

# TOWN OF VASS, NC SUBDIVISION REGULATIONS

Prepared for

THE TOWN OF VASS

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## ARTICLE I

### INTRODUCTORY PROVISIONS

#### **Section 101. Title**

This ordinance shall be known and may be cited as the Subdivision Regulations of the Town of Vass, North Carolina, and may be referred to as the Subdivision Regulations.

#### **Section 102. Purpose**

The purpose of this ordinance is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the Town of Vass. It is further designed to provide for the orderly growth and development of the Town; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promotes public health, safety, and the general welfare. This ordinance is designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

#### **Section 103. Authority**

This ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 160A, Article 19, Part 2.

#### **Section 104. Jurisdiction**

The regulations contained herein, as provided in G. S. 160A, Article 19 shall govern each and every subdivision within the Town of Vass, and its extraterritorial jurisdiction.

#### **Section 105. Prerequisite to Plat Recordation**

After the effective date of this ordinance, each individual subdivision plat of land within the Town's jurisdiction shall be approved by either the Subdivision Administrator (in the case of a minor subdivision), or the Town Board on the recommendation of the Planning Board (in the case of a major subdivision).

#### **Section 106. Acceptance of Streets**

No street shall be maintained by the Town nor street dedication accepted for ownership and maintenance in any subdivision for which a plat is required to be approved unless and until such final plat has been approved by the Town of Vass and such street(s) is/are accepted for ownership and maintenance by the Town of Vass.

### **Section 107. Thoroughfare Plans**

When a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the Town, such part of such thoroughfare shall be platted by the property owner in the location shown on the plan and at the width specified in this ordinance.

### **Section 108. School Sites on Land Use Plan**

If the Vass Town Board and the appropriate Board of Education have jointly determined the specific location and size of any school sites to be reserved and that information appears in the comprehensive land use plan, the Planning Board shall immediately notify the appropriate Board of Education whenever a sketch plan of a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Planning Board. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the property owner may treat the land as freed of the reservation.

### **Section 109. Zoning and Other Plans**

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

### **Section 110. Fees**

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for subdivision plat approval, amendments, variances, and other administrative relief. The amount of fees charged shall be as set forth in the Town's budget, or as established by resolution of the Town Board, filed in the Office of the Town Clerk.

Fees established in accordance with this section shall be paid upon submission of a signed application or notice of appeal.

## ARTICLE II

### LEGAL PROVISIONS

#### **Section 201. General Procedure for Plat Approval**

After the effective date of this ordinance, no subdivision plat of land within the Town's jurisdiction shall be filed or recorded until it has been submitted to and approved by either the Subdivision Administrator or the Town Board as set forth in Section 105 of this ordinance, and until this approval is entered in writing on the face of the plat by the Subdivision Administrator.

The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the Town that has not been approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section.

#### **Section 202. Effect of Plat Approval on Dedications**

Pursuant to G.S. 160A-374, the approval of a plat shall not be deemed to constitute or effect the acceptance by the municipality or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town of Vass may by resolution accept any dedication made to the public of land or facilities for streets, parks, public utility lines, or other public purposes, when the land or facilities are located within its subdivision regulation jurisdiction. Acceptance of dedication of land or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the municipality shall not place on the Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the municipality shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.

#### **Section 203. Penalties for Violation**

**203.1** After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter subdivides his 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 the terms of this ordinance and recorded in the Office of the Moore County Register of Deeds (excepting the presale or pre-lease of unrecorded lots referencing an approved preliminary plat and subject to the requirements of Subsection 306.4 and/or 306.5), violates this article and is subject to the consequences described here. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this. The Town, through its attorney, or other official designated by the Town Board may enjoin illegal subdivision, transfer or sale of land by action for injunction.

**203.2** The violation of any provision of this ordinance shall subject the offender to a civil penalty in the amount of \$500.00 to be recovered by the Town. Violators shall be issued a written citation that must be paid within ten days.

**203.3** Each day's continuing violation of this ordinance shall be a separate and distinct violation.

**203.4** Notwithstanding Subsection 203.2 above, this ordinance may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

**203.5** The Town may cause building permits to be denied for lots that have been illegally subdivided.

**203.6** Nothing in this section shall be construed to limit the use of remedies available to the Town. The Town may seek to enforce this ordinance by using any one, all, or a combination of remedies.

**203.7** In addition to other remedies, the Town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

#### **Section 204. Separability**

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

#### **Section 205. Variances**

The Vass Town Board, on recommendation from the Planning Board, may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Town Board shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless, the Town Board finds:

- a) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land.
- b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

- c) That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this ordinance.
- d) That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated.

## **Section 206. Amendments**

The Town Board may from time-to-time amend the terms of this ordinance, but no amendment shall become effective unless it shall have been proposed by, or shall have been submitted to, the Planning Board for review and recommendation. The Planning Board shall have 45 days from the time the proposed amendment is submitted to it within which to submit its recommendation. If the Planning Board fails to submit a recommendation within the specified time, it shall be deemed to have recommended approval of the amendment.

No amendment shall be adopted by the governing body until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the Vass area at least once a week for two successive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 nor less than 10 days prior to the hearing date. In computing the 10 to 25 day period, the date of publication is not to be counted, but the date of the hearing is.

## **Section 207. Development Moratoria**

The Town may adopt temporary moratoria on any Town development approval required by law. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

### **207.1 Notice of Public Hearing**

Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the Town Board shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing.

A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the published newspaper notice and hearing requirements required for an amendment to this ordinance as found in Section 206.

## **207.2 Application of Moratorium on Existing/Pending Permits and Approvals**

Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to development set forth in a site-specific or phased development plan approved pursuant to a granted vested right, or to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the Town prior to the call for the public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the Town prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

## **207.3 Contents of Ordinance Adopting Moratorium**

Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

- a) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the Town and why those alternative courses of action were not deemed adequate.
- b) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- c) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- d) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the Town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

## **207.4 Extension of Moratorium**

No moratorium may be subsequently renewed or extended for any additional period unless the Town shall have taken all reasonable and feasible steps proposed to be taken by the Town in its ordinance establishing the moratorium to address the problems or conditions leading to the imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subsection 207.3, including what new facts or conditions warrant the extension.

## **207.5 Judicial Review**

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the Town shall have the burden of showing compliance with the procedural requirements of this section.

### **Section 208. Abrogation**

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

### **Section 209. Re-enactment and Repeal of Existing Subdivision Regulations**

This ordinance in part carries forward by re-enactment some of the provisions of the Town of Vass, North Carolina Subdivision Regulations adopted June 10, 1985, and it is not the intention to repeal but rather re-enact and continue in force existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the subdivision regulations, which are not re-enacted herein are hereby repealed. All suits at law or in equity 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 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; any and all violations of the existing ordinance, prosecutions for which have not been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be construed to abandon, abate, or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

### **Section 210. Subdivision Administrator**

This ordinance shall be administered and enforced by the Subdivision Administrator, who shall be appointed by the Town Board.

### **Section 211. Effective Date**

This ordinance shall take effect and be in force from and after August 11, 2009.

**Section 212. Adoption**

Duly adopted by the Town Board of the Town of Vass, North Carolina this the 10<sup>th</sup> day of August 2009.

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Henry E. Callahan, Mayor

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Josephine E. Smith, Town Clerk

## ARTICLE III

### PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

#### **Section 301. Plat Shall Be Required on Any Subdivision of Land**

Pursuant to G.S. 160A-372 a final plat shall be prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place.

#### **Section 302. Approval Prerequisite to Plat Recordation**

**302.1** Pursuant to G.S. 160A-373, no final plat of a subdivision within the jurisdiction of the Town of Vass as established in Section 104 of this ordinance shall be recorded by the Register of Deeds of Moore County until it has been approved by either the Subdivision Administrator or the Vass Town Board as provided herein. To secure such approval of a final plat, the property owner shall follow the procedures established in this article.

**302.2** All plats and proposed subdivisions shall be reviewed by the Subdivision Administrator for initial determination as to whether the proposed subdivision is to be classified as a minor subdivision, a major subdivision, or exempt from the provisions of this ordinance as specified in the definition of subdivision found in Article 5. In making such determinations, the Subdivision Administrator shall review the proposal, considering, among others, the following:

- a) The number and pattern of lots to be created;
- b) The current and proposed use of the tract to be subdivided;
- c) Any site improvements proposed as a part of the subdivision; and
- d) The affidavit of the property owner who is requesting classification as to the proposed use of the tract to be subdivided and the nature and reason for the division (i.e., probate, division among heirs, partition among co-tenants, sale, building development, gift, lease, etc.).

**302.3** Where a public street is to be created and platted as part of the subdivision, the subdivision shall not be exempt from the provisions of this ordinance regardless of any other factors. All transfers or sales, whether exempt or not, of an interest in any property within a tract subdivided pursuant to this ordinance shall be made by express reference (plat book and page number) to the recorded plat thereof.

**302.4** If the Subdivision Administrator shall determine that the proposed subdivision is exempt from the provisions of this ordinance and does not require

approval, the final plat shall be endorsed to that effect and may then be recorded in the Office of the Register of Deeds.

**302.5** The property owner may appeal the denial of a requested exemption to the Town Board. The appeal must be made within 30 days of notification of the Subdivision Administrator's decision, and must be made to the Board in writing. The Board shall calendar all such appeals for hearing, giving written notice to the applicant at least 10 working days prior to the hearing. The Board in all such appeals shall make findings of fact in support of its decision. The applicant shall be notified in writing of the Board's decision within 10 working days after said decision is made.

### **Section 303. Procedures for Review of Major and Minor Subdivisions**

All subdivisions shall be considered major subdivisions except those defined as minor subdivisions. Major subdivisions shall be reviewed in accordance with the procedures in Section 305 through 307. Minor subdivisions shall be reviewed in accordance with the provisions in Section 304.

The minor subdivision procedure may not be used a second time within any three year period on any property previously subdivided using the minor subdivision procedure, or on any property located less than 1,500 feet from the original property boundaries, by anyone who owned, had an option on, or any legal interest in the original subdivision at the time the minor subdivision received final plat approval.

### **Section 304. Procedure for Review of Minor Subdivisions**

#### **304.1 Sketch Plan for Minor Subdivisions**

Prior to submission of a final plat, the property owner shall submit to the Subdivision Administrator two copies of a sketch plan of the proposed subdivision containing the following information:

- a) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- b) The boundaries of the tract and the portion of the tract to be subdivided;
- c) The total acreage to be subdivided;
- d) The existing and proposed uses of the land within the division and the existing uses of land adjoining it;
- e) The existing street layout and right-of-way width, lot layout and size of lots;
- f) The name, address and telephone number of the owner(s);

- g) The name, if any, of the proposed subdivision;
- h) Streets and lots of adjacent developed or platted properties;
- i) The zoning classification of the tract and of adjacent properties;
- j) A statement from the Moore County Environmental Health Department shall be submitted with the application indicating that a copy of the sketch plan has been submitted to them, if septic tanks or other on-site water or wastewater systems are to be used in the subdivision.
- k) A statement from the District Engineer of the N.C. Department of Transportation shall be submitted with the application indicating that a copy of the sketch plan has been submitted to them for review as to proposed lot access points, private road connections, and existing streets, highways, and related drainage systems.
- l) All lots are required to be able to meet the Moore County Environmental Health Department requirements, as well as, NC State requirements for septic system installation.

The property owner, where required, shall provide a report from a licensed soil scientist who shall perform a soil assessment prior to approval of the preliminary subdivision plat. The report from the soil scientist shall accompany the submittal of the preliminary plat and shall be in the form of a letter, signed, dated, and certified and shall include the possibilities of lot sizes the site can support. Prior to the approval of the final plat, the property owner shall submit an additional report which shall include a lot-by-lot evaluation, signed and dated from a licensed soil scientist, for septic system capacity. The report must show that each proposed lot has been evaluated under the current provisions of Title 15A NCAC 18A.1900 et seq. In addition, the evaluation should note whether there is adequate space for an on-site subsurface sewage treatment and disposal system, if needed. If the property owner proposes a system that would treat a flow of 3,000 GPD or greater, and therefore would require State approval, a letter from the State would also be required to be submitted for final approval. Lastly, the licensed soil scientist is required to sign and seal the submitted reports and the final subdivision plat. All submittals shall be made to the Vass Town Planning Administrator, soil scientist reports and evaluations as well as preview reports submitted by the property owner.

- m) A copy of a current Moore County Tax Map shall be submitted with the sketch plan showing the location of the parcel to be subdivided and the location of all new lots and any lots previously subdivided from the tract, as well as all properties located adjacent to, and directly across a street, easement, road, or right-of-way from the property to be subdivided. A current property owner

listing obtained from the Moore County Land Records Department shall also be submitted with the tax map that indicates the current ownership of the subject property and all properties adjacent to, and within 1,500 feet of, the subject property.

The Subdivision Administrator shall review the sketch plan for general compliance with the requirements of this ordinance and the zoning ordinance within 45 days of plan submittal; and shall advise the property owner or his authorized agent of the regulations pertaining to the proposed subdivision, comments received from reviewing agencies, and the procedures to be followed in the preparation and submission of the final plat.

One copy of the sketch plan shall be retained by the Subdivision Administrator, and one copy shall be returned to the property owner or his authorized agent. The sketch plan review comments shall be valid for a period of six months. This review shall in no way be construed as constituting an official action of approval of the subdivision by any reviewing agency, the subdivision administrator, the Planning Board, or the Town Board.

### **304.2 Final Plat for Minor Subdivisions**

Upon a completed review of the sketch plan by the Subdivision Administrator and any reviewing agencies, the property owner may proceed with the preparation of the final plat in accordance with the requirements of this ordinance.

Within six months of a completed sketch plan review, the property owner shall submit the final plat so marked, to the Subdivision Administrator for review.

