ARTICLE IV - Permits and Final Plat Approval

§41 Definitions

(a) Subdivision. The division of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one (1) or more of those divisions is 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 a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this ordinance applicable strictly to subdivisions:

- 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 minimum standards set forth in this ordinance; or
- the division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved; or
- the public acquisition by purchase of strips of land for widening or opening streets, or for public transportation system corridors; or
- 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 minimum standards set forth in this Ordinance.

(b) Subdivision, Major. Any subdivision other than a minor subdivision.

(c) Subdivision, Minor. A subdivision that does not involve any of the following:

- the creation of more than a total of four (4) lots including the remaining portion of the parent tract;
- the creation of any new public streets or right-of-way dedication;
- the extension of a public water or sewer system;
- the installation of drainage improvements through one (1) or more lots to serve one (1) or more other lots; or
- the creation of more than three (3) lots created out of one (1) parent tract using the minor subdivision plat approval process within a three (3) year period.

(d) Subdivision, Other Exceptions.

- The purchase or dedication of strips of land for sidewalks, greenways, water and sewer utilities, access for ingress/egress, parks, and open space; or
- The division of land into plots or lots for use as a cemetery; or
- Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this Ordinance.

Commentary Note: Splitting up land for the settlement of an estate is not considered a subdivision. But for it to be considered the settlement of an estate
estate, the owner has to be deceased. It cannot be a parent deciding to divide the property between the children before death. That's not the settlement of the parent’s estate because the parent is not dead. If a parcel is left in a will to the children as joint owners or as tenants in common, the passing of ownership from the decedent to the children is the settlement of the estate. If the children decide to divide the land between themselves, that is not part of the settlement of the estate.

Amended March 21, 2016

Part I. Zoning, Special-Use, and Conditional-Use Permits

§42 Permits Required
(a) Subject to (Sign Permits), the use made of property may not be substantially changed, substantial clearing, grading, or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one (1) of the following permits:
   (1) A zoning permit issued by the administrator.
   (2) A special-use permit issued by the board of adjustment
   (3) A conditional-use permit issued by the Town Board

(b) Zoning permits, special-use permits, conditional-use permits and sign permits are issued under this ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in §64, all development shall occur strictly in accordance with such approved plans and applications.

(c) Physical improvements to land to be subdivided may not be commenced except in accordance with a conditional-use permit issued by the town board for major subdivisions or after final plat approval by the planning director for minor subdivisions (see Part II of this article).

(d) A zoning permit, conditional-use permit, special-use permit, or sign permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. All such permits issued with respect to tracts of land in excess of one (1) acre (except sign permits and zoning permits for single-family and two-family residential uses) shall be recorded in the Chatham County Register of Deeds after execution by the record owner as provided in §59.

§43 No occupancy, use or sale of lots until requirements fulfilled
Issuance of conditional-use, special-use, or zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or make necessary improvements to a subdivision. However, except as provided in §49, §57 and §58 the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this ordinance and all additional requirements imposed pursuant to the issuance of a conditional-use or special-use permit have been complied with.

§44 Who May Submit Permit Applications
(a) Applications for zoning, special-use, conditional-use, or sign permits or minor subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or the minor subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).

(b) The administrator may require an applicant to submit evidence of his authority to submit the application in accordance with the §44(a) whenever there appears to be a reasonable basis for questioning this authority.

§45 Applications to be Complete
(a) All applications for zoning, special-use, conditional-use, or sign permits must be complete before the permit-issuing authority is required to consider the application.

(b) Subject to §45(c), an application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this ordinance.

(c) In this ordinance, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth in one (1) or more of the appendices to this ordinance. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plan provide sufficient information to allow the permit-issuing authority to evaluate the application in the light of the substantive requirements set forth in this text of this ordinance. However, when this ordinance requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one (1) or more of these appendices, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the
administrator. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in Article VII.

(d) The presumption established by this ordinance is that all of the information set forth in Appendix A is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the town board or board of adjustment, the applicant may rely in the first instance on the recommendations of the administrator as to whether more or less information than that set forth in Appendix A should be submitted.

(e) The administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this ordinance, such as applications for zoning permits to construct single-family or two-family houses, or applications for sign permits, the administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

§46 Staff Consultation Before Formal Application

(a) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this ordinance, pre-application consultation between the developer and the planning staff is encouraged or required as provided in this section.

