

Town of Red Cross



Subdivision Regulations

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Uwharrie Planners

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**ARTICLE I.
IN GENERAL.**

Section 1. Title Of Chapter

This ordinance shall be known and may be cited as the Town of Red Cross Subdivision Regulations, and may be referred to as the Subdivision Regulations or Ordinance.

Section 2. Purpose Of Chapter

The procedures and standards for the development and subdivision of real property for residential, industrial, institutional, or commercial purposes and the surveying and platting thereof, as adopted and prescribed in this Ordinance, are hereby found by the Town Council of Red Cross to be necessary and appropriate. In doing so, these regulations shall:

- (A) Aid in promoting the orderly development of the Town and safeguard conditions essential to public health, safety, and the general welfare;
- (B) Provide space for safe and sanitary dwelling accommodations within the Town of Red Cross;
- (C) Promote safe and sanitary environmental conditions, proper planning, adequate light, air and space, safe and sanitary design and arrangements, supply sanitary facilities, and existence of conditions which enhance life or property, and hinder damage by fire or other causes of destruction;
- (D) Provide for suitable neighborhoods with adequate streets, utilities and appropriate building sites;
- (E) Save unnecessary expenditures of public funds by reserving space for public lands and buildings including the dedication or reservation of recreation areas and school sites, or fees in lieu of, to serve residents of the immediate neighborhood within the subdivision and to provide sufficient streets with adequate width and with proper alignment and grade for the coordination of utilities, planned streets and highways and other public facilities, and to facilitate adequate and orderly communication and travel within and between communities;
- (F) Provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries;
- (G) Ensure legal access to all newly divided parcels; and
- (H) Coordinate transportation networks and utilities within subdivisions.

Section 3. Authority and Jurisdiction Of Chapter

This ordinance is adopted under the authority of Chapter 160A-371 through 376 of the General Statutes of North Carolina. On and after the date of adoption, these regulations shall govern each and every subdivision of land within the Town of Red Cross and within the Extraterritorial jurisdiction of the Town, if any.

Section 4. Compliance with Chapter Required

Any person who, being the owner or the agent of the owner of any land located within the area of jurisdiction of this ordinance, subdivides land in violation of this ordinance, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the office of the register of deeds of Stanly County except in strict conformity with G.S. 160A-375(b) shall be subject to civil penalties in the amount of \$500. Subsequent citations for the same violation may be issued daily if the offender does not correct the violation or pay the citation within ten days of receipt. If the offender fails to pay the civil penalty within the time allotted, the Town may recover the penalties in a civil action in the nature of debt. The Town of Red Cross through the Town attorney may also enjoin an illegal transfer or sale by action of injunction. All administrative actions relating to such land, including the issuance of any grading, zoning, construction, building, or occupancy permit shall be suspended until the violation is corrected and all fines are paid in full. This ordinance will not affect the sale or transfer of any land, a plat of which was recorded prior to the effective date of this ordinance. In addition, a violation of this ordinance shall constitute a criminal offense per NC GS 160A-375(a) as a Class 1 misdemeanor.

In order to properly enforce the provisions of the subdivision regulations as stated in this ordinance 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 planning department. 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 ordinance. The Town may request that all building permits for any portion of an illegal subdivision be denied.

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 ordinance 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.

(c) 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 ordinance 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 ordinance and recorded with the register of deeds.

Section 5. Definitions

(A) *“Subdivision” Defined*

A “subdivision”, as specified in General Statute 160A-376, shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one (1) or more of those divisions are created for the purpose of sale, or building development (whether immediate or future), and shall include all divisions of land involving the dedication of a new street or change in existing streets; however, the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in its subdivision regulations;
- (2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors;
- (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 no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations; and
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- (6) The division of a tract or parcel of land in single ownership if all the of the following criteria are met:
 - a. The tract or parcel to be divided is not exempted under Section 5 (a) (2).

- b. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- c. The entire area of the tract of parcel to be divided is greater than five acres.
- d. After division, no more than three lots result from the division.
- e. After division, all resultant lots comply with all of the following:
 - 1. Any lot dimension size requirements of the applicable land-use regulations, if any;
 - 2. The use of the lots is in conformity with the applicable zoning requirements, if any.
 - 3. A permanent means of ingress and egress is recorded for each lot.

(B) *Other Definitions*

- (1) *Abut* - having property, district lines, rights of way or easements in common (e.g., two lots abut if they have property lines in common).
- (2) *Access* - a way of approaching or entering a property from a street.
- (3) *Address*. The official house, building, or structure number assigned by the County for a specific lot, building or portion thereof.
- (4) *Block* - a parcel of land which is bounded on all sides by a public street or roadway.
- (5) *Buildable Lot* - a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area; and to provide such setbacks and other open spaces as required by other local ordinances.
- (6) *Building* - any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, or chattels of any kind.
- (7) *Building Setback Line* -
 - a) *Front* - a line establishing minimum allowable distance between the nearest point of any part of the structure or building and the street or highway right-of-way line when measured perpendicularly from the right-of-way.
 - b) *Side or Rear* - a line-establishing minimum allowable distance between the nearest point of any part of the structure or building and the side and rear property

lines. Covered porches, etc. whether enclosed or not shall be considered as part of the main building and shall not project into the required yard.

- (8) *Cluster Development* - a modern day planning concept that both uses land economically and aesthetically by generally:
- a) Physically grouping land uses together, and
 - b) Leaving natural areas on site for both active and passive recreation, retention of scenic vistas, and for the avoidance of unbuildable areas due to floodplain, steepness of slope, or environmental reasons.

Specific techniques of clustering may include shared driveways, shared common areas (for example, play areas), longer than average setbacks with road frontage retaining an undeveloped, natural “feel”, screening with trees, shrubs and other physical layout strategies that maximize the area’s potential for development while retaining its unique topographic characteristics.

- (9) *Control Corner* - one or more corners in a development which serve as points of reference for the lots in that development, but more precisely defined in Article 5A Chapter 39-32 (Conveyance) of the North Carolina General Statutes.
- (10) *Corner Lot* - a lot which abuts the rights-of-way of two (2) streets at their intersection.
- (11) *County Commission* - the Board of Commissioners of Stanly County, North Carolina.
- (12) *Dedication* - the giving of a parcel of land by the subdivider to a public body for a specific purpose or for the general public use and the acceptance of the land by the public body.
- (13) *Double Frontage Lot* - a continuous lot accessible from both of the streets upon which it fronts. Corner lots are not included unless they front on three streets.
- (14) *Easement*. A grant of one or more of the property rights, by the property owner, to, or for use by, the public, a corporation, or other entities.
- (15) *Flag Lot* - a lot with street frontage that is less than the minimum lot width required by individual district regulations, and composed of a narrow “flagpole” strip extending from the street and a much wider “flag” section lying immediately behind another lot or lots or portion(s) of same having the required street frontage for a conventional lot. In the case of a flag lot, the lot line at the end of the flagpole lying parallel to the street to which the flagpole connects shall be considered to be the front lot line for setback purposes.
- a) Flag lots in residential districts.
 - 1) Minimum flagpole width of the lot is not less than twenty (20) feet per lot and;

- 2) The flagpole area may be used in calculating minimum lot size only if average lot width can be met.
- b) Flag lots in non-residential districts.
- 1) Maximum depth of the flagpole portion of the lot does not exceed two hundred fifty (250) feet;
 - 2) Minimum flagpole width of the lot is not less than thirty (30) feet; and
 - 3) The flagpole area is not used in calculating the minimum area of the lot.
- (16) *Half Road* - means any public or private street right-of-way or easement which is less than the full required width specified in this chapter, and which is established so that the additional half-width right-of-way or easement may be provided at a later date to complete a full-width roadway.
- (17) *Lot* - a portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership. The word 'lot' includes 'plot', 'parcel', or 'tract'.
- (18) *Lot Area* - The total area circumscribed by boundaries of a lot except that when the legal instrument creating a lot shows the boundary of the lot extending into a public road or private right-of-way, then the lot boundary for purposes of computing the lot area shall be the road right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the road.
- (19) *Lot of Record* - A lot, plot, parcel, or tract recorded in the Office of the Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation.
- (20) *Major Subdivision* - Subdivisions not defined as a Minor Subdivision.
- (21) *Minor Subdivision* - Subdivision involving three (3) or fewer lots or parcels subject to the regulations of this ordinance per calendar year, fronting on an existing, approved public or private road(s), not requiring any new public road(s) or not requiring extension of a public sewer or water line, and not requiring a waiver or variance from any requirement of this Ordinance. All other creation of lots is considered a Major Subdivision.
- (22) *Non Access Easement* - a ten (10) foot parcel of land adjoining and running parallel from a right-of-way in which vehicular encroachment (except for emergency access) is prohibited.
- (23) *Planning Board* - Planning Board of the Town of Red Cross, North Carolina.
- (24) *Planned Development* - land that is under unified control and planned and developed as a whole in a single development operation or a definitely programmed series of

development operations. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development.

