

15 ADMINISTRATION

15.1 PURPOSE AND INTENT

In order to establish an orderly process to develop land within the jurisdiction of the City of Wilson consistent with standard development practices and terminology, it is the purpose of this chapter to provide a clear and comprehensible development process that is fair and equitable to all interests, including the applicants, affected neighbors, city staff and related agencies, and the City Council.

15.2 GENERAL PROVISIONS & APPLICABILITY

The provisions of this chapter shall be applicable to all development activity under the jurisdiction of the City of Wilson.

15.2.1 NO CONSTRUCTION TO COMMENCE WITHOUT PERMIT

No land shall be used or occupied, no use shall be established, and no structures shall be erected, modified, moved, extended, or enlarged, nor shall any excavation or filling of any lot for the construction of any building be initiated until the Administrator has issued an appropriate permit which will certify that the proposed work is in conformity with the provisions of this ordinance.

15.2.2 FEE SCHEDULE

As warranted, the city shall adopt as part of their annual budgeting process, a schedule of fees for application and processing as specified in this ordinance.

15.2.3 APPLICATION COMPLETENESS REVIEW

- A. Application Deadline:** Applications shall be submitted to the Administrator in accordance with a published calendar schedule indicating submittal dates. The Administrator may accept applications on other dates as available.
- B. Evidence of Authority:** The Administrator may require an applicant to present evidence of authority to submit the application.
- C. Application Filing Date:** An application shall be considered as “filed” or “submitted” on the date it is received if it is found to be complete and sufficient for processing by the Administrator.
- D. Application Sufficiency to be Determined by the Administrator:** The Administrator shall review the application and accompanying evidence and thereafter determine if the application is complete and sufficient for processing. The presumption shall be that all of the information required for an application to be considered complete and sufficient for processing is outlined in Section 15.4, according to the appropriate permit type, and in the “Application Submittal Requirements” list on file in the 8. However, it is recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. In general, an application shall be complete and sufficient for processing when it contains all of the information necessary to decide whether or not the development as proposed will comply with all of the requirements of this ordinance.
- E. Application Processing:** Applications deemed to be sufficient for processing shall be scheduled for review in accordance with the Permit/Process Type Table below (Section 15.2.4). If, in the opinion of the Administrator, a submittal at any stage of review is incomplete, the application shall be removed from the agenda of the appropriate board/commission and not further processed until deemed complete

and sufficient for processing. At any stage of review, the Administrator or any city board or commission, may require, at the applicant's expense, the submission of any plan, study or other information, in addition to that specified in the submittal requirements, in order to determine the development as proposed will comply with all of the requirements of this ordinance.