The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Manual of Practice for Land Surveying in North Carolina.

Three copies of the final plat shall be submitted, one of these shall be on reproducible material; two shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Moore County Register of Deeds.

The final plat shall be of a size suitable for recording with the Moore County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

The final plat shall meet the specifications in Section 308.

The following signed certificates shall appear on all three copies of the final plat.

a) Certificate of Ownership and Dedication

The undersigned hereby certifies that the land shown hereon is owned by the undersigned, and hereby freely dedicates all rights-of-way, easements, streets, recreation areas, open spaces, common areas, utilities and other improvements to public or private common use as noted on this plat, and further assumes full responsibility for the maintenance and control of said improvements until they are accepted for maintenance and control by an appropriate public body or by an incorporated neighborhood or homeowners association or similar legal entity.

\_\_\_\_\_  
Owner(s)

\_\_\_\_\_  
Date

b) Certificate of Survey and Accuracy

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

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

The certificate shall take the following general form:

State of North Carolina  
Moore County

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

Witness my hand and seal this \_\_\_ day of \_\_\_\_\_, A.D. 20 \_\_\_\_.

\_\_\_\_\_  
Professional Land Surveyor

Official Seal

\_\_\_\_\_  
Registration Number

c) Certificate of Land Use Regulation and Status of Plat

The surveyor preparing the final plat shall certify to one of the following on the face of the plat:

I, \_\_\_\_\_, certify to one of the following:

- a. That this survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;
- b. That this survey is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;
- c. Any one of the following:
  - 1) That this survey is of an existing parcel or parcels of land and does not create a new street or change an existing street;
  - 2) That this survey is of an existing building or other structure, or natural feature, such as a watercourse; or
  - 3) That this survey is a control survey.
- d. That this survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision;
- e. That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in a) through d) above.

---

Professional Land Surveyor

Seal or Stamp

---

Registration Number

The Subdivision Administrator shall review the final plat and shall, within 45 work days of his first review of the plat, either approve the plat, conditionally approve the plat with modifications to bring the plat into compliance with this ordinance and any other applicable ordinances, refer the plat to the major subdivision process, or disapprove the plat.

If the Subdivision Administrator conditionally approves the final plat with modifications to bring the plat into compliance, he shall retain one print of the plat, and return his written decision and two reproducible copies of the plat to the property owner.

If the final plat is disapproved, the reasons for such disapproval shall be stated in writing, specifying the provisions of this ordinance with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Subdivision Administrator as part of the record, and one copy of the reasons and one copy of the plat shall be transmitted to the property owner. The property owner may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Subdivision Administrator, or the property owner may appeal the decision to the Town Board.

If the Subdivision Administrator refers the final plat to the major subdivision procedure, the applicant shall follow the procedures outlined in sections 305 through 307, or may appeal the decision to the Town Board.

Failure of the Subdivision Administrator to make a written decision within 45 work days after his first review shall constitute grounds for the property owner to apply to the Town Board for approval.

If the property owner appeals to the Town Board for plat approval, the Town Board shall review and approve or disapprove the final plat within 45 days after the plat and decision of the Subdivision Administrator has been received by the Town Board.

If the Subdivision Administrator or Town Board (in case of an appeal for plat approval) approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

#### Certificate of Approval for Recording

I hereby certify that the minor subdivision plat shown hereon has been found to comply with the Subdivision Regulations and Watershed Protection Ordinance of the Town of Vass, North Carolina, and that this plat has been approved for recording in the Office of the Register of Deeds of Moore County. This approval shall be null and void if this plat is not recorded within 30 days of the date specified below.

\_\_\_\_\_

Date

\_\_\_\_\_

Subdivision Administrator

NOTICE: This property is located within a Public Water Supply Watershed – development restrictions may apply.

The original tracing and one print of the plat shall be retained by the property owner, and one reproducible tracing and one print shall be retained by the Subdivision Administrator for the record.

The property owner shall file the approved final plat with the Register of Deeds of Moore County within 30 days of approval; otherwise such approval shall be null and void.

### **Section 305. Sketch Plan for Major Subdivisions**

#### **305.1 Number of Copies and Contents**

Prior to the preliminary plat submission, the property owner shall submit to the Subdivision Administrator two copies of a sketch plan of the proposed subdivision containing the following information:

- a) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- b) The boundaries of the tract and the portion of the tract to be subdivided;
- c) The total acreage to be subdivided;
- d) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;

- e) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;
- f) The name, address, and telephone number of the owner;
- g) The name, if any, of the proposed subdivision;
- h) Streets and lots of adjacent developed or platted properties;
- i) The zoning classification of the tract and of adjacent properties;
- j) A statement from the Moore County Environmental Health Department shall be submitted with the application indicating that a copy of the sketch plan has been submitted to them, if septic tanks or other onsite water or wastewater systems are to be used in the subdivision.

### **305.2 Submission and Review Procedure**

The sketch plan shall be submitted at least 15 days prior to the Planning Board meeting at which it will be reviewed. The Planning Board shall review the sketch plan for general compliance with the requirements of this ordinance and the zoning ordinance; the Planning Board shall advise the property owner or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

One copy of the sketch plan shall be retained as a part of the minutes of the Planning Board with the other copy being returned to the property owner or his authorized agent.

## **Section 306. Preliminary Plat Submission and Review**

### **306. 1 Submission Procedure**

For every subdivision within the territorial jurisdiction established by Section 104 of this ordinance, which does not qualify as a minor subdivision procedure, the property owner shall submit a preliminary plat which shall be reviewed by the Planning Board and approved by the Town Board before any construction or installation of improvements may begin.

Six copies of the preliminary plat (as well as any additional copies which the Subdivision Administrator determines are needed to be sent to other agencies) shall be submitted to the Subdivision Administrator at least 15 days prior to the Planning Board meeting at which the property owner desires the Planning Board to review the preliminary plat.

Preliminary plats shall meet the specifications in Section 308.

### **306.2 Review by Other Agencies**

After having received the preliminary plat from the property owner, the Subdivision Administrator shall submit copies of the preliminary plat and any accompanying material to other officials and agencies concerned with new development including, but not limited to: the District Engineer of the North Carolina Department of Transportation as to proposed streets, highways, drainage systems, and subdivision entrance connections to existing State roads; the Moore County Environmental Health Department and/or the Moore County Public Works Department as to proposed water and sewerage systems; and any other agency or official designated by the Town Board.

### **306.3 Review Procedure**

The Planning Board shall review the preliminary plat at or before its next regularly scheduled meeting which follows at least 15 days after the Subdivision Administrator receives the preliminary plat and the comments from the appropriate agencies.

The Planning Board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 40 days of its first consideration of the plat.

If the Planning Board recommends approval of the preliminary plat, it shall retain one copy of the plat for its minutes and transmit two copies of the plat to the Town Board with its recommendation.

If the Planning Board recommends conditional approval of the preliminary plat it, shall keep one copy of the plat for its minutes, transmit two copies of the plat and its recommendation to the Town Board, and return the remaining copy of the plat and its recommendation to the property owner.

If the Planning Board recommends disapproval of the preliminary plat, it shall retain one copy of the plat for its minutes, transmit one copy of the plat and its recommendation to the Town Board, and return the remaining copy of the plat and its recommendation to the property owner.

If the preliminary plat is disapproved, the property owner may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the Town Board.

If the Planning Board does not make a written recommendation within 40 days after its first consideration of the plat, the property owner may apply to the Town Board for approval or disapproval.

If the Town Board approves the preliminary plat, such approval shall be noted on two copies of the plat. One copy of the plat shall be retained by the Town Board and one copy shall be returned to the property owner. If the Town Board approves the preliminary plat with conditions, approval shall be noted on two copies of the plat along with a reference to the conditions. One copy of the plat along with the conditions shall be retained by the Town Board and one copy of the preliminary plat along with the conditions shall be returned to the property owner. If the Town Board disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One copy of the plat and the reasons shall be retained by the Town Board and one copy shall be returned to the property owner.

#### **306.4 Presale or Pre-lease of Unrecorded Lots Permitted Upon Approval of Preliminary Plat**

The property owner, upon approval of the preliminary plat, may enter into contracts to sell or lease the lots shown on the approved preliminary plat, provided that the contract does all of the following:

- a) Incorporates as an attachment a copy of the approved preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the approved and recorded final plat prior to closing and conveyance.
- b) 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 approved and recorded plat differs in any material respect from the approved preliminary plat.
- c) Provides that if the approved and 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 approved and recorded plat.
- d) Provides that if the approved and recorded final plat differs in any material respect from the approved 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 approved and 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.

### **306.5 Owner or Agent Not Prohibited from Contracting or Leasing by Reference to Approved Preliminary Plat**

The provisions of this section shall not prohibit any owner or his/her 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 this ordinance or recorded with the Office of the Moore County 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 requirements of this ordinance and recorded in the Office of the Moore County Register of Deeds.

### **Section 307. Final Plat Submission and Review**

#### **307. 1 Preparation of Final Plat and Installation of Improvements**

Upon approval of the preliminary plat by the Town Board, the property owner may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance. Prior to approval of a final plat, the property owner shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein. No final plat will be accepted for review by the Planning Board or the Town Board unless accompanied by written notice by the Subdivision Administrator acknowledging compliance with the improvement and guarantee standards of this ordinance. The final plat shall constitute only that portion of the preliminary plat which the property owner proposes to record and develop at that time; such portion shall conform to all requirements of this ordinance.

#### **307.2 Improvements Guarantees**

##### **a) Agreement and Security Required**

In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the Town of Vass may enter into an agreement with the property owner whereby the property owner shall agree to complete all required improvements. The property owner shall be allowed to choose which security or combination of securities that he/she wishes to provide from the choices provided below. The Town shall not have the authority to dictate which form of security will be accepted as an improvement guarantee, and shall be required to offer a range of options of types of improvements guarantees from which the property owner may choose. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by

the Town Board, if all other requirements of this ordinance are met. To secure this agreement, the property owner shall provide, subject to the approval of the Town Board, either one, or a combination of the following guarantees not exceeding 1.25 times the entire cost as provided herein:

1. Surety Performance Bond(s)

The property owner shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bond(s) shall be payable to the Town of Vass and shall be in an amount equal to 1.25 times the entire cost, as estimated by the property owner's engineer and approved by the Town Board, of installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are accepted by the Town Board.

2. Cash or Equivalent Security

The property owner 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 designated as an official depository of the Town. The use of any instrument other than cash shall be subject to the approval of the Town Board. The amount of deposit shall be equal to 1.25 times the cost, as estimated by the property owner's engineer and approved by the Town Board, of installing all required improvements.

If cash or other instrument is deposited in escrow with a financial institution as provided above, then the property owner shall file with the Town Board 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 Board and may not be used or pledged by the property owner in any other matter during the term of the escrow; and
- (ii) That in the case of a failure on the part of the property owner to complete said improvements, the financial institution shall, upon notification by the Town Board, and submission by the Town Board to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the Town the funds estimated to complete the improvement, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.

b) Default

Upon default, meaning failure on the part of the property owner to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the Town Board, pay all or any portion of the bond or escrow fund to the Town of Vass up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Town Board, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the property owner any funds not spent in completing the improvements.

c) Release of Guarantee Security

The Town Board may release a portion of any security posted as the improvements are completed and recommended for approval by the Town Board. Within 30 days after receiving the approval, the Town Board shall approve said improvements. If the Town Board approves said improvements, then it shall immediately release any security posted.

### **307.3 Submission Procedure**

The property owner shall submit the final plat, so marked, to the Subdivision Administrator not less than 15 days prior to the Planning Board meeting at which it will be reviewed; further, the final plat for the first stage of the subdivision shall be submitted not more than 12 months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void, unless a written extension of this limit is granted by the Town Board on or before the 12 month anniversary of the approval.

The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Manual of Practice for Land Surveying in North Carolina.

Twelve copies of the final plat shall be submitted; two of these shall be on reproducible material; 10 shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Moore County Register of Deeds.

The final plat shall be of a size suitable for recording with the Moore County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

Submission of the final plat shall be accompanied by filing fees as provided in Article I Section 110 Fees.

The final plat shall meet the specifications in Section 308 of this ordinance.

The following signed certificates shall appear on all 12 copies of the final plat:

a) Certificate of Ownership and Dedication

The undersigned hereby certifies that the land shown hereon is owned by the undersigned, and hereby freely dedicates all rights-of-way, easements, streets, recreation areas, open spaces, common areas, utilities and other improvements to public or private common use as noted on this plat, and further assumes full responsibility for the maintenance and control of said improvements until they are accepted for maintenance and control by an appropriate public body or by an incorporated neighborhood or homeowners association or similar legal entity.

\_\_\_\_\_  
Owner(s)

\_\_\_\_\_  
Date

b) Certificate of Survey and Accuracy

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

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

The certificate shall take the following general form:

State of North Carolina  
Moore County

I, \_\_\_\_\_ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, Book \_\_\_\_\_,

Page \_\_, etc.) (other); that the ratio of precision as calculated by latitudes and departure is 1:\_\_\_\_\_ (that the boundaries not surveyed are shown as broken lines plotted from information found in Book\_\_, Page\_\_); that this map was prepared in accordance with G.S. 47-30, as amended. Witness my hand and seal this \_\_\_\_day of \_\_\_\_\_, A.D. 20\_\_.

\_\_\_\_\_  
Professional Land Surveyor

Official Seal

\_\_\_\_\_  
Registration Number

c) Certificate of Land Use Regulation and Status of Plat

The surveyor preparing the final plat shall certify to one (1) of the following on the face of the plat:

I, \_\_\_\_\_, certify to one of the following:

- a. That this survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;
- b. That this survey is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;
- c. Any one of the following:
  - 1) That this survey is of an existing parcel or parcels of land and does not create a new street or change an existing street;
  - 2) That this survey is of an existing building or other structure, or natural feature, such as a watercourse; or
  - 3) That this survey is a control survey.
- d. That this survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision;

- e. That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in a) through d) above.