- (25) *Planned Multi-Family Development* - a group of two or more dwelling units intended for multiple ownership and established on a single tract. These developments must meet the requirements of General Statute 47A and the Town of Red Cross Subdivision Regulations.
- (26) *Plat* - includes the terms map, plot, replat, or replot. A map or plan of a tract or parcel of land that is to be, or which has been subdivided.
- (27) *Private Road* - an undedicated private right-of-way or easement which affords access to abutting properties which meets the requirements of Sections 66-75 of this Ordinance.
- (28) *Reservation* - withholding a parcel of land from development for a stated period of time for the purpose of making the land available for public acquisition at a later time.
- (29) *Reserve Strip* - a parcel of land extending from a street right-of-way to the end of a property line.
- (30) *Road, Street, or Highway* - a dedicated public or private right-of-way for vehicular or pedestrian traffic which meets one of the following definitions:
 - a) Private Roads - a dedicated right-of-way and/or road which may not meet the minimum standards of the NC Department of Transportation for public streets or have not been adopted for NCDOT maintenance.
 - b) Urban Roads - streets outside the Stanly County Thoroughfare Plan boundaries and classified in the Stanly County Thoroughfare Plan which is incorporated into this document by reference. The Stanly County Thoroughfare Plan shall include those portions of any other Thoroughfare plan adopted by any one of the Municipalities and NCDOT Board of Transportation. These are further divided into the following categories:
 - 1) *Local Access Streets* - designed only to provide access to abutting property. Streets may be residential, commercial, or industrial.
 - 2) *Minor Thoroughfares* - designed to collect traffic from local access streets.
 - 3) *Major Thoroughfares* - the primary traffic arteries of the urban area providing for traffic movements within, around and through the area.
 - c) Rural Roads - those streets within the Stanly County Thoroughfare Plan boundaries and classified within the Stanly County Thoroughfare Plan which is incorporated in this document by reference. These are further divided into the following categories:

- 1) *Principal Arterial System* - a connected network of continuous routes which serve inter-county (or state) or intra-county (state) traffic.
 - 2) *Minor Arterial System* - a network which links cities, towns, or other major traffic generators.
 - 3) *Collector Road System* - intra-county routes of two types:
 - i) *Major Collector Roads* - streets providing service to the arterial system and major traffic generators.
 - ii) *Minor Collector Roads* - streets providing service from the local road system to major collectors and arteries.
 - 4) *Local Road System* - streets, which provide direct access to parcels such as cul-de-sacs, streets which do not connect thoroughfares or arteries, and streets serving less than one hundred dwelling units.
- d) *Marginal Access Street* - a local or Collector Street which parallels and is immediately adjacent to an arterial road, and which provides limited access to abutting property and protection from through traffic.
- (31) *Rocky River RPO* - a region defined for transportation planning purposes that includes the Rural areas and the Towns of Stanly, Anson and the NON-MPO section of Union County.
- (32) *Sewage* - the wastewater and its contents from kitchen, bathroom, toilet, lavatory and laundry of any residence, business establishment, industrial plant, institution, or any public building.
- a) *Central Sewage Disposal System* - A sewerage system serving two (2) or more dwelling units and approved by the Stanly County Health Department and the North Carolina Department of Environmental Health and Natural Resources which provides a collection network and disposal system and central sewage treatment facility for a single development, community, or region. The State of North Carolina considers central sewage disposal systems to be “Public Systems”. For the purposes of these regulations the following distinctions are made:
 - 1) “*Public Sewage Disposal System*” shall mean a single system of sewage collection, treatment, and disposal owned and operated by a sanitary district, a water and sewer authority or district, a county, or municipality or another public utility.
 - 2) “*Community Sewage Disposal System*” shall mean a privately owned central sewage disposal system or a system owned by a community association.

- b) *On-Site Sewage Disposal System* - a septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.
- (33) *Subdivider* - any person, firm or corporation who subdivides or develops any land which is a subdivision as herein defined.
- (34) *Technical Review Committee* - a group consisting of Town Planner, who shall serve as Chairman, Town Mayor, or designee, Utilities Director from either the town service provider or entity or County Utilities, or designee, Soil and Water Conservation Agent, Public School Superintendent, or designee, Emergency Management Director, or designee, Environmental Health Supervisor, or designee, Department of Environmental Health and Natural Resources Official, or designee, NCDOT Division Engineer, or designee and representatives of local utility companies.
- (35) *Thoroughfare* - any street designated on the adopted County Thoroughfare Plan. [See definition for “Road”].
- (36) *Thoroughfare Plan* - the map and attendant documents approved by Stanly County Commissioners or the Town of Red Cross. The adopted Thoroughfare Plans are incorporated in this document by reference.
- (37) *Town* - the Town of Red Cross.
- (38) *Town Planner* - the person or persons designated by the Town council to carry out the administrative functions detailed within this ordinance.
- (39) *Water System (Public)* - shall mean a county, municipal, sanitary district, water and sewer authority or district owned system for the provision to the public of piped potable water for human consumption.
- (40) *Water System (Community)* - shall mean a privately owned system for the provision to the public of piped potable water which serves fifteen (15) or more service connections or which regularly serves twenty-five (25) or more individuals. For the purposes of regulation of water quality, the state considers these systems to be Public Water Systems.

(C) *Word Interpretation*

For the purpose of this ordinance, certain words shall be interpreted as follows:

- (1) The present tense includes the future tense and future tense includes the present tense.
- (2) The singular number includes the plural number and the plural number includes the singular number.

- (3) The words “should” and “may” are permissive.
- (4) The words “shall” and “will” are mandatory.

Section 6. Sale Of Land In Unapproved Subdivision

The sale of land in subdivisions which have not been approved by the Town is prohibited. Any person(s) who, being the owner(s) or agent(s) of the owner of any land located within the jurisdiction by General Statute 160A-360, hereafter subdivides his/her land in violation of this ordinance and any other use of a plat properly approved under said ordinance and recorded in the Office of Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instruments of transfer or other document(s) used in the process of selling or transferring land shall not exempt the transaction from the penalty. The Town, through its Town Attorney or other official designated by the Town, may enjoin such illegal transfer or sale by action for injunction. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by General Statute 14-4 as amended. Pre-sale contracts per NCGS 160A-375 (b) is permitted per statute and Town Planner approval.

Section 7. Other Laws, Ordinances Or Regulations

Whenever the provisions of any local, state or federal law, ordinance or regulation impose higher standards than are required by the provisions of this ordinance, the provisions of such law, ordinance or regulations shall govern.

Section 8. Exceptions to Chapter Provisions

Where because of the size 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 ordinance would cause an unusual and unnecessary hardship on the subdivider, the Planning Board may vary the requirements set forth herein. In granting exceptions, the Planning Board may require such conditions as will secure, insofar as practicable, the objectives of the requirement varied. Any exception(s) authorized shall be entered in the minutes of the Planning Board meeting together with the circumstances that justified the exception(s) granted, and the conditions upon which the exception(s) was granted.

Section 9. Vesting Development Rights

A developer/owner may establish a vested right to complete their development project by submitting a site specific plan. A public hearing must be held by the Planning Board to review and approve the site specific plan. Any variations from the original plan must have the consent of the Planning Board. Vested rights run with the land for a period of two (2) years.

Section 10. Grievances

Any person that is aggrieved by the decision of the Planning Board as it relates to this ordinance, may within thirty (30) days of the Planning Board’s decision, petition the Town Council for their interpretation of the Planning Board decision.

Section 11. through Section 35. (Reserved)

**ARTICLE II.
PLATS.**

Section 36. Approval Necessary

- (A) *General* - after the effective date of this Ordinance no subdivision plat of land within the Town's subdivision regulation jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the Town Planner, as provided hereinafter in this Ordinance. No land shall be sold or transferred by reference to a plat that has not been approved and recorded in accordance with the provisions of this Ordinance. No plat shall be recorded by the Stanly County Register of Deeds until this approval is entered in writing on the face of the plat as herein provided. Where an approved, recorded plat is required for compliance with the ordinance, a description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land premised on unapproved, unrecorded plat shall not be exempt. All approved signed plats by the Town shall be recorded within 30 days with the Stanly County Register of Deeds.
- (B) *Exemptions* - if the Town Planner shall determine that the subdivision is exempt from the provisions of this ordinance, based on the criteria set forth in Section 5, the plat shall be endorsed to that effect and may be recorded with the Register of Deeds.
- (C) *Appeal of Denied Exemption* - the subdivider may appeal the denial of a requested exemption to the Town Planning Board. This appeal must be made within thirty (30) days of notification of the Town Planner's decision and must be made to the Planning Board in writing. The Planning Board shall calendar all such appeals for hearing by giving written notice to the subdivider at least ten (10) days prior to the hearing. The Planning Board in all such appeals shall make findings of fact in support of its decision. The proposed subdivider shall be notified in writing of the Planning Board's decision within ten (10) days after the said decision is made.

Section 37. Sketch Plan Requirements

- (A) *General* - prior to the filing of a Preliminary Plat the subdivider shall submit a pre-application sketch plat to the Town Planner in order that the staff may make the subdivider aware of the purpose and objectives of these regulations and to assist him/her in planning their development.

Section 38. Abbreviated Procedure For Minor Subdivisions and Expedited Reviews

- (A) *Applicability for Minor Subdivisions*
- (1) The Town Planner or the Town Planner's designee shall approve or disapprove minor subdivision plats in accordance with the provisions of this Section. The Town Planner may refer minor subdivisions of three (3) or less lots to the Technical Review

Committee for review and recommendation. A minor subdivision, as defined in Section 5, is a Subdivision involving three (3) or fewer lots or parcels subject to the regulations of this ordinance per calendar year, fronting on an existing, approved public or private road(s), not requiring any new public road(s), not requiring an extension of a public sewer or water line, and not requiring a waiver or variance from any requirement of this Ordinance. All other creations of lots are considered a Major Subdivision.