15.2.4 PERMIT/PROCESS TYPE TABLE

Permit/ Process Type	Section	Permit/ Process Type	Reviewing Agency	Public Notification (See 15.3)	Approving Agency	Appeal Process	Permit Period	Permit Extension
Development Compliance Certificate	15.6.1	Administrative	Admin	None	Admin	BOA	1 year	6 months
Temporary Use Permit	15.6.2	Administrative	Admin	None	Admin	BOA	See 3.12	n/a
Certificate of Occupancy	15.6.3	Administrative	Admin	None	Admin	BOA	n/a	n/a
Modification of Dimensional Standards	15.6.4	Administrative	Admin	None	Admin	BOA	n/a	n/a
Grading Permit	15.7.1	Administrative	Admin	None	Admin	BOA	3 years	Re-submit
Erosion Control Plan	15.7.2	Administrative	Admin	None	Admin	Admin, NCSCC	3 years	Re-submit
Floodplain Development Permit	15.7.3	Administrative	Admin	None	Admin	BOA	1 year	Re-submit
Watershed Development Permit	15.7.4	Administrative	Admin	None	Admin	BOA	1 year	1 year
Stormwater Management Permit	15.7.5	Administrative	Admin	None	Admin	BOA	1 year	1 year
SFHCA Amendment	15.7.6	Administrative	Admin	None	Admin	BOA	n/a	n/a
Site Plan/Design Review (Minor)	15.8.1	Administrative	TRC	None	TRC	BOA	1 year	1 year
Site Plan/Design Review (Major)	15.8.2	Quasi-Judicial	TRC	Yes (1, 2)	P&DRB	SC	1 year	1 year
Subdivision (Minor & Recombination)	15.9.1	Administrative	TRC	None	TRC	BOA	180 days to record Plat	180 days
Subdivision (Major) – Preliminary Plan	15.9.2	Administrative	TRC	None	TRC	BOA	2 years to Final Plat	1 year
Subdivision (Major) – Final Plat	15.9.3	Administrative	TRC	None	TRC	BOA	180 days to record Plat	180 days
Special Use Permit	15.10	Quasi-Judicial	BOA	Yes (1, 3)	BOA	SC	2 years	6 months
Designation of Historic Landmarks	15.11.1	Legislative	HPC	Yes (1, 2, 3)	City Council	SC	n/a	n/a
Designation of Historic Districts	15.11.2	Legislative	HPC, P&DRB	Yes (1, 2, 3)	City Council	SC	n/a	n/a
Certificate of Appropriateness (Major Works)	15.11.3	Quasi-Judicial	Admin	Yes (1, 3)	HPC	BOA	12 months	Subject to Admin
Certificate of Appropriateness (Minor Works)	15.11.4	Administrative	Admin	None	Admin	HPC	12 months	Subject to Admin
Appeal of Historic Preservation Decision	15.11.5	Quasi-Judicial	HPC	Yes (1, 3)	HPC	BOA	30 days to Appeal	n/a
Appeal of Administrative Decision	15.12	Quasi-Judicial	BOA	Yes (1, 3)	BOA	SC	30 days to Appeal	n/a
Variance	15.13	Quasi-Judicial	BOA	Yes (1, 3)	BOA	SC	30 days to Appeal	n/a
Text Amendment	15.14	Legislative	P&DRB	Yes (1, 2)	City Council	SC	n/a	n/a
Map Amendment (Rezoning)	15.14	Legislative	TRC, P&DRB	Yes (1, 3)	City Council	SC	n/a	n/a
Conditional District	15.15	Legislative	P&DRB	Yes (1, 2, 3)	City Council	SC	May be rescinded after 2 years	n/a
Vested Right	15.16	Legislative	P&DRB	Yes (1, 2)	City Council	None	2-5 years	Up to 5 years total

Admin – Administrator (14.1) | City Council (14.2) | TRC – Technical Review Committee (14.3) | P&DRB – Planning & Design Review Board (14.4) | BOA – Board of Adjustment (14.5) | HPC – Historic Preservation Commission (14.6) | NCSCC – North Carolina Sedimentation Control Commission | SC – Superior Court of North Carolina

15.3 PUBLIC NOTIFICATION

The following procedures have been established for development applications/petitions that require notification of the public prior to consideration and/or approval.

15.3.1 LEVEL 1 – SUNSHINE LIST

- A. **Required Notification Type:** A notice of the pending application/meeting shall be posted in a prominent location in City Hall and on the city's web site, and a notice of such meeting shall be sent to each person and media provider that has filed a written request for notice with the City Clerk. Non-media members may join this list on an annual renewal basis beginning January 1 of each year. Members of this distribution list must renew their participation in this distribution on an annual basis.
- B. **Delivery Method:** Notices shall be distributed by email unless otherwise stipulated by members of the list. Non-media members shall be charged an annual fee (as set in the fee schedule) to receive notices by any method other than e-mail.
- C. **Required Period of Notice:** This notice shall be posted and mailed, e-mailed, or delivered at least 24 hours before the time of the meeting.

15.3.2 LEVEL 2 – GENERAL NOTICE IN NEWSPAPER

- A. **Required Notification Type / Delivery Method:** The city shall publish a notice in a newspaper of general circulation in the city. The notices shall include the time, place and date of the hearing/meeting and include a description of the property and the nature of the proposal. Map Amendments (Rezoning) are exempt from this public notification per NCGS 160D-602.
- B. **Required Period of Notice – Historic Preservation Commission Hearings:** For hearings before the Historic Preservation Commission, the city shall publish 1 notice at least 7 calendar days prior to the date fixed for the public hearing.
- C. **Required Period of Notice – All Other Hearings:** For hearings before bodies other than the Historic Preservation Commission, the city shall publish a notice once a week for 2 successive weeks. The first publication shall appear at least 10 and no more than 25 calendar days prior to the date fixed for the public hearing.