(b) Before submitting an application for a conditional-use permit authorizing a development that consists of or contains a major subdivision, the developer shall submit to the administrator a sketch plan of such subdivision, drawn approximately to scale (1 inch = 100 feet). The sketch plan shall contain:

1. The name and address of the developer.
2. The proposed name and location of the subdivision.
3. The approximate total acreage of the proposed subdivision.
4. The tentative street and lot arrangement, sidewalk widths, furnishings, plantings, and parking.
5. Topographic lines, and
6. Any other information the developer believes necessary to obtain the informal opinion of the planning staff as to proposed subdivision's compliance with the requirements of this ordinance.

The administrator shall meet with the developer as soon as conveniently possible to review the sketch plan.
(c) Before submitting an application for any other permit, developers are strongly encouraged to consult with the planning staff concerning the application of this ordinance to the proposed development.

Amended June 16, 2014

§47 Staff Consultation After Application Submitted
(a) Upon receipt of a formal application for a zoning, special-use, or conditional-use permit, or minor plat approval, the administrator shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the applicable requirements of this ordinance, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.

(b) If the application is for special-use or conditional-use permit, the administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he intends to make it. However, as provided in §52 and §53, if the administrator believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis.

§48 Zoning Permits
(a) A completed application form for a zoning permit shall be submitted to the administrator by filing a copy of the application with the administrator in the planning department.

(b) The administrator shall issue the zoning permit unless he finds, after reviewing the application and consulting with the applicant as provided in §46 that:
   (1) The requested permit is not within his jurisdiction according to the Table of Permissible Uses, or
   (2) The application is incomplete, or
   (3) If completed as proposed in the application, the development will not comply with one (1) or more requirements of this chapter (not including those requirements concerning which a variance has been granted or those the applicant is not required to comply with under the circumstances specified in Article VIII, Non-conforming Situations).

(c) If the administrator determines that the development for which a zoning permit is requested will have or may have substantial impact on surrounding properties, he shall: §48(c) Amended 8-21-95
   (1) At least 10 days before taking final action on the permit request, send a written notice to those persons who have listed for taxation real property any portion of which is within one hundred (150) feet of the lot that is the subject of the application, informing them that:
   (4) An application has been filed for a permit authorizing identified property to be used in a specified way,
(5) All persons wishing to comment on the application should contact the administrator by a certain date, and

(6) Persons wishing to be informed of the outcome of the application should send a written request for such notification to the administrator.; and

(2) Shall require the developer to submit a sketch plan of proposed development, drawn approximately to scale (1 inch = 50 feet). The sketch plan shall contain:

(4) The name and address of the developer.

(5) The proposed name and location of the development.

(6) The approximate total acreage of the proposed development.

(7) The tentative street and lot arrangement.

(8) Topographic lines, and

(9) Any other information the administrator and/or the developer believes necessary to obtain the informal opinion of the planning staff as to proposed development's compliance with the requirements of this ordinance.

The administrator shall meet with the developer as soon as conveniently possible to review the sketch plan.

(d) Before submitting an application for any other permit, developers are strongly encouraged to consult with the planning staff concerning the application of this ordinance to the proposed development.

§49 Authorizing Use or Occupancy Before Completion of Development

(a) In cases when, because of weather conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning-permit recipient to comply with all of the requirements of this ordinance prior to commencing the intended use of the property or occupying any buildings, the administrator may authorize the commencement of the intended use or occupancy of buildings (insofar as the requirements of this ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the administrator to ensure that all of the requirements of this ordinance will be fulfilled within a reasonable period (not to exceed 24 months) determined by the administrator.

(b) This Section shall not preclude the requirements of the Vested Rights Ordinance as adopted by the Town Board in 1991.

§50 Special-Use Permits and Conditional-Use Permits

(a) An application for a special-use permit shall be submitted to the board of adjustment by filing a copy of the application with the administrator in the planning department. Applications for the next regularly scheduled Board of Adjustment meeting must be submitted to the administrator no later than twenty (20) working days prior to the Board of Adjustment’s regular meeting. Application submitted after the deadline shall be heard the month following the next regular meeting.
(b) An application for a conditional-use permit shall be submitted to the town and planning board by filing a copy of the application with the administrator in the planning department. Applications for the next regularly scheduled Planning Board meeting must be submitted to the administrator no later than twenty (20) working days prior to the Planning Board’s regular meeting. Application submitted after the deadline shall be heard the month following the next regular meeting.