- (2) Not more than a total of three (3) lots may be created out of one tract using the minor subdivision plat approval process during a calendar year period.
- (3) Subdivision streets giving access to one (1) to three (3) lots, and having no collector characteristics for other lots within or adjacent to the proposed subdivision, may be designated on the plat as a private drive, with a minimum twenty (20) foot easement width, and a minimum twelve (12) foot travelway width developed for ingress and egress. A maximum of three noncontiguous groups of three lots with independent easements may be allowed per parcel. Re-divisions of lots served by existing subdivision access roads or streets shall require upgrade of the roads to the highest applicable standard of this ordinance.

(B) *Minor Subdivision Review and Approval*

- (1) The applicant for minor subdivision plat approval is encouraged to confer with the Town Planner prior to submitting a minor subdivision plat for a determination of whether the approval process authorized by this Section can be and should be utilized. The Town Planner may require the applicant to submit information necessary to determine whether or not the proposed subdivision is eligible for processing under the minor subdivision approval process.
- (2) The applicant for minor subdivision plat approval shall submit to the Town Planner a plat drawn in waterproof ink on a sheet made of material and of a size that will be acceptable to the Stanly County Register of Deeds Office for recording purposes. When more than one (1) sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one (1) inch equals not more than one hundred (100) feet unless prior approval by the Town Planner. The applicant shall also submit six (6) prints of the plat as well as any required application form and required fee.
- (3) The Town Planner may, review submitted minor final plats for the approval, provided the subdivision involves three or fewer total lots or parcels subject to the requirements of this ordinance. Divisions which are within 1500 feet of prior subdivisions in the same ownership or ownership interest are not eligible for this provision. Divisions, which are developmentally related to other subdivisions (i.e. by shared road, utilities, or other improvements) are not eligible for this provision. Procedures for decision, notice, and appeals shall be the same as presented in Section 66-36(C), except that

appeals from this abbreviated procedure shall be heard by the Town Planning Board in the manner of a newly submitted subdivision proposal. Subdivisions reviewed for approval under this abbreviated procedure shall meet all requirements of this ordinance.

- (4) The minor subdivision plat shall contain the following information:
 - a) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Stanly County Registry;
 - b) The name of the subdivision owner or owners;
 - c) The township, county and state where the subdivision is located;
 - d) The name of the surveyor and his registration number and the date of survey;
 - e) The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;
 - f) All of the additional information required by NCGS § 47-30, NCGS § 39-32.3, and Appendix 2;
 - g) All of the applicable certificates required in Appendix 2; and
 - h) Total acreage including gross and net usable acreage.
- (5) The Town Planner shall take expeditious action on an application for minor subdivision plat approval. A decision shall be rendered by the Town Planner within ten (10) working days after receipt of the proposed minor subdivision plat. If no decision is rendered by the Town Planner within the required ten (10) working day period, the applicant may appeal to the Planning Board for review of the application under the major subdivision approval process. Either the Town Planner or the applicant may at any time refer the application to the major subdivision approval process.
- (6) Subject to subsection (5), the Town Planner shall approve the proposed subdivision unless the subdivision is not a minor subdivision as defined in Section 5 or the application or the proposed subdivision fails to comply with any other applicable requirement of this Ordinance.
- (7) If the subdivision is disapproved, the Town Planner shall promptly furnish the applicant with a written statement of the reasons for disapproval.
- (8) Approval of any plat is contingent upon the plat being recorded within sixty days after the date the Certificate of Approval is signed by the Town Planner or his designee. Failure to record the approved plat within the specified sixty (60) day period shall render the plat null and void.

(C) Applicability for Expedited Review (SL 2017-10)

(1) The Town may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

- (a) The tract or parcel to be divided is not exempted under subdivision (2) of subsection (a) of this section.
- (b) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (c) The entire area of the tract or parcel to be divided is greater than five acres.
- (d) After division, no more than three lots result from the division.
- (e) After division, all resultant lots comply with all of the following:
 - 1. Any lot dimension size requirements of the applicable land-use regulations, if any.
 - 2. The use of the lots is in conformity with the applicable zoning requirements, if any.
 - 3. A permanent means of ingress and egress is recorded for each lot.

Section 39. Preliminary Plat Requirements And Review Process – Major Subdivision

(A) *Applicability*

- (1) A major subdivision, as defined is a subdivision involving more than three (3) lots, or requiring a new public road(s), or extension of any easement(s), public road(s) for access to interior property, or requiring extension of public sewer or water line, or requiring a waiver or variance from any requirement of this Ordinance.
- (2) The procedures for the review of a major subdivision generally involve (i) sketch design plan review and approval by the Technical Review Committee, (ii) a preliminary plat review and approval by the Technical Review Committee, and Planning Board and (iii) a final plat review and approval by the Town Planner. In all cases, compliance with Section 39 (B) (1)-(2) and Section 39 (C) (1)-(13) shall apply.

(B) The preliminary plat is the first graphic document, which indicates the proposed division of land into lots and/or streets. The following procedures and requirements must be followed to get preliminary plat approval:

(1) *Conformance with Sketch Plan*

The preliminary plat shall conform substantially to the approved sketch plan. If the submitted preliminary plat deviates in its overall design from the approved sketch, or if the applicant requests a waiver from any of the standards of this Ordinance, the Town Planner shall schedule the preliminary plat to be reviewed by the Technical

Review Committee and Planning Board. Such review shall follow the same review and approval procedures set forth in Section 37 for sketch plans.

(2) *Submission Requirements*

The applicant for preliminary subdivision plat approval shall submit, at least twenty-five (25) calendar days prior to the regularly scheduled Planning Board meeting at which the plat will be considered, fifteen (15) prints of the proposed subdivision. If there is a new public or private road, or extension of an existing road, two (2) complete sets of road construction plans, meeting the most current NCDOT road construction application requirements, shall be submitted with the preliminary plat. When more than one (1) sheet is required to include the entire subdivision, all sheets shall show appropriate match marks on each sheet shall be made of the same size and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one (1) inch equal not more than one hundred (100) feet, except subdivisions with all lots greater than five (5) acres or more may be at one (1) inch equals not more than two hundred (200) feet. The applicant shall also submit any required application forms and any required fee. Preliminary plats that are submitted after the Planning Board has approved a sketch, and is consistent with the approved sketch, and does not require a waiver or variance from any requirement of this Ordinance, can be approved by staff once all comments have been received and approved by all members of the TRC. If any member of the TRC, or staff, determines that the preliminary plat should be resubmitted to the TRC, and/or Planning Board, the conditions and reasons shall be in writing with reference to specific section(s) of the Ordinance and sent to the owner, developer, and surveyor.

If a sketch plan has not been submitted and approved or if the preliminary plat is not substantially consistent with the approved sketch, then the plat shall be submitted twenty (25) calendar days prior to the regularly scheduled Planning Board Meeting. If the Planning Board grants the conditional approval of the preliminary plat, the conditions and reasons thereof shall be stated in writing. If the Planning Board disapproves of the preliminary plat, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of this Ordinance with which the plat does not comply. If the Planning Board fails to render a decision on the preliminary plat within sixty (60) calendar days from the date that the plat is initially reviewed by the Planning Board, the Town Planner shall call a meeting with the developer, TRC members and a Planning Board committee. The proposal for resolve shall be submitted back to the full Planning Board for approval.

(C) All Preliminary Plats shall contain the following information:

- (1) *The Title Block* - it shall show the words “PRELIMINARY PLAT” and shall include the subdivision name, township, date, scale, and the name(s), phone number(s), and address(es) of the owner(s) and the designer(s) of the plan and his/her title. The title block shall be located on the bottom right corner of the plat. If the plan is part of a previously recorded subdivision, the old name, date and recording reference of the prior plat shall be stated.

- (2) Proposed Subdivision Data - the names and locations of all proposed streets, the location of all easements, lots, parks, reserve strips or other open spaces, reservations, other property lines and building setback lines with dimensions of streets, lots and other property lines. The approximate area in acreage or square footage of each lot.
- (3) Survey - the boundary line on the tract to be subdivided shall be determined by an accurate survey prepared and signed by a registered surveyor in accordance with G.S. 47-30, or a clear declaration shall be shown on the map of how the map was prepared.
- (4) Existing Data - the location on the property or within three hundred (300) feet of the property; of any existing streets, rights-of-way, railroad lines, platted property lines, water courses, wooded areas, bridges, watermains, sewers, culverts, drain pipes, political subdivision lines, public and private easements, existing structures, zoning classification of the tract and of the adjoining property. The names of adjoining subdivisions, and/or property owner(s) and parcel identification numbers will also be shown.
- (5) North Arrow and Total Acreage of Subdivision - shall be shown on the plat.
- (6) Existing and Proposed Contours - at intervals of not more than five (5) feet shall be shown of the entire area to be subdivided and shall extend into adjoining property for a distance of one hundred (100) feet at all points where street rights-of-way connect to adjoining property.
- (7) Screening and/or Buffering - if any type of fence, brick wall, or earthen berm is being proposed to screen the proposed development, its location shall be shown and a typical section detailed on the preliminary plat. All areas of common ownership or landscaping shall also be noted and shown.
- (8) Utility Plans - proposed utility layouts and pipe sizes showing connections to existing systems or plans for central water or package sewer system, or designation for individual water and sewerage, storm sewers, gas, telephone, electric, cable TV, etc. Utility plans may be provided on a separate map.