15.3.3 LEVEL 3 – NOTIFICATION TO AFFECTED & ADJACENT PROPERTY OWNERS

A. Mailed Notice

1. **Required Notification Type:** The city shall serve notice by first class mail of the hearing/meeting to each of the following: owners of all property affected by a pending action, all abutting properties as identified by the county tax records, all properties within 100 feet on all sides of the subject property (including across any adjacent streets), and any neighborhood organization registered with the Human Relations Office of the City of Wilson whose jurisdiction is within 500 feet of the affected properties. The notices shall include the time, place and date of the hearing/meeting and include a description of the property and the nature of the proposal.
2. **Required Period of Notice – Historic Preservation Commission Hearings:** For hearings before the Historic Preservation Commission, the notification shall be published at least 7 calendar days prior to the date of the meeting at which the matter is to be heard.
3. **Required Period of Notice – All Other Hearings:** Such notification shall be postmarked at least 10 and no more than 25 calendar days prior to the date of the meeting at which the matter is to be heard.

- B. Published Notice – Full Community Notification:** As an alternative, to the mailed notice requirements in the above paragraph, the city may elect to serve notice through a full community notification for pending actions that affect at least 50 properties with at least 50 different property owners.
- 1. Required Notification Type:** The city shall publish notice of the hearing/meeting in a newspaper of general circulation in the city. Two advertisements shall be published in separate calendar weeks. Each advertisement shall not be less than $\frac{1}{2}$ of a newspaper page in size.
 - 2. Mailed Notice Required Outside Newspaper Circulation Area:** The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail.
- C. Posted Notice:** In addition to providing mailed notice or published notice, as required in paragraphs A and B above, the city shall place a sign in a prominent location on the subject property(ies) or on an adjacent public street or highway right-of-way with a notice of the pending action and a phone number and email address to contact for additional information.
- D. Additional Requirements for Third Party Re-Zonings:** Except for a city-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the City Council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The applicant shall certify to the City Council that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud. If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. §7502(f)(2), notice may be given by publication consistent with N.C.G.S. 1A-1, Rule 4(j1).

15.3.4 NEIGHBORHOOD MEETING

Neighborhood meetings are optional, but may be encouraged by the Administrator for certain applications prior to any public hearing or review by a board or commission. Neighborhood meetings allow the applicant to explain the proposed project and hear the concerns of the neighborhood. When conducted, the applicant is responsible for giving public notification for the meeting as specified by the Administrator. A summary of the meeting in the form of meeting notes or minutes along with a list and contact information for all attendees shall be submitted to the Administrator and/or the appropriate board or commission for their review.

15.4 APPLICATION REQUIREMENTS

The following general standards for various applications are intended to require only that data/information necessary to render an informed decision by the reviewing agency. The city has determined that it is unnecessary to require a full set of architectural or engineering drawings for review by the various review and decision-making boards unless the application is such that a specific level of detail is necessary (e.g., floodplain/stormwater variance). The “Application Submittal Requirements” list on file in the Development Services Department is intended to provide further guidance to applicants as to the necessary level of detail for each application component listed below.

Permit/ Process Type	Section	Site Analysis (15.4.1)	Sketch Plan * (15.4.2)	Preliminary Plan (15.4.3)	Construction Documents (15.4.4)	As-Built Drawings (15.4.5)	Final Plat (15.4.6)	Building Elevations (15.4.7)	Sedimentation & Erosion Control Plan (15.4.8)	Floodplain Development Plan (15.4.9)
Development Compliance Certificate	15.6.1		X(a)							
Temporary Use Permit	15.6.2		X(a)							
Certificate of Occupancy	15.6.3	See Administrator								
Modification of Dimensional Standards	15.6.4		X							
Grading Permit	15.7.1	X(a)			X				X(a)	
Sedimentation & Erosion Control Plan	15.7.2								X	
Floodplain Development Permit	15.7.3	X(a)			X	X				X
Watershed Development Permit	15.7.4	X(a)		X (a)	X (a)	X	X (a)			
Stormwater Management Permit	15.7.5	X(a)		X (a)	X (a)	X	X (a)			
SFHCA Amendment	15.7.6	See Administrator								
Site Plan/Design Review (Minor)	15.8.1	X(a)		X	X			X (a)		
Site Plan/Design Review (Major)	15.8.2	X	X(a)	X	X	X		X (a)		
Subdivision (Minor & Recombination)	15.9.1		X(a)				X			
Subdivision (Major) – Preliminary Plan	15.9.2	X	X(a)	X	X					
Subdivision (Major) – Final Plat	15.9.3					X	X			
Special Use Permit	15.10	X(a)		X				X (a)		
Designation of Historic Landmarks	15.11.1	See Administrator								
Designation of Historic Districts	15.11.2	See Administrator								
Certificate of Appropriateness (Major Works)	15.11.3		X (a)					X (a)		
Certificate of Appropriateness (Minor Works)	15.11.4		X (a)					X (a)		
Appeal of Historic Preservation Decision	15.11.5	See Administrator								
Appeal of Administrative Decision	15.12	See Administrator								
Variance	15.13	See Administrator								
Text Amendment	15.14	See Administrator								
Map Amendment (Rezoning)	15.14	See Administrator								
Conditional District	15.15	X(a)		X						
Vested Right	15.16			X						