(c) Subject to §50(d), the board of adjustment or the town board, respectively, shall issue the requested permit unless it concludes, based upon the information submitted at the hearing, that:

1. The requested permit is not within its jurisdiction according to the Table of permissible uses, or
2. The application is incomplete, or
3. If completed as proposed in the application, the development will not comply with one (1) or more requirements of this chapter (not including those the applicant is not required to comply with under the circumstances specified in Article VII, Non-conforming Situations)

(d) Even if the permit-issuing board finds that the application complies with all other provisions of this chapter, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

1. Will materially endanger the public health or safety, or
2. Will substantially injure the value of adjoining or abutting property, or
3. Will not be in harmony with the area in which it is to be located, or
4. Will not be in general conformity with the land-use plan, thoroughfare plan, or other plan officially adopted by the town board.

(e) Once a completed application has been submitted, the burden of presenting evidence to the permit-issuing board sufficient to lead it to conclude that the application should be denied for any reasons stated in §50(d) shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.

(f) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any reasons set forth in §50(d) rests on the party or parties urging that the requested permit should be denied.


§51 Recommendations on Special-Use Permit Applications
(a) When presented to the board of adjustment at the hearing, the application for a special-use permit shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with §45 (Application to Be Complete) and the other requirements of this ordinance, as well as any staff recommendations for additional requirements to be imposed by the board of adjustment.

(b) If the staff proposes a finding or conclusion that the application fails to comply with §45 or any other requirement of this ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

§52 Recommendations on Conditional-Use Permit Applications

(a) Before being presented to the town board for final approval, an application for a conditional-use permit shall be scheduled for public hearing before the town board for review in accordance with this Section. The town board may not render a final decision on a conditional-use permit application until the planning board has had an opportunity to consider the application pursuant to standard agenda procedures.

(b) When presented to the planning board, the application shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with §45 and other requirements of this ordinance, as well as any staff recommendations for additional requirements to be imposed by the town board. If the planning staff report proposes a finding or conclusion that the application fails to comply with §45 or any other requirement of this ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(c) The planning board shall consider the application and the attached staff report in a timely fashion, and may, in the Chairperson's discretion, hear from the applicant or members of the public. (Notice to the adjoining property owners is provided for in §24(e).

(d) After reviewing the application, the planning board shall report to the town board whether it concurs in whole or in part with the staff's proposed findings and conditions, and to the extent there are differences the planning board shall propose its own recommendations and the reasons therefore.

(e) In response to the planning board's recommendations, the applicant may modify this application prior to submission to the town board, and the planning staff may likewise revise its recommendations.

Amended October 2, 2000, March 18, 2013

§53 Town Board Action on Conditional-Use Permits
In considering whether to approve an application for a conditional-use permit, the town board shall proceed according to the following format:

(a) The town board shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the town board that the application is complete.

(b) The town board shall consider whether the application complies with all of the applicable requirements of this ordinance. If a motion to this effect passes, the town board need not make further findings concerning such requirements. If such a motion fails or is not made then a motion shall be made that the application be found not in compliance with one (1) or more of the requirements of this ordinance. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the town board to be unsatisfied through this process.

(c) If the town board concludes that the application fails to comply with one (1) or more requirements of this ordinance, the application shall be denied. If the town board concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one (1) or more of the reasons set forth in §50(d). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

§54 Board of Adjustment Action on Special-Use Permits
In considering whether to approve an application for a special-use permit, the board of adjustment shall proceed in the same manner as the town board when considering conditional-use permit applications (§53), except that the format of the board of adjustment's proceedings will differ as a result of the four-fifths (4/5) voting requirement set forth in §31(a).

(a) The board shall consider whether the application is complete. If the board concludes the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. A motion to this effect, concurred in by two (2) members of the board, shall constitute the board's finding on this issue. If a motion to this effect is not made and concurred in by at least two (2) members, this shall be taken as an affirmative finding by the board that the application is complete.

(b) The board shall consider whether the application complies with all of the applicable requirements of this ordinance. If a motion to this effect passes by the necessary four-fifths vote, the board need not make further findings concerning such requirements. If such a motion fails to receive the necessary four-fifths (4/5) vote or is not made, then a motion shall be made that the applicant be found not in compliance with one (1) or
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more requirements of this ordinance. Such a motion shall specify the particular requirements the application fails to meet. A separate vote may be taken with respect to each requirement not met by the application, and the vote of the number of members equal to more than one-fifth (1/5) of the board membership (excluding vacant seats) in favor of such a motion shall be sufficient to constitute such motion a finding of the board. It shall be conclusively presumed that the application complies with all requirements not found by the board to be unsatisfied through this process. As provided in §50(c), if the board concludes that the application fails to meet one (1) or more of the requirements of this ordinance, the application shall be denied.