If the subdivider plans to connect the utility system to public water and/or sewer utility system, such layout shall be accompanied by a letter from the public agency stating that they will accept the system for ownership or maintenance and that sufficient capacity exists to serve the subdivision.

If the proposed subdivision or development exceeds two hundred (200) acres or two hundred (200) single-family lots; or three hundred (300) multi-family or single attached units, an overall conceptual plan for future sanitary sewer, storm sewer, and water service is required regardless of ownership or if being proposed in phases or sections.

If public water and sewer is not currently available to the proposed subdivision, but will be extended to that area, then the subdivider may indicate on the face of the preliminary

and final plats that the lots may be further divided, as permitted by zoning, when water and sewer is available to the site.

- (9) Lakes - where the plan for the subdivision includes a lake or pond one acre or more in size, existing or to be constructed, in connection with the development, the preliminary plat shall show the location of dams, spillways, and other structures and the location and extent of inundation at full reservoir. The preliminary plat shall also be accompanied by a profile of the proposed dam structure including all appurtenances and evidence of proper review by the North Carolina Department of Environmental Health and Natural Resources.
- (10) Location Map - a key map and/or vicinity sketch at a scale of 1" inch = 2,000 feet showing the relation of the property to adjoining properties, and to all streets or roads existing within 1,000 feet of any part of the property to be subdivided. The Location Map shall be located at the upper left hand corner of the plat.
- (11) Road and Sidewalk Typical - Typical cross sections shall be shown for each road and sidewalk type proposed within the subdivision.
- (12) Location of Flood Plain/River - Stream Buffer - subdivider shall show location of one hundred (100) year flood elevation and location of buffer strip as required by the Watershed Ordinance.
- (13) Urban Growth Area - Proposed developments that fall within one of the Urban Growth Areas must meet specific requirements of the appropriate urban municipality for roads, storm drainage, sediment and erosion control, etc. as applicable.

(D) *Planning Board Review and Approval*

The Planning Board shall review the Preliminary plan and the findings and recommendations of the TRC and Planning Staff, and any other reports or recommendations pertaining to the plan and shall approve, approve with conditions, or disapprove the preliminary plan.

- (1) If the Planning Board authorizes the conditional approval of the preliminary plat, the conditions and reasons thereof shall be stated in writing.
- (2) If the Planning Board disapproves the preliminary plat, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of the Ordinance with which the plat does not comply. If the Planning Board fails to render a decision on the preliminary plat within sixty (60) days from the date that the plat is initially reviewed by the Planning Board, the Town Planner shall forward the application to the Town Council for review and approval, approval with conditions, or disapproval.
- (3) If approval is granted, written confirmation shall be made on two copies of the preliminary plat. One (1) copy of the approved preliminary plat shall be returned to

the applicant. Approval of the preliminary plat is authorization for the applicant to proceed with the construction of the necessary improvements. Preliminary approval shall be valid for a period of twelve (12) months from the date of approval of the plat by the TRC unless a longer time period is established under the vested rights provisions. Preliminary plats whose approval has elapsed shall be resubmitted in accordance with Section 39 (B).

(E) Technical Review Committee Review and Approval

(1) Upon receipt of the requisite copies of the proposed preliminary plat, the Town Planner or his designee shall schedule a meeting of the Technical Review Committee (TRC) to review the plat. The TRC shall review the preliminary plat and any other reports or recommendations pertaining to the plat and shall recommend, recommend with conditions, or disapprove the preliminary plat. The TRC shall be made up of the following members:

- (1) Town Planner, who shall be designated Chairman
- (2) Town Administrator or Mayor, or designee
- (3) Utilities Director, or designee
- (4) County Soil and Water Conservation Agent
- (5) Public School Superintendent, or designee
- (6) County Emergency Management Director, or designee
- (7) County Environmental Health Supervisor, or designee
- (8) Department of Environmental Health and Natural Resources Official, or designee
- (9) NCDOT Division Engineer, or designee

(F) After preliminary approval has been granted, evidence from the proper agencies must be provided to show that road plans (including driveway permits), sediment/ erosion control plans, stormwater plans and water/sewer plans have been approved before any construction may begin.

Section 40. Final Plat Requirements

(A) *Conformance with Preliminary Plat*

The final plat shall conform substantially to the approved preliminary plat. If the submitted final plat deviates in its overall design from the approved preliminary plat, or if the applicant requests a waiver from any of the standards of this Ordinance, the Town Planner shall schedule the final plat to be reviewed by the Technical Review Committee and Planning Board. Such review shall follow the same review and approval procedures set forth in Section 39 for preliminary plats.

(B) *Submission Requirements*

The applicant for final plat approval shall submit to the Town Planner a final plat made of material and of a size that will be acceptable to the Stanly County Register of Deeds Office for recording purpose consisting of two (2) reproducible originals and fifteen (15) blue line prints of the final plat (all properly signed and executed as required for recording in the Office of the Register of Deeds of Stanly County) shall be submitted to the Town Planner. The plat shall be reviewed, and a recommendation presented to the Town Planner. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be a one-inch equals not more than one hundred feet, except when all lots are greater than five (5) acres, the scale shall be a one (1) inch equals not more than two hundred (200) feet. The applicant shall also submit eight (8) prints of the plat as well as any required application forms and any required fee. All final plats shall be submitted within twenty-four (24) months of Preliminary Plat approval. No subdivision shall be granted final plat approval until required improvements either have been constructed or approved plans prepared and improvement execution guaranteed by a good and sufficient surety or performance bond (see Section 43) with corporate surety, a copy of which shall be filed with the Town Planner.

(C) *Final Plat Contents:*

- (1) The final plat shall contain the following information;
- (2) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Stanly County Registry;
- (3) The name of the subdivision owner or owners;
- (4) The township, county and state where the subdivision is located;
- (5) The name of the surveyor and the surveyors registration number and the date of survey;
- (6) The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;

- (7) Restrictive Covenants - where restrictive covenants are proposed reference shall be made on the final plat as to deed book and page number of recorded covenants, or space shall be provided to insert the deed book and page number if the covenants have not been recorded.
 - (8) Road Maintenance - statement as to who will maintain the roads and drainage systems until such time when they may be turned over to the proper governmental agency for their maintenance. Deed Book and Page Number must be shown if a road maintenance agreement has been recorded for that purpose.
 - (9) Location of Floodplain/River-Stream Buffer Overlay - subdivider shall show location of one hundred (100) year flood elevation and location of buffer strip as required by the Floodplain/River-Stream Overlay.
 - (10) Final Plat Requirements - all final inspections by the public service providers must be complete and fees must be paid before the Town Planner will sign the Certificate of Approval by the Town Planner. Certificate number six (6) as follows in Section (C) must be affixed to all final plats where public utility services are provided by any of the Municipalities or the County.
 - (11) All of the additional information required by NCGS § 47-30, NCGS § 39-32.3, and Appendix 2; and
 - (12) All of the applicable certificates required in Appendix 2.
- (D) *Town Planner Approval*

The Town Planner shall approve the final plat unless the Town Planner finds that the plat fails to comply with one or more of the requirements of this Ordinance or that the final plat differs substantially from the plans and specifications approved for the preliminary plat. If the final plat is disapproved by the Town Planner, the applicant shall be furnished with a written statement of the reasons for the disapproval and reference shall be made to the specific section(s) of this Ordinance with which the plat does not comply.

When the final plat is approved by the Town Planner, a signed written certification to this effect shall be entered on the face of the plat in accordance with the requirements of Appendix 2.

The Town Planner shall take expeditious action on a final plat. If the Town Planner fails to act within thirty (30) days after the final plat is submitted, the applicant may request that the final plat be reviewed for final plat approval according to the same review and approval procedures set forth in Section 39 for preliminary plats. The Town Planner may at any time, however, refer an application for final plat approval to the TRC and the Planning Board without regard to the thirty (30) day time limit.

(E) *Required Improvements*

No final plat shall be approved until all required improvements have been installed and approved or appropriate surety has been provided as set forth in Section 43.

(F) *Appeals from the Decision of the Town Planner on Final Plats*

If a final plat is disapproved by the Town Planner, the applicant may appeal the decision by requesting that the final plat be scheduled for review according to the same review and approval procedures set forth in Section 39 for preliminary plats.

Section 41. Recordation Of Final Plats

(A) *Plat Approval Contingent upon Recordation*

Approval of a final plat is contingent upon the plat being recorded in the Office of the Register of Deeds written sixty (60) days after the approval date of the final plat. Failure to record the approved plat within the specified sixty (60) day period shall render the plat approval null and void.

(B) *Dedication and Acceptance*

(1) *Rights-of-Way and Easements*

The approval and recordation of a final plat does constitute an offer to dedicate but does not constitute dedication to and acceptance for maintenance responsibility by the Town or the public of any public road, alley, or utility or drainage easement shown on such plat. Improvements within such rights-of-way or easements, such as utility lines, road paving, drainage facilities, or sidewalks may, however, be accepted for maintenance by the North Carolina Department of Transportation (NCDOT) or by the private utility provider upon compliance with applicable NCDOT and private utility provider guidelines and standards.

(2) *Open Space and or Common Areas*

Land designed as public open space and or common areas on a final plat shall be considered to be offered for dedication until the Town or other legal government entity officially accepts such offer. The offer may be accepted by the Town through:

- a) Express action by the Town Council;
- b) Express action by an administrative officer designated by the Town Council; or
- c) Conveyance of fee simple marketable title (unencumbered financially and environmentally) of the property to the Town at the time of final plat recordation.