\_\_\_\_\_  
Professional Surveyor

Seal or Stamp

\_\_\_\_\_  
Registration Number

- d) Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements.

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

\_\_\_\_\_  
Subdivision Administrator

\_\_\_\_\_  
Date

The Planning Board shall review the final plat at or before its next regularly scheduled meeting which follows at least 15 days after the Subdivision Administrator receives the final plat and shall recommend approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within 40 days of its first consideration of the plat.

During its review of the final plat the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the final plat (if agreed to by the Town Board). If substantial errors are found, the costs shall be charged to the property owner and the plat shall not be recommended for approval until such errors have been corrected.

If the Planning Board recommends approval of the final plat, it shall transmit all copies of the plat and its written recommendations to the Town Board through the Subdivision Administrator.

If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one print of the plat for its

minutes, return its written recommendations and two reproducible copies of the plat to the property owner, and transmit one print of the plat and its written recommendation to the Town Board through the Subdivision Administrator.

If the Planning Board recommends disapproval of the final plat, it shall instruct the property owner concerning resubmission of a revised plat and the property owner may make such changes as will bring the plat into compliance with the provisions of this ordinance, and resubmit same for reconsideration by the Planning Board, or appeal the decision to the Town Board.

Failure of the Planning Board to make a written recommendation within 40 days shall constitute grounds for the property owner to apply to the Town Board for approval.

If the Planning Board recommends approval or conditional approval with modifications to bring the plat into compliance, or the property owner appeals to the Town Board, the Town Board shall review and approve or disapprove the final plat within 40 days after the plat and recommendations of the Planning Board have been received by the Subdivision Administrator.

If the Town Board approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon, has been found to comply with the Subdivision Regulations of the Town of Vass, North Carolina, and that this plat has been approved by the Town Board for recording in the Office of the Register of Deeds of Moore County. This approval shall be null and void if this plat is not recorded within 30 days of the date specified below.

\_\_\_\_\_   
Date

\_\_\_\_\_   
Subdivision Administrator

If the final plat is disapproved by the Town Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of this ordinance with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Town Board as part of its proceedings; one copy of the reasons and three copies of the plat shall be transmitted to the property owner. If the final plat is disapproved, the property owner may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Town Board.

If the final plat is approved by the Town Board, the original tracing and one print of the plat shall be retained by the property owner. One reproducible tracing and one

print shall be filed with the Town Clerk, and one print shall be returned to the Planning Board for its records.

The property owner shall file the approved final plat with the Register of Deeds of Moore County within 30 days of Town Board approval; otherwise such approval shall be null and void.

**Section 308. Information to be Contained in or Depicted on Preliminary and Final Plat**

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

<u>Information</u>	<u>Preliminary Plat</u>	<u>Final Plat</u>
-Title Block Containing		
-Property designation	x	x
-Name of owner	x	x
-Location (including township, county and state)	x	x
-Date or dates survey was conducted and plat prepared	x	x
-A scale of drawing in feet per inch listed in words or figures	x	x
-A bar graph	x	x
-Name, address, registration number and seal of the professional land surveyor	x	x
-The name of the property owner	x	x
-A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area	x	x
-Corporate limits, township boundaries, and county lines if on the subdivision tract	x	x
-The names, addresses and telephone numbers of all owners, professional land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision	x	x
-The registration numbers and seals of professional engineers and land surveyors	x	x

<u>Information</u>	<u>Preliminary Plat</u>	<u>Final Plat</u>
-Date of plat preparation	X	X
-North arrow and orientation	X	X
-The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown	X	X
-The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands	X	X
-The names of owners of adjoining properties	X	X
-The names of any adjoining subdivisions of record or proposed and under review	X	X
-Minimum building setback lines	X	X
-The zoning classifications of the tract to be subdivided and adjoining properties	X	X
-Existing property lines on the tract to be subdivided and on adjoining properties	X	X
-Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	X	X
-Proposed lot lines, lot and block numbers, and approximate dimensions	X	
-The lots numbered consecutively throughout the subdivision	X	X
-Address of each lot		X

<u>Information</u>	<u>Preliminary Plat</u>	<u>Final Plat</u>
-Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds and any other natural features affecting the site	x	x
-The exact location of the flood hazard, floodway and floodway fringe areas from the community's FHBM or other FEMA maps	x	x
The following data concerning streets:		
-Proposed streets	x	x
-Existing and platted streets on adjoining properties and in the proposed subdivision	x	x
-Rights-of-way, location and dimensions	x	x
-Pavement widths	x	
-Approximate grades	x	
-Design engineering data for all corners and curves	x	
-Typical street cross sections	x	
-Street names	x	x
-Street maintenance agreement in accordance with Section 405.1 of this ordinance	x	x
-Type of street dedication; all streets must be designated either "public" or "private". (Where public streets are involved which will be dedicated to the Town, the property owner must submit all street plans to the Subdivision Administrator with the preliminary plat for approval). Where public streets are involved which will not be dedicated to the Town, the property owner must submit street plans to the N.C. Department of	x	x

<u>Information</u>	<u>Preliminary Plat</u>	<u>Final Plat</u>
Transportation District Highway Office for review		
-Where streets are dedicated to the public, but not accepted into a municipal or the State system before lots are sold, or a private road is used for access, a statement explaining the status of the street in accordance with Section 405.2 of this ordinance		x
- If any street is proposed to intersect with a State maintained road, the property owner shall apply for driveway approval as required by the North Carolina Department of Transportation, Division of Highways' Manual on Driveway Regulations. Evidence that the property owner has obtained such approval.	x	x
The location and dimensions of all:		
-Utility and other easements	x	<b>x</b>
-Riding trails	x	x
-Natural buffers	x	x
-Pedestrian or bicycle paths	x	x
-Parks and recreation areas with specific type indicated	x	x
-School sites	x	x
-Areas to be dedicated to or reserved for public use	x	x
-Areas to be used for purposes other than residential with the purpose of each stated	x	x

<u>Information</u>	<u>Preliminary Plat</u>	<u>Final Plat</u>
-The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in property owner's ownership) of recreation and open space lands	x	x
The plans for utility layouts including:		
-sanitary sewers	x	x
-storm sewers	x	x
-other drainage facilities, if any	x	x
-water distribution lines	x	x
-natural gas lines	x	x
-telephone lines	x	x
-electric lines	x	x
-illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains and gate valves.	x	
-plans for individual water supply and sewage disposal systems, if any	x	x
-profiles based upon Mean Sea level datum for sanitary sewers and storm sewers	x	
Site calculations including:		
-acreage in total tract to be subdivided	x	
-acreage in parks and recreation areas and other nonresidential uses	x	
-total number of parcels created	x	
-acreage in the smallest lot in the subdivision	x	

<u>Information</u>	<u>Preliminary Plat</u>	<u>Final Plat</u>
-linear feet in streets	x	
-The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places	x	x
-Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute.		x
-The accurate locations and descriptions of all monuments, markers and control points.		x
-A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private roads and/or private recreation areas are established.	x	x
-A copy of the erosion control plan submitted to the appropriate authority, if such a plan is required.	x	x
-Topographic map with contour intervals of five feet.	x	
-All certifications required in Section 307.		x
-Any other information considered by either the property owner, the Subdivision Administrator, the Planning Board or the Town Board to be pertinent to the review of the plat.	x	x

### **Section 309. Recombination of Land**

**309.1** Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

**309.2** Such an instrument shall be approved by the same agencies as approved the final plat. The Town Board may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

**309.3** Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.

**309.4** When lots have been sold, the plat may be vacated in the manner provided in Sections 309.1 through 309.3 by all owners of the lots in such plat joining in the execution of such writing.

### **Section 310. Resubdivision Procedures**

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

## ARTICLE IV

### REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION, MINIMUM STANDARDS OF DESIGN

#### **Section 401. General**

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

#### **Section 402. Suitability of Land**

##### **402.1 Generally**

Land which has been determined by the Town Board, on the basis of engineering or other expert surveys, to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the property owner has taken the necessary measures to correct said conditions and to eliminate said dangers.

##### **402.2 Lands Used for Disposal of Solid Waste**

Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Moore County Environmental Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.

##### **402.3 Flood Prone Areas**

- a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- c) Base Flood Elevation (BFE) data shall be provided for subdivision proposals that contain 50 or more lots or that involve a tract of land five acres or more in size.

#### **402.4 Wetlands**

If a developer, corporation, private homeowner, or other person proposes to perform construction/filling activities in or near a lake, stream, creek, tributary, or any unnamed body of water and its adjacent wetlands, Federal permit authorization may be required by the U.S. Army Corps of Engineers prior to commencement of earth-disturbing activities. Filling activities include, but are not limited to, construction of road crossings, sewer or utility line installations, grading, placement of soil from ditching or other excavations, or placement of fill for commercial or residential development. A wetlands determination and specific permit requirements may be obtained from the Raleigh Field Office of the U.S. Army Corps of Engineers.

#### **402.5 Suitability for Septic Disposal**

Soils shall be evaluated for suitability or provisional suitability for septic tanks according to guidelines established in the Laws and Rules for Ground Absorption Sewage Disposal Systems, incorporated herein by reference. Each lot that does not contain a suitable building site, or that has not been evaluated for on-site sewage disposal, shall be designated on the plat as being of restricted development potential and by instrument recorded in the Moore County Registry.

#### **402.6 Drainage**

- a) Soil suitability, including slope and drainage, shall be evaluated according to soil characteristics indicated by the Soil Survey for Moore County, North Carolina, and topography indicated by the U.S. Geological Survey Topographic Maps.
- b) Each lot shall contain a suitable building area safe from inundation and erosion. Sanitary sewer systems, septic tank drain fields, water systems, wells, and adjacent properties shall also be protected from inundation by surface and flood waters. Roads, driveways, and utilities shall be protected from damage caused by improper stormwater management.
- c) Mechanical devices, drainage easements, natural buffers, large lots, and/or other technical means may be used to achieve these objectives. Natural drainageways are a preferred means of stormwater runoff removal. The characteristics (including capacity) of natural drainageways shall be protected.
- d) Runoff levels from the 25 year storm after the site is developed shall not be greater than the rate of runoff on the same site in its natural state.

### **Section 403. Name Duplication**

The name of the subdivision shall not duplicate nor closely approximate the name of any existing subdivision within the Town of Vass, Moore County or any other municipality in Moore County.

### **Section 404. Subdivision Design**

#### **404.1 Blocks**

- a) The lengths, widths, and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.
- b) Blocks shall not be less than 1,600 feet in perimeter or more than 2,500 feet.
- c) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.
- d) Where deemed necessary by the Town Board, a pedestrian crosswalk at least 15 feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.
- e) Block numbers shall conform to the Town street numbering system if applicable.

#### **404.2 Lots**

- a) All lots shall conform to the Town of Vass Zoning Ordinance, and any other applicable ordinances.
- b) Lots shall meet any applicable Moore County Environmental Health Department requirements.
- c) Double frontage lots shall be avoided wherever possible.
- d) Side lot lines shall be substantially at right angles to or radial to street lines.
- e) The lot boundaries for lots adjacent to existing and proposed public street rights-of-way shall extend to the edge of the right-of-way. The lot boundaries

for lots adjacent to private roads shall extend to the center of the private road right-of-way.

### **404.3 Easements**

Easements shall be provided as follows:

a) Utility Easements

Easements for underground or aboveground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 15 feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines.

b) Drainage Easements

Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the, purpose of drainage.

## **Section 405. Streets**

### **405.1 Generally**

- a) New streets shall be dedicated to the public and constructed to the standards of this Section and the most current N.C. Department of Transportation minimum subdivision roads construction standards, except as provided in Subsection 405.7.
- b) Public streets in subdivisions located within the Town's corporate limits shall be approved and accepted for maintenance by the Town. Public streets in developments located within the Town's extraterritorial jurisdiction shall be approved and accepted by the N.C. Department of Transportation.
- c) All streets shown on the final plat shall be designated "public" or "private" in accordance with G.S. 136-102.6, and designation as "public" shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or State system before lots are sold, or designated as "private", a statement explaining the status of the street shall be included with the final plat. Further, the initial purchaser of a lot(s) served by a private road shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the road.

## 405.2 Design Standards

- a) All streets and roads, public or private, shall meet the following design standards:

### 1. Widths

The provision of street rights-of-way shall conform to and meet the requirements of the N.C. Department of Transportation, or as may be recommended by the Planning Board and adopted by the Town Board, from its date of adoption, including, where appropriate, reservation for or dedication of street rights-of-way for future transportation facilities. A property owner shall not be required to provide or dedicate right-of-way for a proposed street to which access would be prohibited by any governmental agency. Right-of-way widths, measured from lot line to lot line, shall be as wide as existing streets extended, but in no case shall said widths be less than the following:

<b>Street Type</b>	<b>Minimum Required Right-of-Way Width (in Feet)</b>
<b>Arterial</b>	<b>100</b>
<b>Collector</b>	<b>70</b>
<b>Minor</b>	<b>60</b>
<b>Marginal Access</b>	<b>50</b>
<b>Cul-de-sac</b>	<b>50</b>

Additional street right-of-way may be required in cases where underground public utilities, sidewalks, and drainage facilities cannot be located within the minimum stated above.

### 2. Grades

Proposed streets shall conform to grade standards adopted by the N.C. Department of Transportation.

### 3. Intersections

Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than 60°.

#### 4. Curves

Horizontal and vertical curves shall be designed by the property owner according to the standards of the N.C. Department of Transportation and in the interest of public safety and welfare. Factors to be considered, among others, shall be the type and importance of the street, sight distance, anticipated traffic volume, and design speed.