X - Required | X(a) – on an “as needed” basis as determined by the Administrator

*Sketch Plans shall be reviewed as binding documents for Development Compliance Certificates (Zoning Permits), and for any other permits or approvals for which the Administrator requires only a Sketch Plan to be submitted with the application. Sketch Plans shall be used for non-binding review for all other development application processes in which they are required.

15.4.1 SITE ANALYSIS

A site analysis is intended to identify forest stands or trees of a uniform size and species; specimen trees of varying sizes and species, particularly free standing or open-grown or field grown trees; a distinctive tree line or forest edge; existing watercourses; previously documented Federally and State recognized endangered species habitats; and historic or culturally significant areas. Identification of existing trees, understory vegetation, wetlands, perennial streams, floodplains, and topographical features on a site prior to the advanced preparation of development plans enables the reasonable and practical planned preservation of existing and environmentally sensitive areas. This requirement provides the city and the applicant the ability to evaluate the proposed development in order to preserve vegetation, to improve the appearance of the development proposed and to encourage the use of the existing forest and tree canopy, specimen trees, and significant vegetation to satisfy the requirements of this ordinance. It is the expectation that readily available spatial data, including GIS information, will be sufficient for this survey.

15.4.2 SKETCH PLAN

The Sketch Plan shall show in simple line drawing form the proposed layout of streets, lots, buildings, civic spaces and other features in relation to existing conditions based upon the size of the tract proposed for development. Sketch Plans used for Certificates of Appropriateness shall also indicate the type, size and design of materials proposed and also the construction techniques to be used. Sketch Plans shall be reviewed as binding documents for Development Compliance Certificates (Zoning Permits), Certificates of Appropriateness (Major and Minor), and for any other permits or approvals for which the Administrator requires only a Sketch Plan to be submitted with the application. Sketch Plans shall be used for non-binding review for all other development application processes in which they are required.

15.4.3 PRELIMINARY PLAN

The Preliminary Plan is intended to provide a detailed two-dimensional drawing that illustrates all of the required site features including buildings, parking areas, streets locations, street sections, conceptual size and location of on-site stormwater facilities, rights-of-way, easements, property lines and setbacks, required or proposed watercourse buffers, site landscaping and lighting (in conceptual form), and all related development calculations (e.g., density, proposed building areas, number of parking spaces, impervious surface allocation, etc.) in sufficient detail to show compliance with this ordinance. Detailed engineering drawings such as subsurface utilities (e.g., water and sewer) and on-site stormwater facilities are not required for Preliminary Plans. Preliminary Plans shall be prepared by a licensed professional land surveyor, licensed architect, licensed landscape architect or licensed engineer. This is a site-specific vesting plan per G.S. 160D -108.1.

15.4.4 CONSTRUCTION DOCUMENTS

The Construction Documents for Site Plans and Subdivision Plans shall constitute a full and complete set of engineered drawings necessary for final permitting and construction. All streets, utilities, and stormwater, and other infrastructure systems shall be designed and constructed in accordance with the adopted Manual of Specifications, Standards and Design. Construction Documents shall be prepared by a licensed professional land surveyor, licensed architect, licensed landscape architect or licensed engineer.