Until such dedication has been accepted, land so offered may be used for open space and or common area purposes by the owner or by the owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use.

(C) *Permits and Certificates of Occupancy*

Unless otherwise provided in this Ordinance, upon recordation of the final plat, the applicant shall be eligible to apply for building and any other permits required by this Ordinance, if the roads are determined by the Town Planner or his designee to be in a passable condition. No certificates of occupancy shall be issued until all improvements are complete and approved by NCDOT.

Section 42. Owners' Associations

(A) *Establishment of Owners' Association*

(1) *Creation*

An Owners' Association shall be established to fulfill the requirement of the North Carolina Condominium Act or to accept conveyance and maintenance of all open space, common areas and facilities within a development containing common areas.

(2) *Conveyance*

Where developments have common areas for facilities serving more than one dwelling unit, these areas shall be conveyed to the Owners' Association in which all owners of lots in the development shall be members. All areas other than public road rights-of-way, other areas dedicated to the Town, and lots shall be shown and designated as common areas. The fee-simple title of the common area shall be conveyed by the subdivider or developer to the Owners' Association.

(3) *Subdivision or Conveyance of Common Area*

Common areas shall not be subsequently subdivided or conveyed by the Owners' Association unless a revised preliminary plat and a revised final plat showing such subdivision or conveyance have been submitted and approved.

(4) *Owners' Association Not Required*

Developments involving only two units attached by a party wall shall not be required to have common areas or an Owners' Association. Developments with only two (2) units attached and not having an Owners' Association shall have an agreement between owners concerning maintenance of party walls.

(B) *Submission of Owners' Association Declaration*

Prior or concurrently with the submission of the final plat for review and approval, the applicant shall submit a copy of the proposed Bylaws of the Owners' Association containing covenants and restraints governing the Association, plats, and common areas. The submitted documents shall be reviewed by the Town attorney and a recommendation made to the Town Council as to their sufficiency. The restrictions shall include provisions for the following:

(1) *Existence Before Any Conveyance*

The Owners' Association declaration shall be organized and in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development. The developer shall not convey any control of any common areas until they have built or bonded all improvements thereon. The developer shall also have conveyed at least forty (40) percent of the lots to the final home owner before conveying any common area control.

(2) *Membership*

Membership in the Owners' Association shall be mandatory for each original purchaser and each successive purchaser of a lot or unit. Provisions shall be made for the assimilation of owners in subsequent sections of the development.

(3) *Owners' Association Declaration*

a) *Responsibilities of Owners' Association.* The Owners' Association declaration shall state that the association is responsible for:

- 1) The payment of premiums for liability insurance and local taxes;
- 2) Maintenance of recreational and/or other facilities located on the common areas; and
- 3) Payment of assessments for public and private improvements made to or for the benefit of the common areas.

b) *Default of Owners' Association.* Upon default by the Owners' Association in the payment to the Town of any assessments for public improvements or ad valorem taxes levied against the common areas, which default shall continue for a period of six (6) months, each owner of a lot in the development shall become personally obligated to pay to the Town a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the Town by the total number of lots in the development. If the sum is not paid by the owner within thirty (30) days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the owner, his heirs, devisees, personal representatives and assigns. The Town may either bring an action at law against the owner personally obligated to pay the same, or may elect to foreclose the lien against the property of the owner. In cases where the

County collects taxes for the Town, this shall include the County in place of and including the town taxed owed.

- c) *Powers of the Association.* The Owners' Association is empowered to levy assessments against the owners of lots or units within the development. Such assessments shall be for the payment of expenditures made by the Owners' Association for the items set forth in this Section, and any assessments not paid by the owner against whom such assessments are made shall constitute a lien on the lot of the owner.
 - d) *Easements.* Easements over the common areas for access, ingress, and egress from and to public roads and walkways and easements for enjoyment of the common areas, and for parking, shall be granted to each lot owner.
 - e) *Maintenance and Restoration.* Provisions for common area maintenance of and restoration in the event of destruction or damage shall be established.
- (4) Nonresidential Condominiums

If the condominium is a nonresidential condominium, the declaration shall contain the following provision:

Parking spaces shall be allocated among the individual lots or units in such a manner that each unit is entitled to a sufficient number of parking spaces to comply with this Ordinance for the use intended to be located therein. The Owners' Association shall maintain a register listing the total number of parking spaces in the development and the number of parking spaces allocated to each lot or unit. A copy of this register shall be available to the Town Planner at his request. The Owners' Association shall not reduce the number of parking spaces allocated to an individual lot or unit without the express written consent of the owner thereof, and in no case shall the number of parking spaces allocated to an individual unit be reduced to a number below that required by this Ordinance.

Section 43. Sureties Or Improvement Guarantees

(A) *Agreement and Security*

(1) *Financial Guarantee in Lieu of Immediate Installation for Approval*

In lieu of requiring the completion, installation, dedication and maintenance (until accepted for maintenance) of all improvements prior to final plat approval, the Town may enter into an agreement with the developer whereby the developer shall complete all required improvements. Once said agreement is signed by the developer and the security required herein is provided, the final plat may be approved if all other requirements of this Ordinance are met. To secure this agreement, the developer shall provide any or a combination of the following guarantees to cover the costs of the uncompleted improvements including administrative and legal cost. A fee as specified on the Town of Red Cross fee schedule shall accompany this agreement application:

a) *Surety Performance Bond(s)*

- 1) The developer shall obtain a surety bond from a surety bonding company authorized to issue said bonds in North Carolina.
- 2) The bond shall be payable to the Town of Red Cross and shall be in an amount equal to one hundred twenty-five (125) percent of the entire estimated cost, as approved by the Town, of installing all uncompleted improvements. Developers must submit a request for bonding including a detailed construction cost estimate upon submission of the final plat.
- 3) The bond amount and term shall be as approved by the Town Planner upon recommendation of the NCDOT and other consultants as deemed necessary.
- 4) The Town Attorney shall review the submitted bond and make a recommendation regarding its sufficiency to the Town Planner.

b) *Cash or Equivalent Security*

- 1) The developer shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution. The amount of deposit shall be equal to one hundred twenty-five (125) percent of the entire estimated cost, as approved by the Town, of installing all uncompleted improvements.
- 2) If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer 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 developer in any other matter during the term of the escrow; and
 - ii) That in case of a failure on the part of the developer to complete said improvements and maintenance amount, the financial institution shall, upon notification by the Town, immediately pay the funds deemed necessary by the Town to complete the improvements, up to the full balance of the escrow amount, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.
- 3) All instruments shall be reviewed by the Town Attorney and a recommendation regarding their sufficiency made to the Town Planner.

(2) *Duration of Financial Guarantees*

- a) 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 one (1) year except for maintenance bonds that shall last until accepted by the Town or NCDOT.
- b) All developments whose improvements are not completed and accepted fourteen (14) calendar days prior to the expiration of the financial guarantee shall be considered to be in default. Said guarantee may be extended with the consent of the Town, if such extension takes place prior to default.

(3) *Default*

- a) Upon default, the surety bonding company or the financial institution holding the escrow account shall, if requested by the Town, pay all or any portion of the bond or escrow fund to the Town up to the amount deemed necessary by the Town to complete the improvements. Upon payment, the Town shall expend such funds or portion thereof to complete all or any portion of the required improvements. The Town shall return any funds not spent in completing the improvements. Default on a project does not release the developer from liability and responsibility for completion of the improvements.
- b) Release of Guarantee Security. The Town may release a portion or all of any security posted as the improvements are completed and approved by the Town. Proof satisfactory to the Town that payment in full has been made to the applicable contractor and/or agency for the improvement(s).

Section 44. Phased Developments

If a developer proposes that a subdivision (including planned developments) will be constructed in phases, the following procedure will apply:

- (A) A master plan showing the entire proposed subdivision and phases of development, proposed density, proposed type and location of utilities, and proposed development timetable shall be submitted to the Planning Board.
- (B) Each phase of development shall be preceded by submission and approval of a preliminary plat as outlined in Section 39. The master plan may be submitted prior to, or simultaneously, to the submission of the preliminary plat for the first phase of development.
- (C) As each phase is completed, a final plat must be submitted and approved for that phase as outlined in Section 40.
- (D) Approval of the master plan need not be renewed unless density increases are proposed.
- (E) All required open space and recreation areas required for subdivision shall be met for each phase of development.

Sections 45 through Section 65. (Reserved)

**ARTICLE III.
REQUIRED IMPROVEMENTS AND MINIMUM DESIGN STANDARDS.**

Section 66. Compliance Of Article With State And Local Law

All subdivisions and lots created under this ordinance must comply with the requirements of the Town of Red Cross Zoning Ordinance, Town of Red Cross Flood Plain Ordinance, and any other applicable State and Local laws.

Section 67. Suitability Of The Land For Use

- (A) Lands which are subject to flooding, excessive erosion, or slides because of soil types or groups, water courses and other drainageways, steep slopes, or other hazards shall not be platted for residential or other uses in such a way as to present a danger to life, property, or to the public health, safety or general welfare.
- (B) A subdivider proposing to use an existing lake must structurally upgrade the lake and dam, or if constructing a new lake and dam it must be in accordance with the North Carolina Dam Safety Act, or provide evidence that the lake does not fall under the provisions of that act.
- (C) All proposed subdivisions shall be planned so as to facilitate the most advantageous development of the entire neighboring area, including but not limited to road locations, utilities location, development of adjacent property, etc.