#### 5. Cul de sacs

All permanent dead-end streets (as opposed to temporary dead-end streets or stub outs) shall be developed as cul de sacs. Except where no other practicable alternative is available, such streets may not extend more than 1,000 feet (measured from the centerline of the intersecting street to the center of the turnaround).

#### 6. Alleys

- a) Alleys shall be required to serve lots used for commercial and industrial purposes except that this requirement may be waived where other definite and assured provision is made for service access.
- b) Alleys may be provided in residential subdivisions.
- c) The width of an alley shall be at least 20 feet.
- d) Dead end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end as may be recommended by the Planning Board and approved by the Town Board.
- e) Sharp changes in alignment and grade shall be avoided.

### **405.3 Extensions and Connections**

- a) The proposed street layout shall be coordinated with the existing street system of the surrounding area and with any adopted Town or County thoroughfare plan or comprehensive transportation plan. Proposed streets shall be the extension of existing streets where possible.
- b) Cul-de-sacs shall not be used to avoid connection with an existing street or to avoid the extension of an important street.

- c) Where a subdivision adjoins a heavily traveled street classified as an arterial or collector, in the interest of highway safety, the property owner shall be required to provide one or more of the following:
  - 1. interior access to lots via a public or private street;
  - 2. common or joint driveways;
  - 3. a marginal access street parallel to the arterial or collector street; or
  - 4. reverse frontage on a smaller street when the only access to the subdivision will be from an arterial or collector street.

Where access is available to any internal subdivision street, whether by reverse frontage or other lot arrangement, private driveways shall not have access to the arterial or collector street. It is the intent of this provision to minimize the number of points of ingress, egress, and regress to main roads within the Town of Vass planning jurisdiction.

- d) Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be no less than 150 feet.
- e) Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 400 feet, measured from centerline to centerline, of the intersecting street. When the intersected street is a major thoroughfare street, the distance between intersecting streets shall be at least 1,000 feet.
- f) The Planning Board may recommend, and the Town Board may require, the property owner to extend the right-of-way and build the street, and/or provide a temporary cul-de-sac, in order to stub out streets that should be connected to existing or proposed streets outside of the subdivision.

#### **405.4 Sidewalks and Walkways**

- a) Sidewalks shall be provided along both sides of all proposed and existing public streets within subdivisions.
- b) Sidewalks will be provided along any existing public street directly accessed by the proposed subdivision as follows:

1. The sidewalk will extend the length of the property adjacent to the roadway on the same side as the proposed subdivision.
  2. The property owner will provide any necessary additional right-of-way needed for the sidewalk to either the Town or the N.C. Department of Transportation, as appropriate.
  3. When an adjacent road is a N.C. Department of Transportation facility, the sidewalk shall be built to N.C. Department of Transportation standards.
- c) Walkways will also be provided to connect dead-end streets and cul-de-sacs to each other and to recreation areas and open space to limit the travel distance for pedestrians.
  - d) Pedestrian walkways shall be owned and maintained by a property owners' association in or adjacent to developments outside of the Town's corporate limits, or in any case where the Town does not accept dedication of these improvements.
  - e) Sidewalks and walkways shall be constructed to the Americans with Disabilities Act requirements.
  - f) Sidewalks shall be five feet in width and constructed of five inches of concrete. Extension joints shall be installed every 30 feet, with score marks every 10 feet.
  - g) The Town Board may permit the installation of walkways instead of sidewalks constructed with other suitable materials when it concludes that:
    1. Such walkways would serve the residents of the development as adequately, and be as durable as, concrete walkways; and
    2. Such walkways would be more environmentally desirable or more in keeping with the overall design of the development.

#### **405.5 Driveways**

All driveways on streets designated as arterial or collector streets shall be constructed so that:

- a) To the extent practicable, no driveway shall be located within 250 feet of the right-of-way of a public street that intersects with the arterial or collector street upon which the driveway opens.

- b) When access is available from streets of different classifications, the driveway shall be located so as to provide access only from the street with the lower classification.
- c) To the extent practicable and legally possible, adjoining lots in different ownership shall be required to establish a single driveway located on the property line common to the two lots and labeled on the plat as “joint driveway.”

#### **405.6 Street Names and Signs**

- a) Names of streets which duplicate or can be confused with the names of existing streets within the Town of Vass, adjacent municipalities, and unincorporated Moore County, shall not be approved. New street names will be reviewed by the Moore County Emergency Management Records to confirm non-duplication.
- b) Extensions of existing and named streets shall bear the names of such existing streets.
- c) House numbering will be assigned by the Addressing Section of the Moore County Planning Department or its successor.
- d) Approved street name signs shall be erected by the property owner at the intersections of streets. The Subdivision Administrator shall inspect to verify that street signs have been erected prior to final plat approval.

#### **405.7 Private Roads**

- a) The intent of this Subsection is primarily to allow the creation of lots for single-family residential development. Private roads shall not be permitted where it is found that:
  - 1. the subdivision roads are constructed to minimum State design and construction standards, and would satisfy other requirements for addition to the State maintenance system,; or
  - 2. the subdivision roads extend existing roads which are public; or
  - 3. a proposed road is designated as an arterial or collector on an approved Town or County thoroughfare plan or comprehensive transportation plan; or
  - 4. the subdivision roads are part of a non-residential development consisting of office, retail, industrial, and similar businesses, each

located on a separate lot. This provision shall apply only to the portion of a subdivision being developed for non residential purposes; or

5. one or more of the lots created are intended for, or currently contain a, two-family or multi-family residential use.
- b) Private roads may be allowed to be created to serve proposed lots in a subdivision where:
1. the private road will serve 15 or fewer lots or dwelling units, including the residual acreage of the parent tract;
  2. all lots created by the subdivision shall front on the private road and direct access to the public road from any lot shall be prohibited;
  3. all lots created (including the residual acreage of the parent tract) are two acres (87,120 square feet) or greater in land area (exclusive of public street and/or private road rights-of-way and other on-site public or quasi-public easements/right-of-way); and
  4. all lots created (including the residual acreage of the parent tract) are at least 150 feet in width as measured along the frontage of the lot abutting the private road right-of-way
- c) Private roads shall be required to meet standards set by the Town of Vass as found in Appendix A (Minimum Construction Standards for Private Roads in the Town of Vass). Satisfactory proof that the standards are met will be required by the Subdivision Administrator.
- d) The property owner shall have an instrument recorded contemporaneously with the final plat substantially in the form of the Town's standard Road Maintenance Agreement, which shall guarantee:
1. a right of access to any private road in the subdivision by all lots served by the road and by law enforcement and emergency vehicles, and
  2. right of access for the proposed private road to a State or municipally maintained road by way of direct access or other private roads,
  3. perpetual maintenance of any private road serving the subdivision at the standards set for approval,

4. provide record notice that any further subdivision of any lot shown on the plat as served by a private road may be restricted and/or prohibited by the Town of Vass Subdivision Regulations,
5. provide record notice of the probability that future development dependent on the private roads for access will require upgrading of the roads to a higher private road standard or public dedication and upgrading of the road to N.C. Department of Transportation standards, and that the cost of the upgrade will be the responsibility of the property owner requesting approval of the subdivision at that date,
6. that if the road is dedicated for public use at a later date, then the lot boundaries will be revised to extend only to the edge of the right-of-way,
7. acceptance by the property owner of all liability related to the use of the road, and agreement to hold both the Town, County, and State harmless from such liability, and
8. acknowledgment by the property owner that some public services may not be provided due to the private nature of the road, and

The guarantees of right of access and maintenance of private roads in the subdivision shall run with the land and shall be disclosed to any prospective purchaser of land in the subdivision as provided in G.S. 136-102.6. An instrument guaranteeing these facts shall be presented to the Subdivision Administrator with the application for final plat approval. The instrument shall be reviewed and approved by the Town Attorney prior to approval of the final plat. A verified certificate, signed by the owner of the land subdivided, attesting these facts shall be placed on the final plat submitted for approval. Upon recordation, the Deed Book and Page Number of the recorded document shall be referenced on the final plat.

e) No final plat that shows lots served by private roads may be recorded unless the final plat contains the following certificates:

1. Certificate of Restriction on Further Subdivision of Lots Accessed by Private Roads

Further subdivision of any lot shown on this plat as served by a private road may be prohibited by the Town of Vass Subdivision Regulations.

2. Certificate of Access Restriction

Access to the lots in this subdivision is restricted to private road(s) as shown on this plat. No driveways or other access points are permitted onto the external or off-site public street(s) unless otherwise indicated as an approved driveway access point shown on this plat.

3. Certificate of Private Road Maintenance and Disclosures

I, \_\_\_\_\_, certify that an instrument will be recorded contemporaneously with the recordation of this approved final plat that, among other things, guarantees:

- a. a right of access to any private road in the subdivision by all lots served by the private road; and
- b. maintenance of any private road in the subdivision at the standards set for approval.

These guarantees of right of access and maintenance of the private road shall run with the land.

\_\_\_\_\_

Owner(s) \_\_\_\_\_ Date

4. Certificate of Road Maintenance Agreement and Restrictions

Restrictions and requirements pertaining to private roads and access for this subdivision are described in greater detail and recorded at Deed Book \_\_\_\_\_, Page \_\_\_\_\_, Office of the Register of Deeds, Moore County, North Carolina.

**Section 406. Utilities**

**406.1 Utilities in Corporate Limits**

Each lot in all subdivisions within the corporate limits of the Town of Vass shall be provided, at the property owner's expense, with an extension of the County water system and an individual sanitary system. The size of the water mains shall be not less than six inches inside diameter, and they shall be laid out so as to create a complete circuit, with no dead end lines in excess of 300 feet. A blow off valve shall be

placed at the dead end. Water lines shall be installed in the street right-of-way where possible. Individual sanitary systems must be approved in accordance with the following provisions:

- a. Any septic tank or other facility serving a single source and having a design capacity of 3,000 gallons per day or less and discharging into other than surface waters shall be approved by the Moore County Environmental Health Department.
- b. Any package plant or other sewage treatment facility serving two or more sources not connected to individual or public systems and having a design capacity of greater than 3,000 gallons per day and/or discharging to surface waters shall be approved by the North Carolina Department of Environment and Natural Resources.

#### **406.2 Utilities in Extraterritorial Area**

Each subdivision in the extraterritorial area of the Town of Vass shall be provided with water lines and laterals within and along the perimeter of the land being subdivided for each lot, if any of the land being subdivided is within 500 feet of the County system. The property owner may at his expense, extend the aforementioned system(s) to the subdivision if approved by the Town Board. If the property owner chooses to extend water mains, the size shall not be less than six inches inside diameter, and they shall be laid out so as to create a complete circuit, with no dead end lines in excess of 300 feet. A blow off valve shall be placed at the dead end. Water lines shall be installed in the street right-of-way where possible. Individual sanitary systems must be approved in accordance with the following provisions:

- a. Any septic tank or other facility serving a single source and having a design capacity of 3,000 gallons per day or less and discharging into other than surface waters shall be approved by the Moore County Environmental Health Department.
- b. Any package plant or other sewage treatment facility serving two or more sources not connected to individual or public systems and having a design capacity of greater than 3,000 gallons per day and/or a discharge to surface waters shall be approved by the North Carolina Department of Environment and Natural Resources.

#### **406.3 Surface Water Drainage**

- a. No surface water drainage shall empty into a sanitary sewer.
- b. Where, in the opinion of the Town Engineer, a public stormwater sewer is reasonably accessible, before a subdivision is approved and accepted by the Town of Vass, the property owner, shall connect with

the public storm sewer system by providing all grading and all structures necessary to carry the water to the storm drainage system. Drainage and construction of drainage structures shall conform to Town Specifications and Standards.

- c. Where a storm drainage system is not accessible, before a subdivision is approved and accepted by the Town of Vass, the property owner shall do all grading and provide all drainage structures necessary to properly carry the water to locations which are acceptable to the Town of Vass.
- d. Where drainage ditches are provided and grades exceed four percent, the ditches shall be paved in accordance with the Town standards.

#### **406.4 Street Lights**

All subdivisions in which the size of the smallest lot is less than 40,000 square feet shall have streetlights installed throughout the subdivision in accordance with the standards of the Town of Vass. The developer shall be required to pay to the electric company the cost of street lighting installation that exceeds four times the continuing annual revenue.

#### **406.5 Underground Wiring**

All subdivisions shall have underground wiring. Such underground wiring shall be installed in accordance with the standards of the electric utility company. The property owner shall be required to pay the charges for installation of the underground service, which charges will be made in accordance with the then effective underground electric service plan as filed with the North Carolina Utilities Commission.

### **Section 407. Other Requirements**

#### **407. 1 Placement of Monuments**

Unless otherwise specified by this ordinance, the Manual of Practice for Land Surveying as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.

### **407.2 Construction Procedures**

No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities. No building, zoning or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this ordinance until all the requirements of this ordinance have been met. The property owner, prior to commencing any work within the subdivision, shall make arrangements with the Subdivision Administrator to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

### **407.3 Oversized Improvements**

The Town of Vass may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the Town requires the installation of improvements in excess of the standards required in this ordinance, including all standards adopted by reference, the Town shall pay the cost differential between the improvement required and the standards in this ordinance.

**ARTICLE V**  
**DEFINITIONS**

**Section 501. Subdivision Defined**

For the purposes of this ordinance, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one 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 any regulations enacted pursuant to this ordinance.

- a) 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 Town as shown in this ordinance;
- b) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- c) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors;
- d) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town as shown in this ordinance.
- e) A gift lot which is defined as a parent making a one-time gift to his/her child of a parcel of land divided from the parent's property with legal access of at least 30 feet width to a public right-of-way and which otherwise meets the zoning lot requirements for the district the lot is located in.