15.4.5 AS-BUILT DRAWINGS

The “as-built” plans shall show the final design specifications for all public infrastructure in accordance with the current version of the City of Wilson Manual of Specifications, Standards and Design (MSSD). The designer of the infrastructure shall certify, under seal, that the installed infrastructure is in compliance with the approved plans and designs and with the requirements of this ordinance. A final inspection and approval by the Administrator shall occur before the release of any performance securities. As-Built Drawings shall be prepared by a licensed professional land surveyor, licensed architect, licensed landscape architect or licensed engineer.

15.4.6 FINAL PLAT

The final plat shall be prepared by a registered land surveyor, licensed to practice in the State of North Carolina and shall meet the requirements of the Wilson County Register of Deeds Office. The final plat shall constitute an accurate survey of the entire phase as shown on the approved preliminary plan and shall include all the relevant notes and certifications.

15.4.7 BUILDING ELEVATIONS FOR DESIGN REVIEW

In order to reasonably evaluate the building, it is necessary to submit scaled drawings of each elevation visible from a public street or civic space. These drawings should be in color and should accurately represent the building heights, floor levels, and building materials, and should include written identification of building materials. In addition, the Administrator may require up to 3 drawings from different perspectives that will show how the building fits into the context of the block. Elevations for Certificates of Appropriateness are not required to be in color and should focus on illustrating the proposed changes in relation to the existing structure.

15.4.8 SEDIMENTATION AND EROSION CONTROL PLAN

The Sedimentation and Erosion Control Plan shall constitute a full and complete set of engineered drawings necessary for the issuance of a grading permit to assure that land-disturbing activity undertaken in the City of Wilson does not result in accelerated erosion and sedimentation. The Sedimentation and Erosion Control Plan shall be submitted in accordance with Section 15.7.2.

15.4.9 FLOODPLAIN DEVELOPMENT PLAN

A plot plan drawn to scale shall be submitted to the Administrator in accordance with Section 15.7.3 prior to any development activities proposed to be located within flood prone areas.

15.5 GENERAL REQUIREMENTS FOR QUASI-JUDICIAL HEARINGS AND DECISIONS

A quasi-judicial decision is a process that involves the finding of facts regarding a specific application of an ordinance and the exercise of discretion when applying the standards of the ordinance. Quasi-judicial decisions include decisions involving variances, special use permits, and appeals of administrative determinations. In accordance with N.C.G.S. 160D-406, decisions on the approval of site plans and subdivisions are quasi-judicial in nature if the ordinance authorizes a decision-making board or commission to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the ordinance, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings of fact to be made by the decision-making board. As a result, the following standard procedures shall be incorporated to guide all quasi-judicial proceedings as appropriate.

15.5.1 STANDARDS FOR CONDUCT OF QUASI-JUDICIAL HEARINGS

- A. Contact with Decision-Making Board Members:** Contact with any members of a decision-making Board prior to the public hearing by any individual regarding the matter is prohibited.
- B. All Participants to be Sworn In:** All participants in the public hearing shall be duly sworn in prior to the submission of any testimony.
- C. Competent Evidence Required:** All decisions shall be based on competent evidence entered in as part of the record. The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making Board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) the evidence was admitted without objection, or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making Board to rely upon it. The term "competent evidence," as used in this subsection, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:
 - 1. The use of property in a particular way would affect the value of other property.
 - 2. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.
 - 3. Matters about which only expert testimony would generally be admissible under the rules of evidence.
- D. Cross-Examination Permitted:** The cross-examination of witnesses submitting testimony shall be permitted upon request.
- E. Calculation of Majority Vote:** The required majority necessary to rule in the affirmative on a quasi-judicial proceeding shall be as follows:
 - 1. A simple majority is required to rule in the affirmative on Special Use Permits, Major Site Plans/Design Review and Certificates of Appropriateness.
 - 2. A 4/5 majority shall be required to rule in the affirmative on Appeals of Administrative Decision and Variances.
 - 3. Absent members, vacant positions on boards/commissions, and members who are disqualified from voting on a quasi-judicial matter, shall not be considered members of the board/commission for the purposes of calculating the requisite majority.

15.5.2 STANDARDS FOR DECISIONS

Each decision-making Board under the provisions of this section shall ensure that the rights of applicants have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

- A.** In violation of constitutional provisions, including those protecting procedural due process rights.
- B.** In excess of the statutory authority conferred upon the city or the authority conferred upon the decision-making Board by ordinance.
- C.** Inconsistent with applicable procedures specified by statute or ordinance.
- D.** Affected by other error of law.