Section 68. Preservation Of Natural Features And Historical Sites

Due consideration should be given to preserving natural features, such as trees, ponds, streams, rivers and lakes, as well as historical sites which are of value to the Town as a whole. The proposed subdivision shall take advantage of and be adjusted to the contour of the land so as to produce lots and streets of reasonable gradient.

Section 69. Name Of Subdivision And Its Roads

The name of a subdivision or its roads shall not duplicate nor closely approximate, either phonetically or by spelling, the name of an existing subdivision or roads within the County, within any municipality within the County, or in an adjacent County or municipality (if the development is in close proximity to another jurisdiction). All names must be approved by the Town Planner through the County Road Naming Ordinance.

Section 70. Flood Damage Prevention

Lots that are subject to flooding shall not be established in subdivisions for the purpose of creating building sites except as herein provided and in accordance with Flood Damage Prevention Ordinance of Stanly County or the Town of Red Cross, the more stringent shall apply.

- (A) If there is any water course of any type running through or within one hundred fifty (150) feet of the property proposed for subdivision, the prospective subdivider shall provide evidence to

the Planning Board, by making reference to maps prepared by the Federal Emergency Management Agency, that the lots within the subdivision will not be flooded.

- (B) The prospective subdivider shall make a determination of the crest elevation of a flood of one hundred (100) year probable frequency in accordance with generally accepted engineering practice. This determination must reflect the actual conditions imposed by the completed subdivision, and must give due consideration to the effects of urbanization and obstructions.
- (1) No proposed building lot shown that is wholly subject to flooding shall be approved.
 - (2) No proposed building lot that is partially subject to flooding shall be approved, unless there is established on the lot plan a line representing an actual contour at an elevation two (2) foot above the one hundred (100) year flood. Such line shall be known and identified on the lot plan or the “building restriction flood line”.

All buildings or structures designed or intended for use shall be located on such a lot so that the lowest usable and functional part of the structure shall not be below the elevation of building restriction flood line. Usable and functional part of the structure is defined as being inclusive of living areas, basements, sunken dens, utility rooms, attached carports 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 openings serving the structure are above the building restriction flood line.

Where only a portion of a proposed building lot is subject to flooding, such lot may be approved only if there will be available for building, a usable lot area of not less than 1,500 square feet. The usable lot area shall be determined by deducting from the total lot area the area of the setback required by an applicable zoning district regulation and any remaining area of the lot lying below the building restriction flood line.

- (C) During the construction, preparation, arrangement, and installation of subdivision improvements, and facilities in subdivisions located at or along stream bed, the developer shall maintain the stream bed of each stream, creek, or backwash channel contiguous to the subdivision in an unobstructed state. The developer shall also remove from the channel and banks of the stream all debris, logs, timber, junk and other accumulations of a nature that would, in time of flood clog or dam the passage of waters in their downstream course. Installation of appropriately sized storm water drains, culverts or bridges shall not be construed as obstructions in the streams.

Section 71. River Stream Buffer

All subdivisions containing or located adjacent to all rivers or streams shown on USGS Quadrangle Maps as a solid blue line shall be subject to all of the regulations set forth in the Town of Red Cross Zoning and/or Floodplain Ordinance.

Section 72. Curb and Gutter And Sidewalks

The subdivider shall install standard type of curb and gutter and sidewalks on all streets, except that for residential subdivisions no curb and guttering or sidewalks shall be required where the minimum lot size is two (2) acres in the entire subdivision. Where sidewalks are provided they shall consist of a minimum five foot wide concrete surface four (4) inches thick and shall in all aspects comply with the *Americans with Disabilities Act* and the latest *AASHTO* or *NCDOT* standards for sidewalk construction.

Section 73. Stormwater Drainage

The subdivider shall provide for adequate drainage of all surface water. The purpose of the stormwater system is to control flooding and remove runoff from an area fast enough to avoid unacceptable amounts of ponding, damage, or inconvenience. Modifications of streams and other natural water courses are prohibited unless approved by the North Carolina Department of Environmental Health and Natural Resources and the Army Corp of Engineers. Points of interception of runoff shall be frequent enough to avoid heavy concentrations in any one (1) system and to eliminate or minimize any flooding. Points of discharge shall be within the site unless otherwise approved by the Planning Board and adjoining property owners. The subdivider shall provide retention/detention devices as may be applicable. Drainage calculations shall be based on a five (5) year frequency in agricultural and residential areas if greater than two (2) acre lots, with all others designed at a one hundred (100) year storm for on site drainage and a twenty-five (25) year storm for through site drainage. Minimum pipe size shall be fifteen (15) inches diameter. Velocities in storm sewer, when flowing full at average peak flows, shall not be less than 2.0'/sec. nor greater than 20.0'/sec. Drawings and calculations shall be provided by and sealed by a NC Registered Engineer.

Section 74. Water And Sewer Systems

Private wells and septic tanks must be approved by the Stanly County Health Department.

Water and sewerage systems which do not include individual wells and septic tanks are subject to the following:

- (A) Connection to a public water and sewerage systems shall be in accordance with the policies and regulations of the Stanly County Water and Sewer Department or appropriate/responsible water/sewer agency.
- (B) If a water or sewerage system is to be installed in a subdivision in the County's utility jurisdiction, and the system is to be assumed and maintained by a municipality or the County immediately upon installation, a complete set of construction plans must be provided for the proposed system.

The plans shall be prepared by a professional engineer and shall meet the utility requirements of the municipality or county and the Division of Health Services, North Carolina Department of Human Resources and/or the Division of Environmental Management of the North

Carolina Department of Environmental Health and Community Development. The plans shall be approved by the County's Utilities Department Director or the municipality's utility representative. The developer's engineer shall provide As-Built Plans and location maps for all valves and hydrant locations. In addition the developer's engineer must submit digital mapping information to the Stanly County GIS coordinator according to current technology standards.

- (C) All community water and sewerage systems shall be designed by a professional engineer registered in the State of North Carolina constructed by a licensed Utility Contractor and be approved as follows:
- (1) Water and sewerage systems in all subdivisions and planned developments shall be approved by the appropriate agency. Depending on the type of system, these agencies include the:
 - a) Division of Health Services of the North Carolina Department of Human Resources.
 - b) Division of Environmental Management of the Department of Environment, Health and Natural Resources.
 - c) Stanly County Utilities Department or appropriate/responsible water/sewer agency.
 - d) Individual engineering department of municipality involved.

Proof of approval shall be provided to the Town Planner before any work shall commence. Installation of the system shall be in accordance with the approved plan and shall be certified to the Town by the registered engineer retained by the developer/owner. This shall be appropriately documented before construction.

- (2) Community water systems shall be required to meet Stanly County or municipal specifications as set forth by the Stanly County Utility Department or municipal utility department. Where the complete system is intended to be connected to and maintained by a public water system; the town and/or utility reserves the right to inspect the installation of the system and requires as built drawings and digital data related to system mapping.
- (3) Sewer systems shall be designed to County's or municipal specifications and the County or municipal utility department shall reserve the right to inspect the installation of the system and require as-built drawings.

Section 75. Public And Private Roads.

- (A) Each road shown on a subdivision plat shall be classified and designated as either public or private. The arrangement, character, extent, width, grade, and location of all roads shall be reviewed in relation to existing and proposed transportation patterns, topographical and other natural features, public convenience and safety, proposed uses of lands to be served by such roads and existing or potential uses in adjoining areas. **New private roads and their related dedicated right-of-way shall not be allowed.**
- (B) Roads that are classified and designated as public shall be subject to the following conditions. Designation of a road as public shall be conclusively presumed to be an offer of dedication to the public and permit public use. **THESE ROADS SHALL BE MAINTAINED BY THE DEVELOPER-OWNER, OR THE LOT PURCHASERS THROUGH A RECORDED MAINTENANCE AGREEMENT UNTIL THE RESPECTIVE GOVERNMENTAL AGENCY ASSUMES RESPONSIBILITY FOR THE MAINTENANCE.**
- (1) All public roads must be designed and constructed to meet NCDOT minimum standards including paving. Road plans must be properly approved and evidence of that approval provided to the Town Planner before any construction may begin.
 - (2) The proposed road layout within a subdivision shall be coordinated with the existing road system of the surrounding area, and existing roads shall be extended whenever possible. This includes connection of the road system to the road systems within adjoining subdivisions whenever possible, and the alignment of entrance roads with existing roads. Roads that are aligned with existing roads or connected to existing roads shall be given the same name as the existing road.
 - (3) Where in the opinion of the Town Planner it is necessary to provide for road access to adjoining parcels, a reserve connectivity strip for such purpose shall be extended to the boundary of such property(ies). When adjoining parcels develop the reserve strip shall be offered at market value to the adjoining property owner and the strip shall be developed by the adjoining owner as a continuation of the existing right-of-way and street. If a cartway or easement already exists to such a parcel, the reserve connectivity strip shall be provided at that point if practical.
 - (4) All road, subdivision, and development names shall be subject to approval by the Town Planner.
 - (5) The developer shall bear the cost and shall install street name signs at all intersections as shown on the final plat. These signs will be erected only after all road and utility construction has been completed. The developer shall maintain such street name signs for one full year from installation.
 - (6) The developer shall deposit a surety and guarantee as specified in section 43 for the continuing maintenance of dedicated public roads. Fifteen) percent of the total cost of construction of roads, storm drainage, curb, gutter and sidewalks, including any other

required improvements shall be deposited with the Town until the road and other related improvements have been accepted for maintenance by a governing body or NCDOT. Reductions for accepted road improvements in the amount of the surety shall be allowed only once a year for each phase of the development.