**Section 502. Other Definitions**

For the purpose of this ordinance, certain words or terms used herein shall be defined as follows:

Block. A piece of land bounded on one or more sides by streets or roads.

Building Setback Line. A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

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

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

Lot. A portion of a subdivision, or any other parcel of land, intended as a unit of transfer of ownership or for development or both.

Lot of Record. A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Moore County prior to the adoption of this ordinance, including any amendment thereto, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance, including any amendment thereto.

Lot Types:

Corner Lot. A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135°.

Double Frontage Lot. A continuous (through) lot which is accessible from both streets upon which it fronts.

Interior Lot. A lot other than a corner lot with only one frontage on more than one street.

Through Lot or a "Double Frontage Lot". A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Reversed Frontage Lot. A lot on which the frontage is at right angles or approximately right angles (interior angles less than 135°) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

Single-Tier Lot. A lot which backs upon a limited access highway, a rail read, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Major Subdivision. Any subdivision of land not meeting the definition of Minor Subdivision.

Minor Subdivision. A division of a tract of land where:

- a) no more than four lots (including the residual acreage) are created in any three year period, whether such lots are created at one time or over an extended period of time;
- b) all lots front on an existing public street;
- c) public water and/or sanitary sewerage systems, other than laterals to serve individual lots, are not to be extended; and
- d) the installation of drainage improvements that would require easements through one or more lots to serve other lots are not necessary.

See Section 303 for additional requirements specific to the minor subdivision procedure.

Official Maps or Plans. Any maps or plans officially adopted by the Vass Town Board.

Open Space. An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

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

Private Road. A road not intended for public use or public dedication and that serves a limited number of lots, and therefore is typically not built to N.C. Department of Transportation standards. It is maintained by private property owners, and intended for use by those private property owners.

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

Street. A dedicated and accepted public right-of-way for vehicular traffic.

The following classifications shall apply:

Alley. A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Arterial. A street connecting widely separated areas and designed to carry a large volume of traffic that may be fast, heavy, or both. Arterial streets are sometimes referred to as "major thoroughfares", "freeways",

“expressways”, etc., and are usually numbered State or Federal Highways.

Collector. A street that carries traffic from minor streets to the major systems of arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development. Collector streets may also be referred to as “connector” or “feeder” streets.

Cul-de-sac. A short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

Marginal Access Street. A minor street that is parallel to and adjacent to arterial streets, and that provides access to abutting properties and protection from through traffic. Marginal access streets may also be referred to as “service roads.”

Minor. A street used or designed primarily to provide access to abutting properties. It serves or is designed to serve not more than 9 dwelling units and is expected to handle up to 75 trips per day. These streets are normally one block long or extended on a block-by-block basis and have no collector characteristics.

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

### **Section 503. Word Interpretation**

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

Words used in the present tense include the future tense. Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "used for" shall include the meaning "designed for".

The word “structure” shall include the word “building”.

The word "lot" shall include the words "plot", “parcel”, or "tract".

The word "shall" is always mandatory and not merely directory.

## APPENDICES

## APPENDIX A

### MINIMUM CONSTRUCTION STANDARDS FOR PRIVATE ROADS IN THE TOWN OF VASS

#### 1-A Number of Lots or Dwelling Units Served

- A. A private road shall serve no more than 15 lots (including the residual acreage) or dwelling units. Roads proposed to serve more than 15 lots or dwelling units (including existing private roads that are having additional lots or dwelling units over 15 added with access to the existing private road proposed), shall be built to public N.C. Department of Transportation road standards, including dedication as such.
- B. Private roads serving a subdivision resulting in no more than three lots (including the residual acreage) or dwelling units are not required to be constructed to Town standards or to be inspected before recordation of the final plat; however, the right-of-way width requirement shall apply. The Town of Vass recommends that these roads be constructed to the standards for a Class C private road in order to provide adequate access, especially for emergency vehicles that require the clearances and turn areas as shown in the private road specifications.
- C. Private roads serving a subdivision resulting in up to four lots (including the residual acreage) or dwelling units shall be constructed to Class C private road standards.
- D. Private roads serving a subdivision resulting in five to eight lots (including the residual acreage) or dwelling units shall be constructed to Class B private road standards.
- E. Private roads serving a subdivision resulting in nine to 15 lots (including the residual acreage) or dwelling units shall be constructed to Class A private road standards.

#### 2-A Right-of Way and Travelway Widths

- A. The right-of way width for any private road shall be 50 feet and indicated on all plans and plats where a private road is proposed for use. Bends in the right-of-way shall be at angles that will permit the construction of curves with a 125-foot minimum curve radius as required by Section 5-A.
- B. Travelway widths for Class C private roads shall be eight feet. Class B private roads shall have a 12-foot wide travelway. Class A private roads shall have a 16-foot wide travelway.

**Table 1-A: General Standards and Specifications for Private Roads**

	Class of Private Road			
	A	B	C	
<b>Total Number of Lots<sup>1</sup>/Dwelling Units Served by Road</b>	9-12	5-8	4	1-3
<b>Right-of-Way Width</b>	50 Ft.	50 Ft.	50 Ft.	50 Ft.
<b>Travelway Width</b>	16 Ft.	12 Ft.	8 Ft.	No Standard
<b>Professional Surveyor Certification of Road in Platted Right-of-Way Required</b>	Yes	Yes	Yes	Yes <sup>2</sup>
<b>Professional Engineer Certification of Road Construction Required</b>	Yes	Yes	Yes	No

<sup>1</sup> Total number of lots served shall include the residual acreage of the tract being subdivided, where such residual acreage will be accessed by the private road.

<sup>2</sup> Required if road is to be constructed at time of final plat approval.

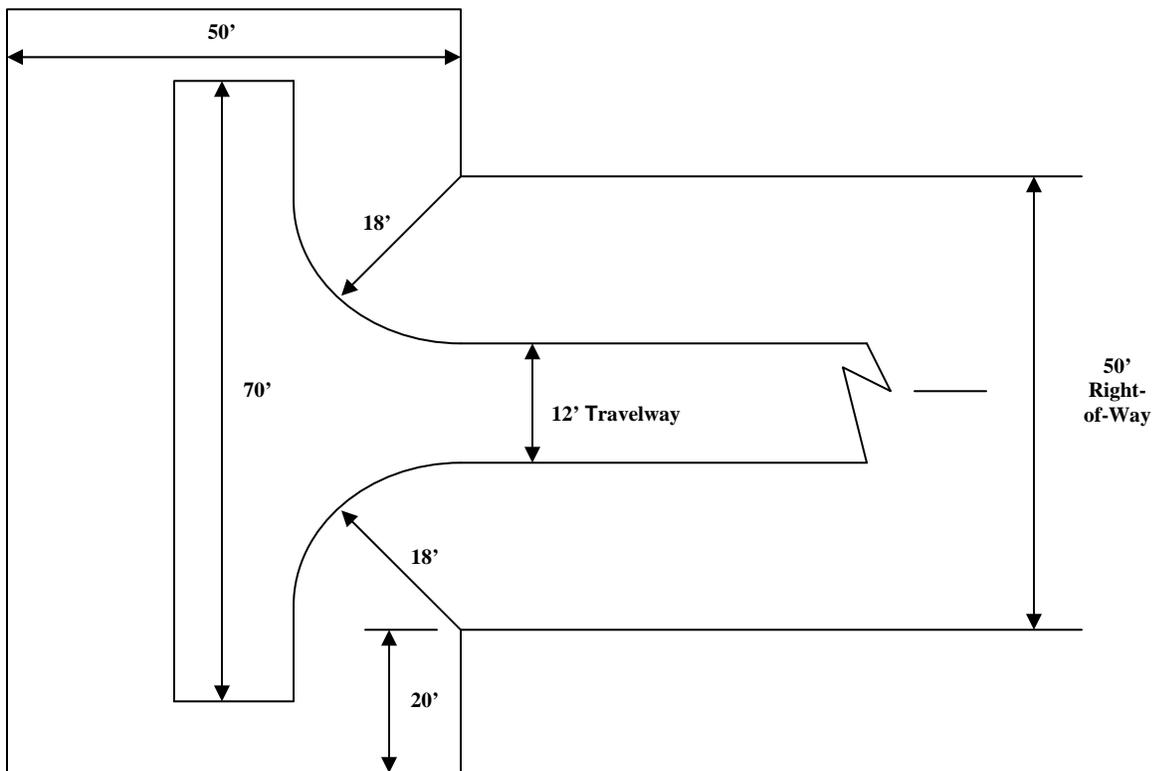
**3-A Two-Way Traffic**

- A. Private roads shall provide for two-way traffic in order to prevent conflict of vehicles meeting head-on. Two-way traffic for Class C and Class B private roads can be accomplished by widening the travelway at prescribed locations to at least 16 feet to allow vehicles to pass or to pull over and stop while another vehicle passes.
- B. Medians may be permitted between travel lanes when it is demonstrated that such design is desirable for the preservation of natural resources, or that excessive cut and fill would be required to construct a roadway to the standard width. Medians may be permitted only in accordance with the following:
  - 1. Each lane shall contain a minimum of 14 feet of vertical and horizontal clearance.
  - 2. Each lane shall contain a minimum travelway width of eight feet or one-half of the required width for the applicable road class, whichever is greater.
  - 3. No lots shall access directly onto any divided portion of the road unless there is adequate cross-access provided through the median, or some other acceptable means of access and turnaround for emergency vehicles.
  - 4. Both lanes shall be contained within a single right-of-way.
  - 5. A standard travelway of required width for the road class shall be constructed where the private road intersects with another private or public road.
  - 6. Signs indicating “One Way” shall be provided where the lanes diverge.

4-A Turnarounds

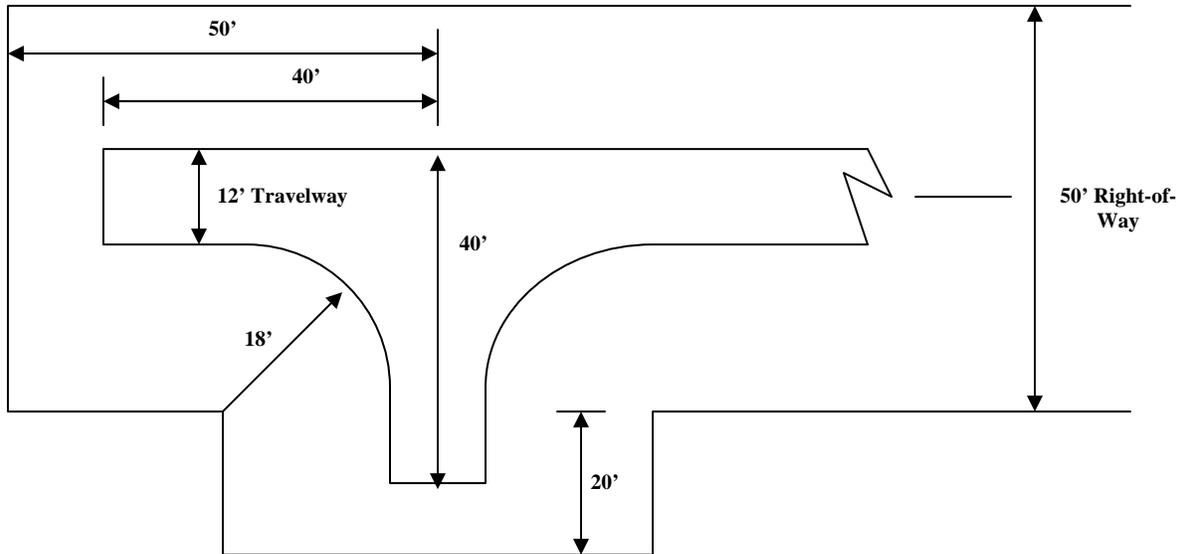
Vehicle turnaround areas shall be provided at the end of all dead-end roads. This can be accomplished by ending the road in a “T” turnaround or “L” turnaround. Where a cul-de-sac is used, a minimum turnaround travelway diameter of 60 feet shall be provided, located within a right-of-way with a diameter of 80 feet. A “T” turnaround shall conform to the dimensions in Figure 1-A. An “L” turnaround shall conform to the dimensions in Figure 2-A. The “T” and “L” turnaround designs are preferred. The location of the turnaround will depend on the arrangement of the lots in the subdivision. If the private road serves only one lot, the turnaround should be located near the building site. In a subdivision with several lots, the turnaround shall be at the end of the road and the necessary right-of-way provided.

**Figure 1-A: “T” Turnaround Dimensions<sup>1</sup>**



<sup>1</sup> Example shown is a Class B Private Road.

**Figure 2-A: “L” Turnaround Dimensions<sup>1</sup>**



<sup>1</sup> Example shown is a Class B Private Road.

**5-A Minimum and Maximum Curve Radius**

- A. New curves shall be constructed with a minimum centerline radius of 125 feet, but no greater than 150 feet. The right-of-way shall be designed with bends that will provide sufficient width to construct the road to this minimum radius. For example, a 90° bend in a 50-foot wide right-of-way will not provide enough area to construct a road travelway of 16 feet in width. The right-of-way shall include sufficient width for the travelway and the necessary shoulders, ditches, and slopes.
- B. A curve radius of less than 125 feet may be approved if all of the following conditions are met:
  - 1. The road existed prior to the adoption of subdivision regulations or was approved as part of an earlier subdivision;
  - 2. Reconstruction of the existing road to meet a 125-foot curve radius is not feasible due to the extent of earthwork that would be required and/or the inability to reconfigure the existing right-of-way location due to ownership or the location of existing structures, wells, or septic systems;
  - 3. Standards pertaining to road width and grade will be met;
  - 4. Documentation is received from the applicant’s engineer that the proposed curve radius would provide for adequate vehicular access and circulation; and
  - 5. Documentation is received from the applicable Town and/or County Emergency Services Department stating that the proposed curve radius

would provide access for the largest emergency vehicle that would use the road.