(c) If the board concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one (1) or more of the reasons set forth in §50. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion. Since such a motion is not in favor of the applicant, it is carried by a simple majority vote.

§55 Additional Requirements on Special-Use and Conditional-Use Permits
(a) Subject to §55(b), in granting a special- or conditional-use permit, the board of adjustment or town board, respectively, may attach to the permit such reasonable requirements in addition to those specified in this ordinance as will ensure that the development in its proposed location:
   (1) Will not endanger the public health or safety,
   (2) Will not injure the value of adjoining or abutting property.
   (3) Will be in harmony with the area in which it is located, and
   (4) Will be in conformity with the land-use plan, thoroughfare plan, or other plan officially adopted by the town board.

(b) The permit-issuing board may not attach additional conditions that modify or alter the specific requirements set forth in this ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(c) Without limiting the foregoing, the board may attach to a permit a condition limiting the permit a specified duration.

(d) All additional conditions or requirements shall be entered on the permit.

(e) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this ordinance.

(f) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any reasons set forth in §50(c) or §50(d).

Amended October 2, 2000
§56 Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special-Use or Conditional-Use Permits

(a) In cases when, because of weather conditions or other factors beyond the control of the special-use or conditional-use permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this ordinance before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision, the permit-issuing board may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the board to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed 24 months and subject to §49(b)).

(b) When the board imposes additional requirements upon the permit recipient in accordance with §55 or when the developer proposes in the plans submitted to install amenities beyond those required by this ordinance, the board may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one (1) or more of the following:

1. A performance bond or other security to the board is furnished,
2. A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made,
3. The nature of the requirements or amenities is such that sufficient assurance of compliance is given by §104 (Penalties and Remedies for Violations) and §105 (Permit Revocation).

(c) With respect to subdivisions in which the developer is selling only undeveloped lots, the town board may authorize final plat approval and the sale of lots before all the requirements of this ordinance are fulfilled if the subdivider provides a performance bond or other security satisfactory to the town board to ensure that all of these requirements will be fulfilled within not more than 24 months after final plat approval.

Amended October 2, 2000

§57 Completing Developments in Phases

(a) If a development is constructed in phases or stages in accordance with this section, then, subject to §57(c), the provisions of §43 (No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled) and §56 (exceptions to §43) shall apply to each phase as if it were the entire development.

(b) As a prerequisite to taking advantage of the provisions of §57(a), the developer shall submit plans that clearly show the various phases or stages of the proposed
development and the requirements of this ordinance that will be satisfied with respect to each phase or stage.

c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule or completion of such improvements. The schedule shall relate completion of such improvements to completion of one (1) or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:

1) If the improvement is one (1) required by this ordinance then the developer may utilize the provisions of §56(a) or §56(c).

2) If the improvement is an amenity, not required by this ordinance, or is provided in response to a condition imposed by the board, then the developer may utilize the provisions of §56(b). Sidewalks shall be excluded from this provision.

Amended October 2, 2000, June 16, 2014

§58 Expiration of Permits

(a) Special-Use and Conditional-Use permits shall expire automatically after two (2) years and zoning permits and sign permits shall expire automatically after six (6) months, if after the issuance of such permits:

1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use, or

2) Less than ten (10) percent of the total cost of the project has been incurred, including but not limited to, all land cost, planning, surveying, engineering, construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed. With respect to phased development (see §57), this requirement shall apply only to the first phase.

(b) If, after some physical alteration to land or structures begins to take place following the 24 month vested period, and such work is discontinued for a period of one (1) year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of §59.

(c) The permit-issuing authority may extend for the period as defined in the Vested Rights Ordinance (twenty-four (24) months) (see Appendix J) the date when a permit would otherwise expire pursuant to §58(a) or §58(b) if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to twelve (12)
months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(d) For purposes of this section, the permit within the jurisdiction of the town board or the board of adjustment is issued when such board votes to approve the application and issue the permit. A permit within the jurisdiction of the zoning administrator is issued when the earlier of the following takes place:

(1) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant; or

(2) The zoning administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required.

