at a scale of not less than 1" = 50'. Preliminary Plats and Final Plats shall not exceed an outside dimension of 18" X 24"*. The Final Plat copies and mylar for Town file shall be copies of the Final Plat as presented for recording. If larger than 8 ½ X 11 the reproducible copy may be in the form of a sepia.

*Must be certified by subdivider's engineer.
**Consult Ashe County Review Officer for Record Map requirements.

(B) CONSTRUCTION PLANS.

(1) Plan and profile showing streets with complete design showing all horizontal curve data, vertical curve data, superelevation, etc. and DOT approvals such as driveway permits, DOT streets, etc.

(2) Storm drainage design and calculations with size, material, grade, length and cover on all pipes, and size, type and location of all catch basins.

(3) Location of all flood boundaries and temporary and permanent erosion control methods and proposed fill.

(4) Utility system plan and profile to show size, material, cover, and grade on all mains; size, depth and type of all manholes, location of all hydrants and cleanouts, location of all services and meter boxes, and location of easements.

(5) Distribution systems of electric, telephone, natural gas, cable antenna television and other services in right-of-way.

(6) A copy of the approved State Erosion Control Plan and approval letter prior to beginning construction.

(C) CERTIFICATIONS, NOTES, AND APPROVAL BLOCKS

(1) All subdivision final plats shall contain the following certificates if applicable:

(a) **Certificate of Zoning Administrator Approval.**

Certificate of Zoning Administrator Approval
Approved for recording by the Town of West Jefferson, N.C. Zoning Administrator. This plat shall be recorded within thirty days of this date.

_____
Date Zoning Administrator

(b) **Certificate of Ownership and Dedication.**

Certificate of Ownership and Dedication

I (We) hereby certify that I am (we are) owner(s) of the property shown and described herein, that the property is within the Subdivision Jurisdiction of the Town of West Jefferson and that I (we) hereby adopt this plan of subdivision with my (our) free consent and hereby establish all lots and dedicate to the public all streets, easements, walks, parks and other open spaces as shown hereon unless otherwise noted as private.

_____

Date Owner

STATE OF NORTH CAROLINA
COUNTY OF _____

I, Notary Public in and for the County of _____ , and the State of North Carolina, do hereby certify that _____, owner(s) personally appeared before me this day and acknowledged the due execution of the foregoing certificate and upon his/her oath, swore to the truth of the statements set forth therein.

Witness my hand and notarial seal this _____day of _____, 20___ .

_____
Notary Public

My commission expires _____ SEAL

(c) **Notary Certificate of Surveyor Statement.**

STATE OF NORTH CAROLINA
COUNTY OF _____

I, Notary Public in and for the County of , and the State of North Carolina, do hereby certify that _____, surveyor, personally appeared before me this day and acknowledged the due execution of the foregoing certificate and upon his oath, swore to the truth of the statements set forth therein.

Witness my hand and notarial seal this _____day of _____, 20___ .

_____
Notary Public

My commission expires _____ SEAL

(d) **Certificate of Survey and Accuracy.**

Certificate of Survey and Accuracy

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

_____
Surveyor License or Registration number

(maximum allowable error: 1:10,000) SEAL

(e) **NCDOT Construction Standards Certification.**

(For all Plats outside town limits involving new street right-of-way and any plat inside town limits which changes a State system street)

Department of Transportation
Division of Highways
Proposed Subdivision Road
Construction Standards Certificate

Approved: _____
District Engineer

Date: _____

(f) **On-site Water and/or Sewer Note**. (where appropriate)

On-site Water and/or Sewer Note.

Note: (ALL the LOTS) or (LOTS #) as shown on this Plat are Proposed to be served with on-site water and/or sewer systems. The lots as shown meet the minimum size prescribed by the Ashe County Health Department for such system(s). However, the recording of this Plat does not guarantee that any such lots will meet the requirements for the approval by the Health Department for such on-site system(s).

(g) **Special Flood Hazard Area Note.** (word to represent actual situation)

Special Flood Hazard Area Note

(Part of) this property (does) (does not) lie in a Special Flood Hazard Area
Reference: Floodway Panel # _____
Date: _____(of Panel)

(If part of the property is in a Special Flood Hazard Area it shall be shown graphically on the Plat.)

(h) **Register of Deeds Certificate.**

State of North Carolina, _____County
The foregoing certificate of, Notary Public, is certified to be correct. This instrument was presented for registration and recorded in Map Book _____, Page _____, this ___ day of _____, 20___ at ____a.m./p.m

_____
Register of Deeds

(i) **Statement Required for All Plats.**

I hereby certify that the property shown on this plat complies with the Town of West Jefferson Zoning Ordinance. Therefore this plat has been approved by the Town of West Jefferson planning director, subject to its being recorded in the Ashe County Registry of Deeds.

_____ _____
Date Planning Director

(j) **Statement for Exempt Plats.**

I hereby certify that this subdivision plat for recordation is an exception to the subdivision requirements of the Town of West Jefferson, North Carolina.

_____ _____
Date Zoning Administrator