- C. Figure 3-A illustrates how a curve with a 125-foot centerline radius cannot be contained in a 90° bend of a 50-foot wide right-of-way. Figure 4-A illustrates alternative bends that will contain a curve of the minimum centerline radius.

**Figure 3-A: Example of Unacceptable Curve Radius**

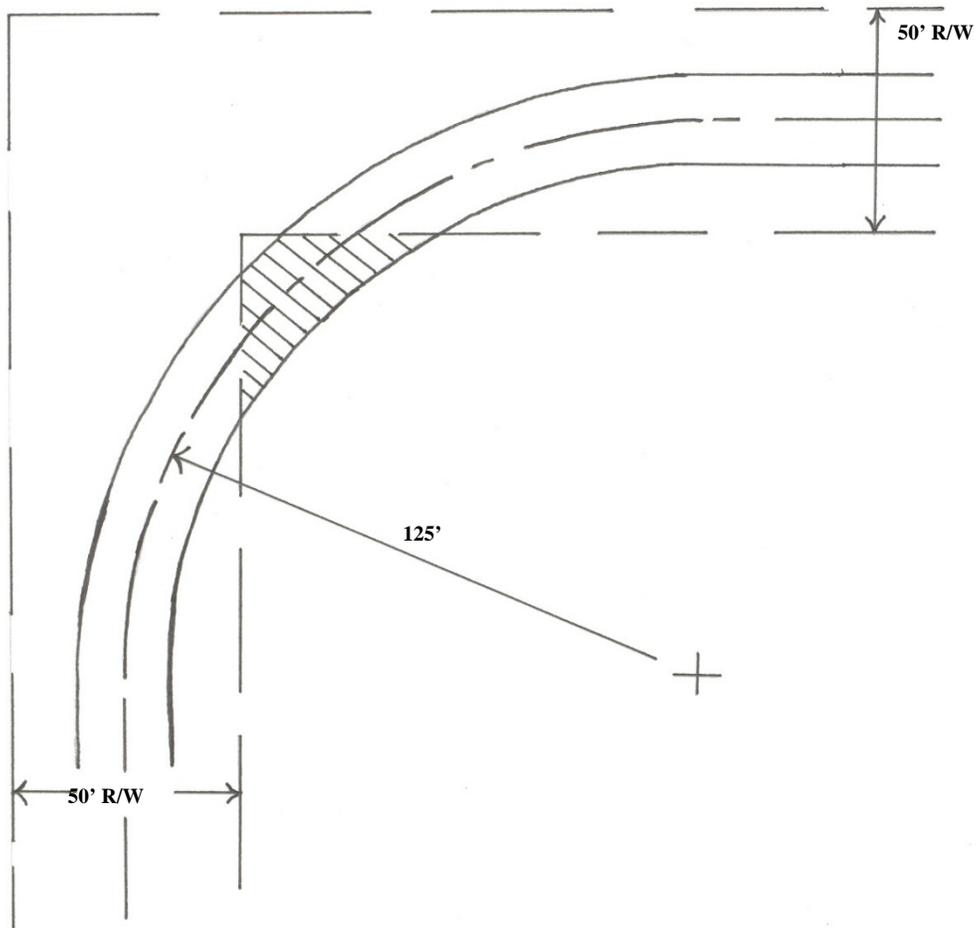
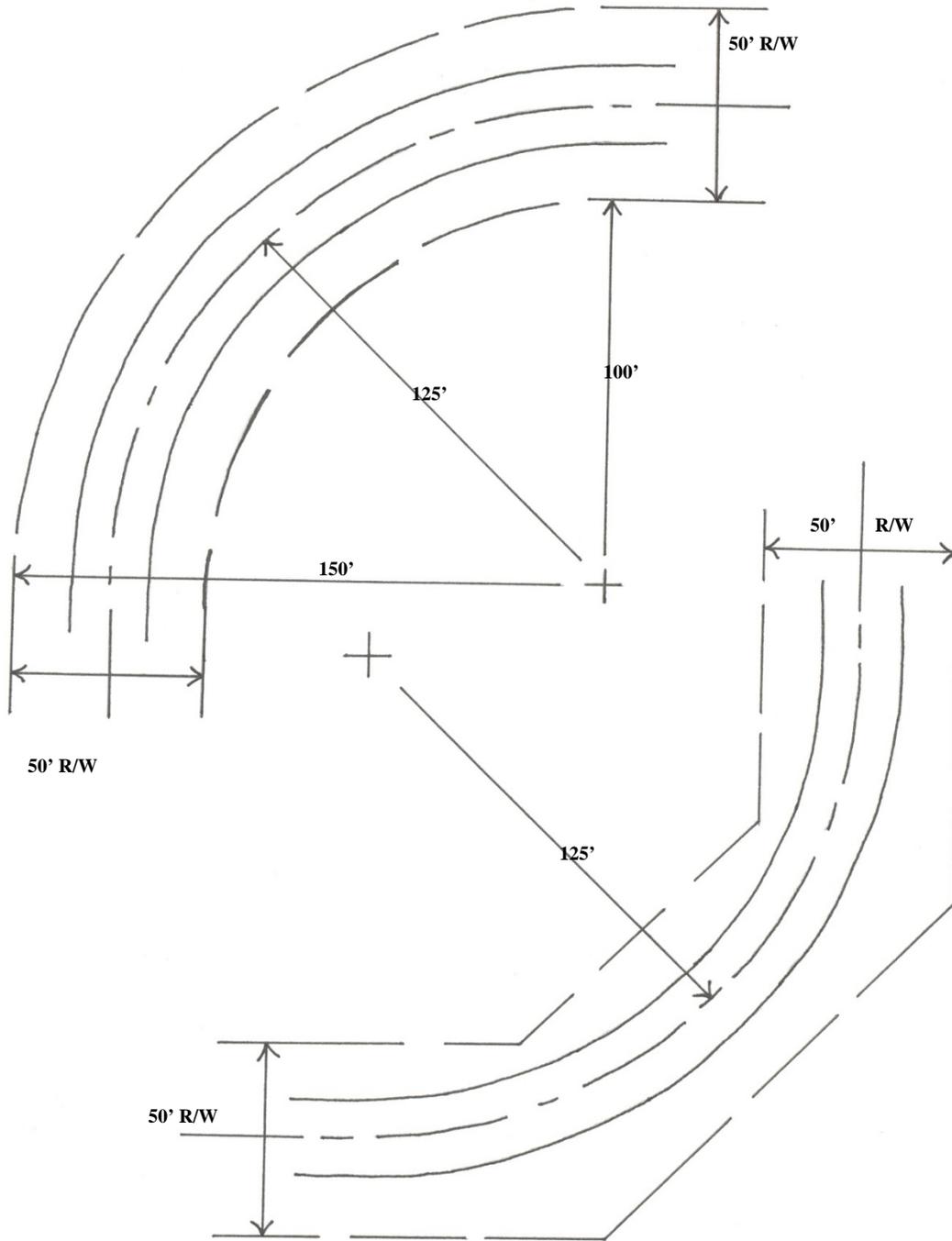


Figure 4-A: Examples of Acceptable Curve Radii



6-A Vertical Clearance

A minimum of 14 feet of vertical clearance shall be provided above the travelway to permit the passage of large vehicles under power lines and tree limbs.

7-A Construction Standards

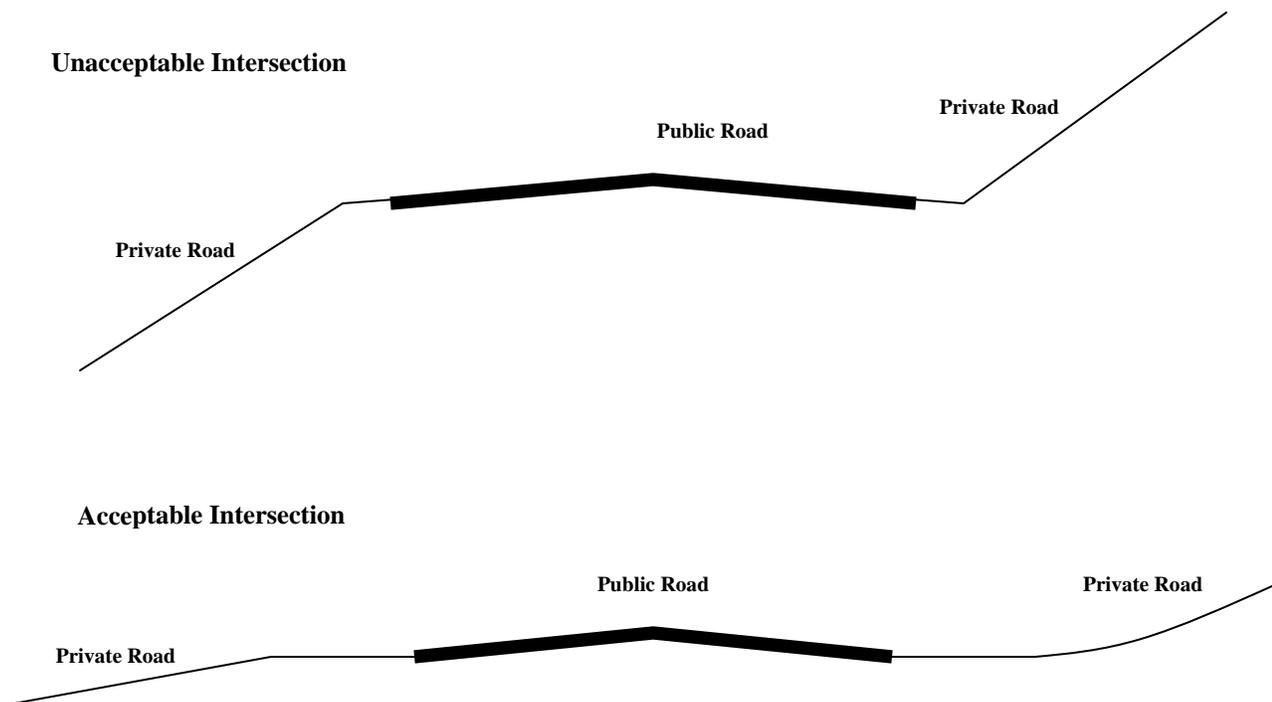
7.1-A North Carolina Department of Transportation Driveway Permit

The property owner proposing to construct a private road is responsible for obtaining the required permit for access to the State maintained road. The permit may be obtained from the N.C. Department of Transportation District Engineer's Office in Aberdeen, North Carolina.

7.2-A Intersections with Public Roads

- A. The intersection of the private road with the existing public road shall permit a safe entrance and exit. Adequate sight distances along the public road shall be provided by choosing a good location for the right-of-way and clearing sight triangles when building the road.
- B. The intersection of a private road with a public road shall provide an adequate place for cars to stop before entering the public road. Figure 5-A gives an example of this principle.

**Figure 5-A: Unacceptable/Acceptable Intersections**



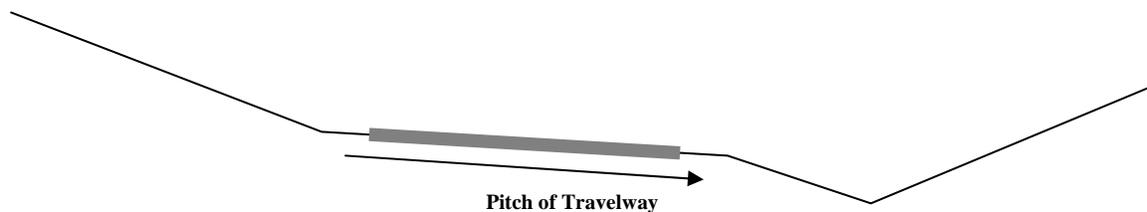
- C. The private road must flare at the intersection with the public road in order to permit a vehicle to enter the private road when another vehicle is waiting on the private road. The dimensions of the required flare are shown in Figures 7-A, 8-A, and 9-A.

#### 7.3-A Travelway Design

- A. Travelways shall be surfaced and compacted with a material acceptable to the Town of Vass to the required width of the particular class of road. A crown shall be built into the travelway so that water will drain from the road surface into the side ditches on both sides of the road. Figures 7-A, 8-A, and 9-A indicate this requirement. The crown shall not be so great as to cause vehicles to slide off the travelway when ice or snow is on the road.
- B. In some situations, it may be desirable not to crown the road but to have the travelway sloped to a single ditch as shown in Figure 6-A. This is applicable in four situations:
1. where it is necessary to cut down on the length of a ditch in order to reduce the erosion potential by decreasing the volume of runoff; or
  2. where it is difficult to construct ditches due to rock or other ground conditions; or
  3. to provide for super-elevation; or
  4. in curves.

Such a single slope shall always drain toward the inside of a curve. The crown slope of the road and shoulder should be approximately one-half to one inch per foot.

**Figure 6-A: Travelway Pitch for Private Roads with Single Drainage Ditch**



#### 7.4-A Travelway Surface Materials

- A. Aggregate Base Course (commonly called “crusher run”) shall be used as travelway surface materials. Soil type base materials will be acceptable under the following conditions:
1. The material originates from a quarry approved by the North Carolina Department of Transportation, and

2. The grade of the road is less than 6%.

- B. All private roads where grades are in excess of 6% shall be constructed with paved, all-weather surfaces consisting of four inches of base material (crusher run) and one and one-half inches of 1-2 asphalt, or tar and gravel surface treatment consisting of a minimum of six inches of base material (crusher run) covered with alternating layers of tar and pea-size gravel, asphalt, or concrete. Road edges shall be suitably protected to prevent raveling and shifting of the base.