(e) Notwithstanding any of the provisions Article VIII (Non-conforming Situations), this section shall be applicable to permits issued prior to the date this section becomes effective.

Amended October 2, 2000, March 15, 2010

§59 Effect of Permit on Successors and Assigns

(a) Zoning, special-use, conditional-use, and sign permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

(1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and

(2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in §59(b) of the existence of the permit at the time they acquired their interest.

(b) Whenever a zoning, special-use, or conditional-use permit is issued to authorize development (other than single-family or two-family residences) on a tract of land in excess of one (1) acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded in the Chatham County Register of Deeds and indexed under the record owner's name as grantor.
§60 Amendments to and Modifications of Permits
(a) Insignificant deviations from the permit (including approved plans) issued by the town board, the board of adjustment, or the administrator are permissible and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(b) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(c) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the town board or board of adjustment, new conditions may be imposed in accordance with §56, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

(d) The administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in §60(a), §60(b), and §60(c).

(e) A developer requesting approval of changes shall submit a written request for such approval to the administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

§61 Reconsideration of Board Action
(a) Whenever (i) the town board disapproves a conditional-use permit application, or (ii) the board of adjustment disapproves an application for a special-use permit or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:
   (1) Circumstances affecting the property that is the subject of the application have substantially changed, or
   (2) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the administrator within the time period for an appeal to superior court (see §106). However, such a request does not extend the period within which an appeal must be taken.

(b) Notwithstanding §61(a), the town board or board of adjustment may at any time consider a new application affecting the same property as an application previously
denied. A new application is one that differs in some substantial way from the one previously considered.

§62 Applications to be Processed Expeditiously
Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the town shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this ordinance.

§63 Maintenance of Common Areas, Improvements, and Facilities
The recipient of any zoning, special-use, conditional-use, or sign permit, or his successor, shall be responsible for maintaining all common areas, improvements, sidewalks, curb ramps and landing, or facilities required by this ordinance or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

Amended June 16, 2014

Part II. Major and Minor Subdivisions

§64 Regulation of Subdivisions
(a) Major subdivisions are subject to a two-step approval process. Physical improvements to the land to be subdivided are authorized by a conditional-use permit as provided in Part I of Article IV of this ordinance, and sale of lots is permitted after final plat approval as provided in §67.

(b) Minor subdivisions only require a one-step approval process; final plat approval (in accordance with §66), unless a perpetual easement or private drive is proposed. If an easement or drive is proposed, then subdivision construction plan approval is also required.

Amended July 20, 2015

§65 No Subdivision Without Plat Approval
(a) No person may subdivide his land except in accordance with all of the provisions of this ordinance. In particular, no person may subdivide his land unless and until a final plat of the subdivision has been approved in accordance with the provisions of §68 or §69 and recorded at the Chatham County Register of Deeds.
(b) The Chatham County Register of Deeds may not record a plat of any subdivision within the town's planning jurisdiction unless the plat has been approved in accordance with the provisions of this ordinance.

§66 Minor Subdivision Approval

(a) The planning director shall approve or disapprove minor subdivision final plats in accordance with the provisions of this section.

(b) The applicant for minor subdivision plat approval, before complying with §66(c), shall submit a preliminary plan to the planning director for a determination of whether the approval process authorized by this section can be and should be utilized. The planning director may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from that tract of land within the previous five (5) years.

(c) Applicants for minor subdivision approval shall submit to the planning director a copy of a plat conforming to the requirements set forth in §68(b) and §68(c) (as well as two (2) prints of such plat), except that a minor subdivision plat shall contain the following certificates in lieu of those required in §68:

1. **Certificate of Approval for Minor Subdivision**
   I hereby certify that the subdivision plat shown heron is a minor subdivision and has been found to comply with the subdivision regulations of the town of Siler City. The plat has been approved for recording in the Office of the Chatham County Register of Deeds.
   
   ____________________________
   Date
   ____________________________
   Planning Director

2. **Certificate of Approval**
   I hereby certify that the minor subdivision shown on this plat does not involve the creation of new public streets or any change in existing public streets, and that the subdivision shown is in all respects in compliance with Article IV of the Siler City Unified Development Ordinance, subject to its being recorded in the Chatham County Register of Deeds within sixty (60) days of the date below.
   