- (7) The dedication of half roads at the perimeter of a new subdivision is prohibited.
- (8) Cul-de-sacs shall be prohibited except where the town finds that topography or important natural features dictate otherwise.
- (9) Roads shall be designed to connect with existing and future roads at points acceptable to NCDOT and approved by the town.
- (10) New roads shall be designed to discourage cut-through traffic unless specifically designed as a major collector or arterial.

Section 76. Access and Thoroughfare Planning

All subdivisions or developments shall be subject to the following provisions relating to access to the public road system.

- (A) Direct access to public roads is governed by the classification of that road in the Rocky River RPO and/or County Thoroughfare Plans such that:
 - (1) No lots may directly access a road classified as a major/minor thoroughfare or principal arterial. These lots must be served by an internal road system or marginal access street.
 - (2) Access shall be limited where lots abut minor thoroughfares, minor arterials and major collector roads. The Planning Board may at their discretion prohibit direct access entirely, or may permit limited access based on analysis by Planning Staff and NCDOT Transportation Planners.
- (B) Subdivisions or developments estimated to produce greater than two hundred (200) trips per day are required to provide a Traffic Impact Analysis (TIA). The TIA must be produced by a qualified professional and must include, at a minimum, the following:
 - (1) An estimation of traffic generated.
 - (2) An estimation of trip distribution to and from the development.
 - (3) An analysis of the existing road system serving the development (to the nearest major intersections) and the effect of the development on that system.
 - (4) A listing of proposed improvements, both on and off-site, and their effect on the existing system.
- (C) Where a Traffic Impact Analysis, the Town Planner, or Planning Board determines it is necessary, a divided entrance, or second entrance will be required for a subdivision or

development. A divided entrance shall be four (4) travel lanes from the intersection with the public road system to the first intersection within the development. A second entrance may be accomplished by a second intersection with the public road system or interconnection with an adjoining subdivision that accesses the public road system.

- (D) Where a tract of land to be subdivided borders on a proposed thoroughfare or a road requiring improvement as indicated in Rocky River RPO or the County/Town Thoroughfare Plans, the owner/developer will be required to dedicate the necessary right-of-way for the proposed improvement. When dedication is required the developer may reduce lot size to ninety-five (95) percent of that required by the underlying zoning. The number of lots created after the reduction may not exceed the number that could have been created had no dedication been required.
- (E) Where a parcel to be subdivided is crossed by any part of the proposed right-of-way for a thoroughfare included in the NC Transportation Improvement Program, and the location of that right-of-way has been further defined by accepted location procedures, the right-of-way for that thoroughfare shall be reserved by the owner/developer. The reservation of the right-of-way shall be for a period not to exceed three (3) years from the date of approval of the preliminary plat. During that period, however, the property may be acquired by the State or other governmental unit at fair market value.
- (F) Any subdivision that will contain in excess of fifty (50) lots, or create in excess of five hundred (500) ADT (as projected by using ITE Trip Generation Manual) shall construct turn lanes at the entrance(s). These turn lanes shall be constructed to NCDOT specifications.
- (G) Reserve strips or non-access reservations that control access to roads, waterways, parks or the like, shall be permitted only if their purpose, location, dimensions, and manner of control are approved by the Planning Board.

Section 77. Monuments

Unless otherwise specified by this ordinance, the standards of practice for land surveying as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, under provisions of North Carolina General Statute Chapter 39, Article 5A shall apply.

Section 78. Construction Procedures

- (A) Construction or installation of improvements shall commence in a proposed subdivision after the preliminary plat has been approved, and all plans and specifications for roads, utilities and sedimentation and erosion control have been approved by the appropriate authorities.
- (B) During the construction phase the proposed road when adjoining an existing paved road, shall have a gravel way of at least one hundred (100) feet in length, eighteen (18) in width, with a gravel base of at least six (6) inches, to help eliminate excessive mud and other such materials from being carried onto the paved road.

- (C) Building or other permits shall be issued only for the erection of a structure on any lot of record prior to the adoption of this Ordinance or created in compliance with this ordinance and meeting all requirements of applicable State and local laws.
- (D) Town Planner reserves the right to hire a third party Engineer and or Inspector to ensure all improvements are installed in according to submitted and approved plans. The Town shall estimate the cost and assess the developer up front and re-assess when the project expenditures have reached 90%. This agreement shall be a binding contract between the Town and Developer. Any discrepancies resulting from the third party Engineer or Inspector and the Developer shall be mediated by the Town Planner.

Section 79. (Reserved)

Section 80. Reservation of School Sites

Schools sites must be reserved within the agreement of the Board of Education, in accordance with adopted subdivision plans of the Planning Board and/or Town Council of Red Cross. Whenever a subdivision includes all or part of a site identified for new school construction, the Board of Education will be notified. That Board shall then notify the Planning Board whether it still wishes the site to be reserved. If the Board of Education does not wish for it to be reserved, no reservation will be required. If that board wishes for the site to be reserved the subdivision may not be approved without that reservation. The Board of Education must acquire the site within eighteen (18) months of the date of reservation. If the Board of Education has not acquired the site or begun the proceedings to condemn the site within the eighteen (18) months, the land is freed of the reservation.

Section 81. Adequate Public Facilities Standards

To ensure public health, safety and welfare the Planning Board shall review each subdivision, multi-family development, and mobile home park to determine if public facilities are adequate to serve that development.

The public facilities to be considered include, but are not limited to schools, fire and rescue, law enforcement and other county facilities. Applicable state standards and guidelines shall be followed for determining whether facilities are adequate. Facilities must be in place or programmed to be in place within two (2) years of the preliminary approval to be considered adequate. The Planning Board may grant or recommend partial approval of developments based on limited adequacy.

Sections 82. Clustering

Every lot shall meet the minimum size as specified in the zoning ordinance except lots permitted to utilize the clustering provision. Lots may be reduced using this provision but any lot area reduced shall be placed in common area and shall in no way increase the number of lots normally allowed by using this section. Reference the Town of Red Cross Zoning Ordinance for lot size

requirements. Averaging lot size can be approved on a case by case basis by the Planning Board where no additional lots are created.

Section-83. Access Requirements

All lots must have public road access and frontage meeting the requirements set forth in the Town Zoning Ordinance. The following exceptions may be approved:

- (A) Lots and units located in developments with Owners' Associations or in group developments in which permanent access is guaranteed by means of approved roads and/or drives.
- (B) Lots served by an Access Easements meeting the following criteria and approved by the Planning Board through the major subdivision process:
 - (1) An Access Easement shall serve three (3) or less residential lots;
 - (2) The minimum easement width shall be twenty (20) feet and shall connect to a public road. If the easement is longer than five hundred (500) feet, the entire easement shall be thirty (30) feet in width;
 - (3) There shall be, within the Access Easement, a minimum passable travelway of at least eighteen (18) feet in width;
 - (4) The minimum separation between the proposed Access Easement and any other Access Easement on the same tract shall be 1500 feet;
 - (5) The location of the easement must be recorded on the plat;
 - (6) The Access Easement shall permit ingress, egress, and regress and necessary utilities required to serve the lot(s);
 - (7) A notation shall be placed on the face of the plat which states that no additional lots, including re-subdivision of the lots served by the Access Easement, shall be permitted unless the Access Easement is upgraded by the property owner(s) to a private road or public road status and meets or exceeds the Town private road standards or the NCDOT public road specifications, whichever is applicable;
 - (8) The subdivision shall be approved by the Planning Board in accordance with the major subdivision review and approval process, except that the preparation of a preliminary plat is not required; and
 - (9) Access Easements shall be named if they serve more than one lot. The name shall be approved through the Stanly County Road Name Ordinance.

Section 84. Open Space

Open space, where required, shall be limited to contain fifty (50) percent flood plain or floodway or any other normally restricted or non-buildable land area.

Where the open space is less than four (4) acres in size, and where the clustering provision is not used, the developer may receive the points and credit for open space by retaining this open space as un-developable land or combine it with one or more lots with a note on the plat that those lots cannot be divided in the future to increase density of the approved subdivision.

Section 85. (Reserved)

Section 86. Street Construction

All subdivisions shall have the following pavement widths unless a greater width is required for NCDOT approval:

- (A) *Local Road System* - twenty-two (22) foot minimum back of curb to back of curb or twenty-one (21) foot paved strip where curb and gutter is not required.
- (B) *Minor Collector Roads* - twenty-four (24) foot minimum back of curb to back of curb or twenty-three (23) foot paved strip where curb and gutter is not required.
- (C) *Major Collector Road* - twenty-six (26) foot minimum back of curb to back of curb or twenty-five (25) foot paved strip where curb and gutter is not required.
- (D) *Minor and Principal Arterial Systems* - As required or suggested by NCDOT.