#### 7.5-A Grade

- A. The grade of the road shall not exceed 12% because of the difficulty of operating vehicles on such a steep road and the high potential for erosion of the travelway and side ditches. Where possible, the road shall be constructed along the contour of the land to avoid steep grades.
- B. In exceptional circumstances a variance from this requirement may be granted for a private road with a grade greater than 12% by the Town Board, as recommended by the Planning Board. Circumstances where a variance will be considered are:
1. the N.C. Department of Environment and Natural Resources (NCDENR) indicates in writing that erosion control measures can be implemented to minimize the erosion potential of the road during and after construction; and
  2. there is no other reasonable access or location for the road; and/or
  3. relocating the road would create other, more serious problems with drainage, stabilization, or environmental impact; and/or
  4. the length of the segment with a grade greater than 12% is no longer than 100 feet.

#### 7.6-A Fill Material

Where filling is necessary to raise the roadbed, cross watercourses or fill stump holes, it shall be done with suitable material that is free of roots or other organic matter. The fill shall be firmly compacted to reduce settlement that will cause ruts or holes in the finished road.

#### 7.7-A Drainage

- A. Ditches shall be constructed to provide drainage from the road and adjacent areas. The ditches shall be built with sufficient depth and width to carry the expected volume of water. The side slopes shall be graded so that they can be stabilized and to prevent vehicles from becoming stuck if they slide into the ditch.
- B. Where the road crosses streams or minor watercourses, culverts shall be installed to prevent ponding and washouts of the road for the five year design storm. On

streams where it is not economical to install a large culvert of the required size, the Subdivision Administrator may allow the installation of a smaller culvert if engineering equivalent provisions are made to protect the road surface and fill slopes from erosion when runoff tops the road. The applicant's engineer shall certify that a smaller culvert will meet the requirements of this provision.

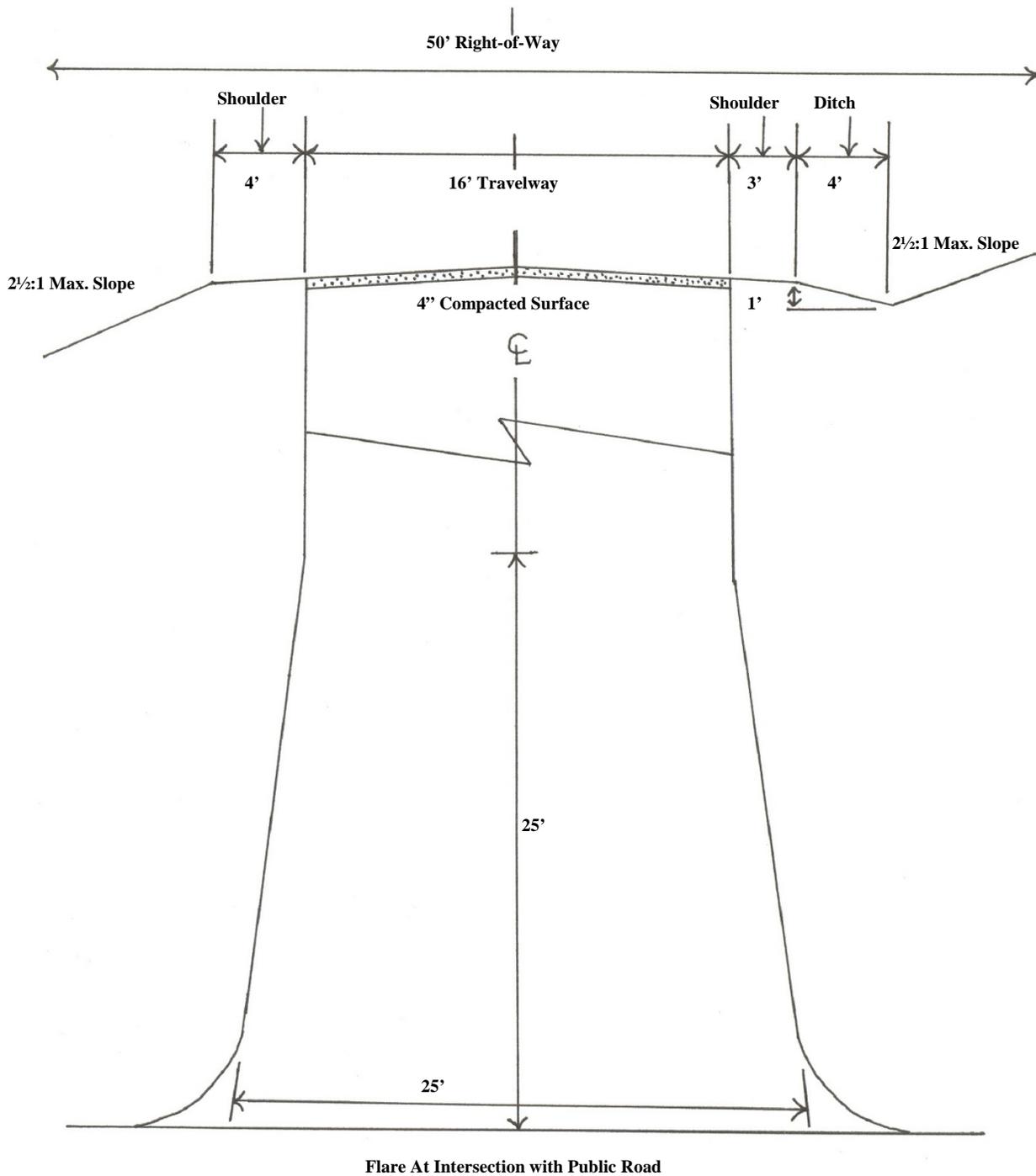
**7.8-A Permanent Vegetation**

- A. All areas disturbed by the construction of the road, including the shoulders, ditch, banks, cut-and-fill slopes, and any borrow areas, shall be seeded in permanent vegetation to stabilize the soil and prevent erosion. Seeding shall be done immediately after grading is completed and before the final inspection by the Subdivision Administrator.
- B. The disturbed area shall be smoothed and lightly harrowed to break up the soil and prepare a good seedbed. The materials listed in Table 2-A are recommended per 1,000 square feet of disturbed area. Other types of permanent vegetation may be substituted as long as they provide adequate cover to prevent erosion.

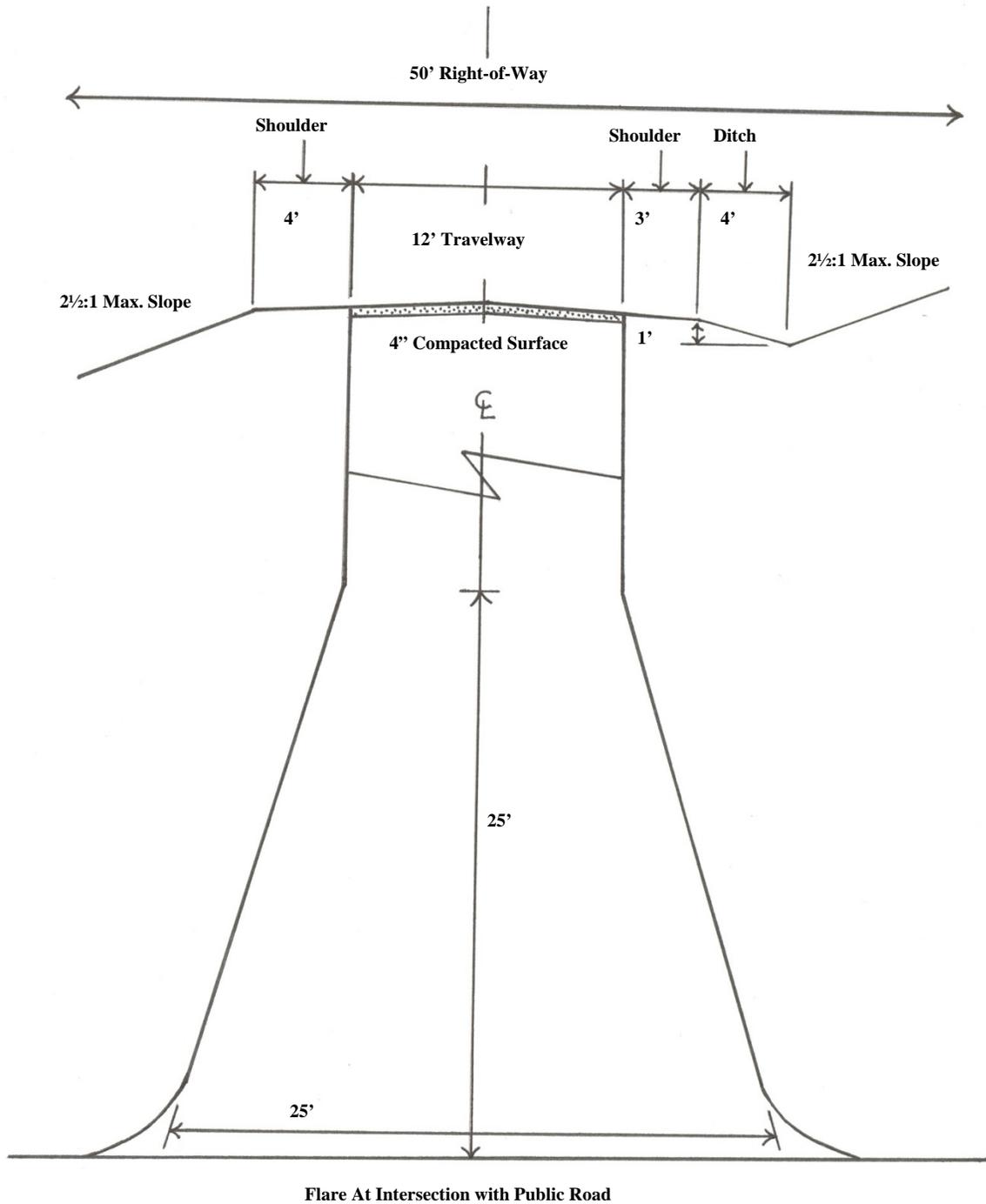
**Table 2-A: Seed and Mulch Required Per 1,000 Square Feet of Disturbed Area**

Recommended Materials	Amount in Pounds (lbs.)
<b>Fescue Grass Seed</b>	<b>1.4</b>
<b>German or Brown-top Millet (To Provide Temporary Cover Until the Grass Becomes Established)</b>	<b>0.4</b>
<b>Lime</b>	<b>90</b>
<b>10-10-10 Fertilizer</b>	<b>23</b>
<b>Bales of Straw for Mulch (Use Enough to Cover 75% of the Ground)</b>	<b>(2) 40</b>

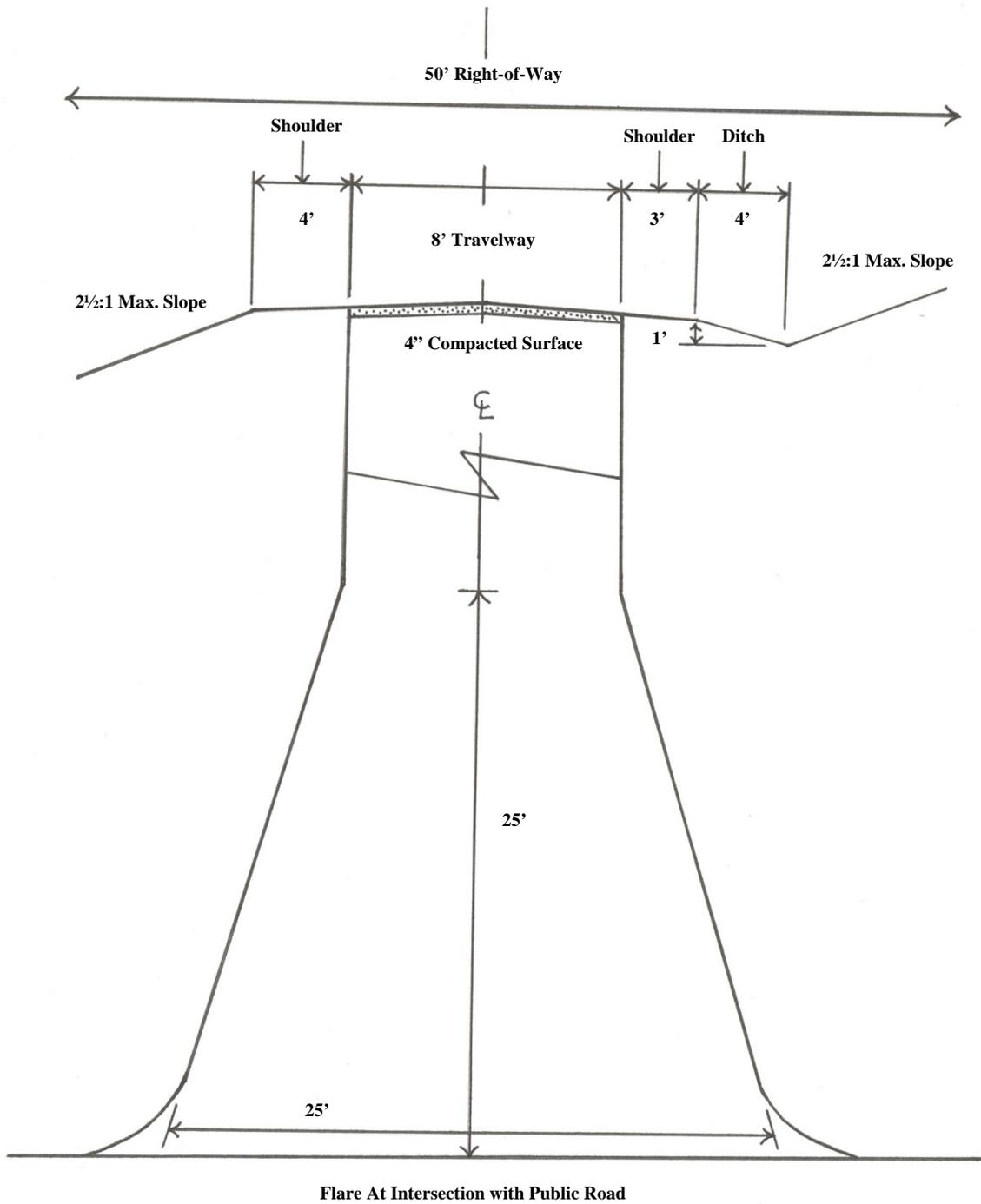
**Figure 7-A: Class A Private Road Construction Standards Cross Section**



**Figure 8-A: Class B Private Road Construction Standards Cross Section**



**Figure 9-A: Class C Private Road Construction Standards Cross Section**



## 7.9-A Certification of Construction

- A. Before a final plat of subdivision where any lot or dwelling unit will be served by a private road can be recorded, the private road must be built and approved. A security instrument posted with the Town may be allowed in subdivisions served by a private road.
- B. For any private road, the location of the travelway shall be certified to be within the platted private road right-of-way by a North Carolina licensed professional land surveyor. Private road construction where four or more lots are being created shall be inspected, and the construction certified in writing to the Subdivision Administrator, by the property owner's engineer. The following shall be inspected and certified by the property owner's engineer:
1. The proper material has been used in the travelway and it is built to the required width and thickness;
  2. The shoulders are the correct width and the typical cross section is in place;
  3. The road is on the proper grade;
  4. Ditches are in place where necessary to provide adequate drainage, in accordance with sound engineering practice;
  5. Needed storm pipes of proper size, materials, and construction are in place and energy dissipaters installed, in accordance with sound engineering practices;
  6. All disturbed areas are properly stabilized;
  7. An adequate turnaround is in place at the end of the road;
  8. Required vertical and horizontal clearance is provided; and
  9. Sight distance and construction at the intersection with a public road has been approved by N.C. Department of Transportation.