   ____________________________
   Date
   ____________________________
   Owner/Agent

3. A certificate of survey and accuracy, in the form stated in §68(c) (Protection Against Defects).

4. **Certification of Private Roads Minor Subdivision/Extraterritorial Jurisdiction**
   I hereby certify that the road shown on this plat is a private road and the Town of Siler City assumes no responsibility for maintenance. As a subdivide, I agree to disclose to lot purchasers a statement outlining maintenance responsibilities for this road that will satisfy the Town’s emergency access requirement.
(d) The planning director shall take expeditious action on an application for minor subdivision plat approval as provided in §62. However, either the planning director or the applicant may at any time refer the application to the major subdivision approval process.

(e) Not more than a total of three (3) lots may be created out of one (1) tract using the minor subdivision plat approval process within a three (3) year period.

(f) Subject to §66(d), the planning director shall approve the proposed subdivision unless the subdivision is not a minor subdivision as defined in §41 of the application or the proposed subdivision fails to comply with §66(e) or any other applicable requirement of this ordinance.

(g) If the subdivision is disapproved, the planning director shall promptly furnish the applicant with a written statement of the reasons for disapproval.

(h) Approval of any plat is contingent upon the plat being recorded within sixty (60) days after the date the Certificate of Approval is signed by the planning director or his designee.

(i) Plats which are considered neither minor subdivisions nor major subdivisions shall also be reviewed by the Planning Director and shall contain the following certification:

(1) **Certificate of Plat Being Exempt From the Subdivision Regulations.**
I hereby certify that the subdivision plat shown hereon is exempt from the Town of Siler City Subdivision regulations by definition. The subject lot(s) do not meet the requirements of the Town Zoning Ordinance. The plat has been approved for recording in the Office of the Chatham County Register of Deeds.

___________________________  ____________________________
Date  Owner/Agent

§ 67 Major Subdivision Approval Process
(a) The applicant for major subdivision plat approval shall submit to the administrator a final plat, drawn in waterproof ink on a sheet made of material that will be acceptable to the Chatham County Register of Deed's 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 equal not more than one hundred (100) feet. The applicant shall also submit five (5) prints of the plat.
(b) In addition to the appropriate endorsements, as provided in §69, the final plat shall contain the following information:

1. The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Chatham County Register of Deeds.
2. The name of the subdivision owner or owners,
3. The township, county, and state where the subdivision is located,
4. The name of the surveyor and his registration number and the date of survey,
5. The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph, and
6. All of the additional information required by G.S. 47-30.

(c) Every plat shall contain the following information:

1. An accurately positioned north arrow coordinated with any bearings shown on the plat. Indication shall be made as to whether the north index is true, magnetic, North Carolina grid, or is referenced to old deed or plat bearings. If the north index is magnetic or referenced to old deed or plat bearings, the date and the source (if known) such index was originally determined shall be clearly indicated.
2. The azimuth or courses and distances as surveyed of every line shall be shown. Distances shall be in feet or meters and decimals thereof. The number of decimal places shall be appropriate to the class of survey required.
3. All plat lines shall be by horizontal (level) measurements. All information shown on the plat shall be correctly plotted to the scale shown. Enlargement of portions of a plat are acceptable in the interest of clarity, where shown as inserts on the same sheet. Where the North Carolina grid is used the grid factor shall be shown on the face of the plat and a designation as to whether horizontal ground distances or grid distances were used.
4. Where a boundary is formed by a curved line, the following data must be given: actual survey data from the point of curvature to the point of tangency shall be shown as standard curve data, or as a traverse of bearings and distances around the curve. If standard curve data is used the bearing and distance of the long chord (from point of curvature to point of tangency) must be shown on the face of the plat.
5. Where a subdivision of land is set out on the plat, all streets and lots shall be carefully plotted with dimension lines indicating widths and all other information pertinent to reestablishing all lines in the field. This shall include bearings and distances sufficient to form a continuous closure of the entire perimeter.
6. Where control corners have been established in compliance with G.S. 39-32.1, 39-32.2, 39-32.3, and 39-32.4, as amended, the location and pertinent information as required in the reference statue shall be plotted on the plat. All other corners which are marked by monument or natural object shall be so identified on all plats, and all corners of adjacent owners in the boundary lines of the subject tract which are marked by monument or natural object must be shown with a distance from one (1) or more of the subject tract's corners.
(7) The names of adjacent landowners along with lot, block or parcel identifier and subdivision designations or other legal reference where applicable, shall be shown where they could be determined by the surveyor.