Section 87 through Section 89 (Reserved)

Section 90. Construction Criteria Point Approval System

All major subdivisions of twenty lots or more shall obtain a minimum one hundred (100) points for preliminary plat approval. All smaller major subdivisions exempt from the point system criteria shall be required to install street lighting and trees as indicated below as well as all other improvements required by this ordinance in order to receive preliminary plat approval. This point system was developed to allow flexibility for the developer while maintaining a higher standard of subdivision construction and livability.

| Subdivision Point System Improvement | Points | |
|---|---------------|--|
| Open Space meeting the ownership requirements established in Section 103. | | One point for each percent of open space (rounded down to the nearest whole number) exceeding the minimum open space requirements established by the zoning ordinance. (e.g. a 40-lot subdivision requiring a minimum of 30% open space which instead provides 40% open space would receive 10 points) |
| Public Water | 30 | (e.g. connected to a regulated public water system) |
| Public Sewer | 30 | (e.g. connected to a regulated public sewer system) |
| Street lighting | 10 | Minimum every three hundred (300) feet. |
| Entrance Landscaped & Sign | 10 | (e.g. approved signage and landscaping along all double frontage lots) |
| Dedicated Public Facility Site | 10 | (e.g. EMS, library, fire station, etc.) |
| Dedicated School Site | 20 | (e.g. approved and accepted school site) |
| Recreation: (pick one) | | (e.g. walking trails, ball fields, tennis courts, pools, play grounds, etc) |
| • Active | 10 | (e.g. vistas, ecological and environmental research preserves, farming, etc.) |
| • Passive | | |
| Tree Planting (min. four (4) on each lot) | 10 | (e.g. one two (2)-inch caliper as measured six (6) inches from the ground) |
| Min two 2 acre lot average (overall) | 20 | (e.g. beginning total acreage outside of any right of way divided by the number of lots in the entire tract) |
| Sidewalks | 10 | Per ADA requirements on one side |
| 2-Sided Sidewalks | 30 | Per ADA requirements on two side (except cul-de-sacs over 400' where one side is sufficient) |
| Engineered Storm Drainage | 20 | Designed and approved underground storm drainage |
| Curb and Guttering | 25 | Standing or Valley Type |
| Home Owners Association | 10 | Recorded and Enforced |

Section 91. Recreational Areas

(A) Purpose and standards

- (1) *Acceptable Types of active recreation.* The purpose of active recreation areas is to provide adequate active recreational facilities for use by the residents of the immediate surrounding neighborhood within the development. Examples of facilities both serving active recreational needs and fulfilling the active recreation requirements of these regulations are:
 - a) Tennis Courts
 - b) Racquetball Courts
 - c) Swimming Pools
 - d) Sauna And Exercise Rooms
 - e) Meeting Or Activity Rooms Within Clubhouses
 - f) Basketball Courts
 - g) Ballfields
 - h) Swings
 - i) Slides
 - j) Play Apparatus
- (2) Each development using this should satisfy its active recreation requirement by installing the types of recreational facilities most likely suited to and used by the age bracket of persons likely to reside in the development. However, when five (5) percent of the residents of any development are likely to be children under twelve (12), then at least fifteen (15) percent of the active recreation requirement must be satisfied by construction of a “tot lot” - an area equipped with imaginative play apparatus oriented to younger children as well as seating accommodations for their parents.
- (3) Active recreation size. The total acreage of active recreation areas required for a residential development may be divided into areas of not less than 10,000 square feet.
- (4) Landscaping. Active recreation areas shall be attractively landscaped and be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences.
- (5) Location and siting. Each active recreation area should be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. Each active recreation area shall

be constructed on flat, dry land capable of serving the purposes intended by these regulations.

- (6) The Town Planning Board can waive the required recreational area and accept a Fee-in-Lieu (per NCGS 160A-372 (e)), or a mixture of both, of in the following manner;
 - (a) Tax value divided by 35 shall equal to the payment amount.
 - (b) The Town shall hold such funds in a Capital reserve fund for future and planned (now or in the future) Recreational Capital purchases including Land, Capital Equipment, and Physical Improvements, etc. but excluding maintenance cost.

Section 92 through Section 102. (Reserved)

Section 103. Ownership and Maintenance

Required open space and recreation areas may be publicly or privately owned. The planning, construction, and maintenance of privately owned facilities shall adhere to the following:

- (A) Private open space intended to count towards the open space requirements of this section shall be held and maintained by a legally constituted homeowner's association. Public open space may be held by any unit of government or private non-profit organization created for such purposes that has been approved by the Town Council.
- (B) High maintenance cost facilities such as swimming pools shall not be counted in determining compliance with the minimum open space and recreation area requirements of this section. Bridges along pedestrian and bicycle paths and similar high cost facilities shall not be permitted as an integral part of any required open space or recreational area unless the town determines that no other feasible alternative exists.
- (C) Each phase of a phased development shall meet the minimum requirements for open space and recreational areas. All plans for such developments shall demonstrate compliance for each phase. No certificates of occupancy shall be issued until all such required facilities have been installed by the developer and approved by the town.
- (D) Prior to the conveyance of the first lot in any subdivision, all open space and recreation areas required by this ordinance to be owned and maintained by a property owners association shall be transferred free of debt to such association.
- (E) Maintenance. The person or entity identified as having the right of ownership and control over a development's recreational and open space area shall be responsible for the perpetual upkeep and proper maintenance of the same.

Section 104. Homeowners' Association

In the event a homeowners' association or similar legal entity is to be responsible for the maintenance and control of recreational facilities established under these regulations, the association shall be established in conformance with the following:

- (A) When created. Provision for the establishment of the association or similar entity shall be made before any lot in the development is sold or any building occupied.
- (B) Authority. The association or similar legal entity shall have the clear legal authority to maintain and exercise control over such common areas and facilities.
- (C) Contributions. The association or similar legal entity shall have the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with both maintenance and upkeep.

Section 105. Timing Of Recreational Improvements

Because of the varying nature of subdivision developments, it is impractical to categorically set one (1) time frame with applicability to all. Consequently, the timing of recreational improvements will be established for each development by the town in consultation with the developer. Generally, the town will require recreational improvements implemented when either fifteen (15) lots total or fifty (50) percent of the total approved lots for the subdivision have been completed, whichever occurs first. When compliance with the preceding requirement does not occur, zoning permits for the remainder of the development may be stopped by the Town Planner. Due written notice to the Town Planning Board and the developer shall follow within 10 business days. Nothing, however, should be construed as barring a developer from immediate development of recreational facilities as an amenities/marketing strategy and such timing is encouraged.

Section 106. Lot Reduction

Developers converting developable land area into the required recreational area may, at their option, reduce building lot size to ninety-five (95) percent of the minimum lot size of the host zoning district.

Section 107. Flexibility In Administration

Due to the widely varying characteristics of land itself, the nature of proposed facilities, or other factors, it is possible that the overall objectives of these regulations, on rare occasion, be achieved without adhering to the standards set forth with exact mathematical precision. Accordingly, minor deviations from these standards may be made when it can be determined that:

- (A) The objectives of the standards can be met without strict adherence to them; or
- (B) The peculiarities of a tract of land would make strict adherence to standards unreasonable.

Section 108. Administrative Procedures For Deviation

A deviation from strict standards is to be presented within the regular subdivision review process, becoming both a part of the written record and also, receiving approval from the Town Planner, or the Town Planning Board. Again, a deviation will be considered the exception rather than the rule and accordingly, be authorized only when the evidence is overwhelmingly in its favor.

**ARTICLE V.
LEGAL PROVISIONS.**

Section 109. Separability

If any portion, clause or sentence of this ordinance shall be determined to be invalid or unconstitutional, such declaration of invalidity shall not affect the remaining portions of this ordinance.

Section 110. Re-enactment And Repeal Of Existing Subdivision Ordinance

The provision in part carries forward by re-enactment some of the provisions of the Subdivision Ordinance of the County of Stanly initially adopted and effective January 1, 1989 and the previously adopted Town of Red Cross Subdivision Ordinance and any and all subsequent revisions and updates. It is not the intention to repeal, but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced.

All provisions of the Subdivision Ordinance, which are not re-enacted herein are hereby repealed. All suits at law for inequity and/or all prosecutions resulting from the violation of any subdivision ordinance heretofore in effect, which are now pending in any of the courts of this state or of the United States shall not be abated or abandoned by reason of the adoption of this ordinance, but shall be prosecuted to their finality the same as if this ordinance had not been adopted, and any and all violators of the existing ordinance prosecutions for which have not yet been instituted may be hereafter filed and prosecuted, and nothing in this ordinance shall be construed as to abandon, abate, or dismiss any litigation or prosecution, now pending and/or which may heretofore have been instituted or prosecuted.

Section 111. Effective Date

This ordinance shall take effect and be in force from and after:

Date

Mayor, Town of Red Cross

SEAL

Town Clerk

4. **CERTIFICATE OF APPROVAL OF STREETS AND STREET DRAINAGE PLANS**

Department of Transportation
Division of Highways
Proposed Subdivision Roads
Construction Standards Certification

APPROVED _____

Date

District Engineer

5. **CERTIFICATE OF ROAD MAINTENANCE**

a. I (We) hereby certify that I (we) will maintain the roads to the standards set forth by the North Carolina Department of Transportation until the respective governmental agency takes over this responsibility. (This does not include removal of snow or ice)

Date

Owner/Developer

b. Road maintenance shall hereby be the responsibility of the Homeowners Association and roads shall be maintained to the minimum standards of the North Carolina Department of Transportation until the respective governmental agency takes over this responsibility. The road maintenance agreement is recorded in Deed Book____Page____of the Stanly County Register of Deeds.

Date

Owner/Developer

6. **CERTIFICATE OF WATER AND SEWER CONNECTION FEE PAYMENT**

(only if City public utility extensions are required).

I hereby certify that all water and sewer connection fees for the _____

Subdivision have been paid, or that the fees are not applicable.

Date

Finance Director