The road shall be inspected during construction so that any changes or necessary improvements necessary to insure approval can be made before the stone is placed and the shoulders and ditches are seeded and mulched.

- C. The Subdivision Administrator shall inspect the road prior to release of the final plat for recordation to insure that the street sign is in place and to make an overall visual inspection of the road.

## 8-A Private Road Maintenance

- A. Maintenance of the private road shall be provided by the lot owners that are served by the private road or an established homeowners association. A Road

Maintenance Agreement and Declaration between the lot owners is required to insure that the cost is shared equally and a mechanism for maintenance is set up where a homeowners association is not created. The responsibility for maintenance is the property owners,' and neither the State nor the Town will maintain the road.

B. Regular attention shall be given to the following items in order to assure that the road will remain in good condition:

1. Vegetation

The vegetation should be mowed, limed, and fertilized as needed. Areas that erode or where seeding is unsuccessful should be reseeded.

2. Drainage

Culverts shall be kept clear of trash and other obstructions that could prevent or reduce the culvert's function. If culverts are not kept clear, it will cause runoff to flow over the road and may cause flooding upstream. Ditch banks and bottoms shall be protected from erosion by maintaining good vegetation.

3. Travelway

The travelway shall be maintained by grading the surface material to fill any potholes that develop and to evenly spread the surface material where the soil has been uncovered because of erosion.

4. Road Name and Sign

The sign shall be kept visible and legible so that visitors and emergency personnel can easily locate the road and shall be as approved by the Subdivision Administrator.

8.1-A Road Maintenance Agreement Requirements

A. The property owner shall have an instrument recorded contemporaneously with the final plat substantially in the form of the Town's standard Road Maintenance Agreement entitled "Declaration of Restrictions and Provisions for Private Road Maintenance," guaranteeing the following:

1. right of access to any private road in the subdivision by all lots served by the road and by law enforcement and emergency vehicles;
2. right of access for the proposed private road to a State or municipally maintained road by way of direct access or other private roads;
3. perpetual maintenance of any private road serving the subdivision at the standards set for approval; and

4. provide record notice of the probability that future development dependent on the private road for access will require upgrading of the road to a higher private road standard or public dedication and upgrading of the road to N.C. Department of Transportation standards. The Road Maintenance Agreement shall include a provision that if the road is dedicated for public use at a later date, then the lot boundaries will be revised to extend only to the edge of the right-of-way.

B. The instrument shall also note acceptance by the owner(s) of all liability related to the use of the road, and agreement to hold both the Town, County, and State harmless from such liability, and acknowledge that some public services may not be provided due to the private nature of the road. The guarantees of right of access and maintenance of the subdivision roads shall run with the land and shall be disclosed to any prospective purchaser of land in the subdivision as provided by G.S. 136-102.6.

**Appendix B**

**SAMPLE ROAD MAINTENANCE AGREEMENT FORM**

*The Moore County Register of Deeds requires that the 1<sup>st</sup> Page have a 3 inch top margin and ½ inch margins on sides and bottom of the page. Subsequent pages must all have ½ inch margins, i.e. top, bottom, and sides.*

**NORTH CAROLINA**

**DECLARATION OF RESTRICTIONS AND  
PROVISIONS FOR PRIVATE ROAD  
MAINTENANCE**

**MOORE COUNTY**

**TOWN OF VASS**

**THIS DECLARATION,** made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, hereinafter called Declarants, having a mailing address of \_\_\_\_\_.

**WITNESSETH:**

**WHEREAS,** Declarants own in fee simple the real property described in Article 1 below; and

**WHEREAS,** the said property will have access to \_\_\_\_\_ (SR #\_\_\_\_\_) via the private roads shown on the plat hereinafter referred to, said private roads being known as \_\_\_\_\_ (hereinafter referred to as private road); and

**WHEREAS,** Declarants by this Declaration of Restrictions, wish to bind themselves, their successors and assigns to provide all owners of any portion of said property owned by Declarants described below perpetual ingress, egress and regress to State or Town roads; and

**WHEREAS,** Declarants by this Declaration of Restrictions, wish to bind themselves, their successors and assigns to provide for maintenance of said private road until such time as the said

Private road is accepted by the State of North Carolina or the Town of Vass for maintenance;

**NOW, THEREFORE,** Declarants agree for themselves and with any and all persons, firms or corporations hereafter acquiring any of the property described in Article 1 below, that the same shall be subject to the following restrictions, conditions, and covenants relating to the use and occupancy, which restrictions, conditions, and covenants shall run with the said property and insure to the benefit of and be binding upon the heirs, successors and assigns of Declarants and other acquiring parties and persons.

**Article 1.** The real property which is, and shall be, held, transferred, sold and conveyed subject to the protective and restrictive covenants set forth in the various Articles of this declaration is located within the Town of Vass planning jurisdiction, \_\_\_\_\_ Township, Moore County, North Carolina, and is more particularly described as follows: (insert deed description or plat reference)

**Article 2.** Declarants hereby grant unto themselves and the future record owners of the aforesaid property adjoining and abutting the private road as shown on the aforesaid recorded plat(s) and as said private road may be extended into the aforesaid property, perpetual ingress, egress and regress over, on and under the said private road including the use of the road for the purposes of installation and maintenance of utilities.

**TO HAVE AND TO HOLD** the above-described easement as an appurtenance to all of the property, which easement shall run with said lands forever.

**Article 3.** The road shall be maintained to Class \_\_\_\_ (A, B, or C) private road standards as prescribed by the Town of Vass now and as the same may be revised from time to time.

For so long as Declarants shall be willing and able to serve, they shall be responsible for:

1. Determining what maintenance is necessary in order to maintain \_\_\_\_\_.
2. Contracting repairs and notifying the owners of Lot \_\_\_\_ of their respective assessments at least annually; and
3. Estimating the costs of maintenance in advance and depositing the funds received in a separate account, the records of which shall be available for inspection by any owner subject to assessment.

If at any time Declarants are unable or unwilling to provide for the maintenance of said road, the owners of the subdivided lots as shown on the recorded plats herein before referred to shall be responsible for maintenance as herein provided. Any owner of a subdivided lot within said property served by said road or the owner of any interest therein, shall have the right to enforce the maintenance standard by sending by registered or certified mail, return receipt requested, written notice of all proposed maintenance and of the time and place of a meeting of the said record owners (said meeting to take place no less than 10 days following the mailing of such notice) to all such record owners at their last known addresses as shown on the Moore County Tax Records.

At such owners' meeting all maintenance shall be approved by a majority of the votes cast (each owner having one vote for each subdivided lot owner and 3 for each dwelling unit on a lot).

Every owner of any of the aforesaid property using said road shall bear on a pro-rata basis the cost of maintaining said private road, this being each owner's pro-rata share for grading costs, gravel, or rock hauled in to fill ruts, holes, and washed-out sections and necessary replacement of or additional drainage culverts.

Each owner's pro-rata share of the maintenance costs of said private road shall be the total cost of maintenance multiplied by said owner's votes and divided by the total of all the owners' votes within the property. Each owner's pro-rata share of the maintenance cost

of said private road shall be due and owing to whichever other owner initiated the maintenance enforcement within 10 days of the said owners' meeting. If not paid by that time, said initiating owner may file suit for the same on behalf of all of the owners.

Notwithstanding the vote at the owners' meeting, nothing in this Declaration of Restrictions shall be construed as denying any owner the right to see that the said road is maintained to Class \_\_\_\_ (A, B, or C) private road standards, and any owner may require that the maintenance requirements be submitted to binding arbitration under the rules and regulations of the American Arbitration Association (as governed by the Uniform Arbitration Act of North Carolina, North Carolina General Statutes Section 1.567.1 et seq., as it may be from time to time amended) by notice mailed to all said record owners at their last known addresses by registered or certified mail, return receipt requested, by 5:00 p.m. on the second working day following the owners' meeting, unless such arbitration notice is sent, the vote of the majority of the owners shall be conclusive as to what maintenance is mandated by this Declaration of Restrictions.

**Article 4.** The lots served by the private road(s) located within said property may be restricted or prohibited from further subdivision by the Town of Vass Subdivision Regulations. The Town of Vass Subdivision Administrator shall be consulted prior to the proposed division of any lot served by the private road(s) located within said property.

**Article 5.** The private road located within said property may be dedicated to the public at the election of a majority vote of the owners under the same procedure used in Article 3 for the maintenance of said road. In that event, the owners and their successors in title and interest to any of the property described herein will remain responsible for road maintenance until the road is taken over for maintenance by the North Carolina Department of Transportation, the Town of Vass, or other governmental body.

It is probable that future development of the property described in Article 1 will require upgrading of the private road providing access to the property described in Article 1 to either a higher private road standard or to North Carolina Department of Transportation standards. In the event that the Town of Vass or any other governmental body, as a condition to the approval of any further subdivision of the property described in Article 1, may require said private road to be upgraded above a Class \_\_\_\_ (A, B, or C) private road standard or publicly dedicated and constructed to Department of Transportation standards, then in that event, Declarants and all persons taking title to the property described in Article 1 shall be responsible for maintenance and the costs of maintenance of the entire road system to the new standard on the point system described in Article 3. Provided, however, that the initial cost of construction the road or any portion of the road to a higher private road standard or to Department of Transportation standards shall be borne solely by the owners of the portion of said property, the subdivision of which requires that the road or any portion of it be upgraded. The cost of construction of the road or any portion of it to a higher private road standard or to Department of Transportation Standards shall be shared by the owners responsible for the upgrading according to the system described in Article 3. In the event public dedication of the said private road or any extension of the private road or portions thereof is required by the Town of Vass, all persons taking title to the aforesaid property from and through Declarants shall dedicate to the public that portion of the road required to be dedicated.

**Article 6.** In the event that extensions are made to the said private road within the

aforesaid property, or to other property, or for utility access to other property, the costs of maintaining the entire road system shall be borne by all the record owners of any property served by the entire road system as set forth in Article 3; provided, however, that the initial costs of constructing any extension of the road shall be borne solely by the owners of the portion of said property abutting said road extension as they may agree, or if they do not agree, then among them by the same point system as set out above.

**Article 7.** This agreement shall remain in full force and effect as to said road or any portion thereof until such time as said road or any portion thereof shall be taken over by the North Carolina Department of Transportation or the Town of Vass for maintenance purposes, and any portion of said road not so taken over by the North Carolina Department of Transportation or the Town of Vass shall remain subject to this Agreement. Declarants accept all liability related to the use and maintenance of said road and agree to hold the Town of Vass, Moore County and the State of North Carolina harmless from such liability. Declarants acknowledge that some public services may not be provided to the lots abutting the said private road due to the private nature of said road.

**Article 8.** This agreement is to govern the maintenance of said road when subject to ordinary use. If any owner liable under this agreement shall cause any extraordinary wear and tear on said road by building, or other heavy use, said owner shall be responsible to pay such extraordinary costs of maintenance as is caused by said use. If the responsibility for such extraordinary costs of maintenance is not agreed between the owners at an owners' meeting called under the provisions of Article 3 above, the responsibility for said cost shall be subject to binding arbitration as set out in Article 3 above.

**Article 9.** This agreement shall run with and be appurtenant to the land and shall be binding upon the heirs, successors, and assigns of each record owner of the aforesaid property. When used in this agreement, the singular shall include the plural, the masculine shall include the feminine and the neuter, and vice versa, as the meaning may require.

**IN WITNESS WHEREOF,** Declarants have caused this instrument to be signed and sealed on the day and year first written above.

\_\_\_\_\_ (SEAL)

\_\_\_\_ (SEAL)

**STATE OF NORTH CAROLINA**  
\_\_\_\_\_ **COUNTY**

I, \_\_\_\_\_, a Notary Public of said \_\_\_\_\_ State and County, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing Declaration of Restrictions and Provisions for Private Road Maintenance.

Witness my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**STATE OF NORTH  
CAROLINA COUNTY OF  
MOORE**

I, \_\_\_\_\_, a Notary Public of said State and County, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing Declaration of Restrictions and Provisions for Private Road Maintenance.

Witness my hand and notarial seal this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