(8) All visible and apparent rights-of-way, watercourses, utilities, roadways, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown.

(9) Where a plat is the result of a survey, one (1) or more corners shall, by a system of azimuths or courses and distances, be accurately tied to and coordinated with a monument of some United States or State Agency survey system, such as the National Geodetic Survey (formerly US Coast and Geodetic Survey) system, where such monument is within 2,000 feet of said corner. Where the North Carolina Grid System coordinates of said monument are on file in the North Carolina Department of Natural Resources and Community Development, the coordinates of the referenced corner shall be computed and shown in X (easting) and Y (northing) ordinates on the map. In the absence of Grid Control, other appropriate natural monuments or landmarks shall be used.

(10) A vicinity map shall appear on the face of the plat.

(d) The planning director, town manager, and public works director shall approve the proposed plat unless it is found that the plat or the proposed subdivision fails to comply with one (1) or more of the requirements of this ordinance or that the final plat differs substantially from the plans and specifications approved in conjunction with the conditional-use permit that authorized the development of the subdivision.

(e) If the final plat is disapproved by the planning director, the applicant shall be furnished with a written statement of the reasons for the disapproval.

(f) Approval of a final plat is contingent upon the plat being recorded within sixty (60) days after the approval certificate is signed by the planning director or his designee.

§68 Endorsements on Major Subdivision Plats
All major subdivision plats shall contain the endorsements listed §68(a), §68(b), and §68(c) herein. The endorsements listed in §68(d) shall appear on plats of all major subdivisions located outside the corporate limits of the town but within the planning jurisdiction.

(a) Certificate of Approval
I hereby certify that all streets shown on this plat are within the Town of Siler City's planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within 12 months after the date below) has been assured by the posting of a performance bond, or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with Chapter 27 of the Siler City Code, and therefore this plat has been approved by the Siler City Planning Director subject to its being recorded in the Chatham County Register of Deeds within sixty (60) days of the date below.

____________________________
Date

Planning Director
(b) Certificate of Ownership and Dedication
I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Town of Siler City, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, sidewalks, curb ramps and landings, parks, open space, and easements, except those specifically indicated as private and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Siler City Board of Commissioners in the public interest.

______________________________________________
Date Owner

(c) Certificate of Survey and Accuracy
I hereby certify that this map (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (a deed description recorded in Book ____, Page____ of the Chatham County Registry) (other); that the error of closure as calculated by latitudes and departures is 1: ____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, Page____, and that this map was prepared in accordance with [statutory citation]. Witness my original signature, registration number and seal this ____day of _____, 20__.

Seal/Stamp __________________________ (Notarized) __________________________
Registered Land Surveyor Registration Number

(d) Division of Highways District Engineer Certificate
I hereby certify that the public streets shown on this plat have been completed, or that a performance bond or other sufficient surety has been posted to guarantee their completion, in accordance with at least the minimum specifications and standards of the State Department of Transportation for acceptance of subdivision streets on the state highway system for maintenance.

________________________________________
District Engineer

Amended June 16, 2014

§69 Plat Approval Not Acceptance of Dedication Offers
Approval of a plat does not constitute acceptance by the town of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on a plat. However, the town may accept any such offer of dedication by resolution of the town board or by actually exercising control over and maintaining such facilities.

§70 Protection Against Defects
(a) When pursuant to §57 occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, then the performance bond or the
surety that is posted pursuant to §57 shall guarantee that any defects in such improvements or facilities that appear within one (1) year after the dedication of such facilities or improvements is accepted shall be corrected by the developer.

(b) Whenever all public facilities or improvements intended for dedication are installed before occupancy, use, or sale is authorized, then the developer shall post a performance bond or other sufficient surety to guarantee that he will correct all defects in such facilities or improvements that occur within one (1) year after the offer of dedication of such facilities or improvements is accepted.

(c) An architect or engineer retained by the developer shall certify to the town that all facilities and improvements to be dedicated to the town have been constructed in accordance with the requirements of this ordinance. This certification shall be a condition precedent to acceptance by the town of the offer of dedication of such facilities or improvements.

(d) For purposes of this section, the term "defects" refers to any condition in publicly dedicated facilities or improvements that requires the town to make repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this ordinance.

§71 Maintenance of Dedicated Areas Until Acceptance
As provided in §63, all facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority.

§72 through §80 Reserved