- E. Unsupported by substantial competent evidence in view of the entire record.
- F. Arbitrary or capricious.

15.5.3 RECORD OF DECISION

- A. The following shall become part of the official record of decision:
 - A detailing of the specific findings of fact made by the decision-making board;
 - Documents and exhibits submitted to the decision-making board;
 - Meeting minutes.
- B. **Transcript of Audio/Video of Meetings:** Any party may request, at their expense, a transcript of the proceedings from any recorded audio/video.

15.6 ADMINISTRATIVE PERMITS

15.6.1 DEVELOPMENT COMPLIANCE CERTIFICATE (DCC)

A Development Compliance Certificate (hereafter referred to as “Compliance Certificate”) shall be required for the construction or development of any new use within the land development jurisdiction of the City of Wilson, and any other site improvement as indicated in the UDO. In addition to new uses, a Compliance Certificate shall be required for expansions of existing uses, changes of use, and any uses permitted with special conditions (Chapter 3).

A. Applicability:

1. For the following application types, a Compliance Certificate development approval may be required:
 - a. Any residential development with fewer than 4 units (single-family, duplexes and triplexes).
 - b. Any uses permitted with special conditions.
 - c. Any permit involving the construction, enlargement, placement, or alteration of signage.
2. All other development in the City of Wilson shall require a Compliance Certificate in addition to other necessary approvals as outlined in this chapter.

B. Process Type: Administrative.

C. Pre-Application Procedure: No meeting is required but, applicants are encouraged to call or visit the Administrator prior to requesting a Compliance Certificate to determine what information is required for the application.

D. Required Application Information: Sketch Plan (15.4.2) and any other relevant information to show compliance (may be waived by Administrator as appropriate).

E. Determination of Conformity: Once an application is deemed complete by the Administrator, the Administrator shall review the application and approve or deny it based on compliance with the land development standards contained in this ordinance.

F. Public Notification: None required.

G. Appeals: Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.

- H. Permit Validity:** Upon the approval of the Compliance Certificate, the applicant shall have 1 year to obtain a building permit or otherwise begin the permitted use. Failure to secure building permits for the permitted work within this time shall render the compliance void. Upon issuance of a building permit, the Compliance Certificate shall remain valid as long as a valid building permit exists for the project. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the Compliance Certificate and any subsequent building permits.
- I. Permit Extension:** The Administrator may grant a single extension of this time period of up to 6 months upon submittal by the applicant of sufficient justification for the extension.

15.6.2 TEMPORARY USE PERMIT

A Temporary Use Permit is required for uses permitted in accordance with Section 3.12 prior to the commencement of any use or activity.

- A. Process Types:** Administrative.
- B. Pre-Application Procedure:** No meeting is required, but applicants are encouraged to call or visit the Administrator prior to requesting a Temporary Use Permit to determine what information is required for the application.
- C. Required Application Information:** Sketch Plan (15.4.2) and any other relevant information to show compliance (may be waived by Administrator as appropriate).
- D. Determination of Conformity:** Once an application is deemed complete by the Administrator, the Administrator shall review the application and approve, approve it with conditions, or deny it based on compliance with the land development standards contained in this ordinance.
- E. Public Notification:** None required.
- F. Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.
- G. Permit Validity:** See Section 3.12.
- H. Permit Extension:** See Section 3.12.

15.6.3 CERTIFICATE OF OCCUPANCY

Issuance of a Certificate of Occupancy (hereafter referred to as “CO”) shall be required prior to the occupancy or use of any new construction and re-occupancy or re-use of any renovation/rehabilitation in the City of Wilson. COs insure that a completed development project has complied with all the applicable requirements of the North Carolina Building Code and all other applicable federal, state and local regulations. COs must be signed by building inspections staff and the Administrator to certify compliance with applicable regulations.

- A. Process Type:** Administrative.
- B. Pre-Application Procedure:** Not required.
- C. Required Application Information:** None.
- D. Determination of Conformity:** Upon receipt of the request for a CO, the building official and Administrator shall inspect the project site for compliance with the approved site plan or subdivision plat and the applicable standards of this chapter and the North Carolina State Building Code. The applicant shall be notified of any deficiencies in the building(s) or site that prevents the issuance of the CO, otherwise

the CO shall be issued. If final improvements are complete for only a portion of the development, the Administrator, at his/her discretion, may grant a partial CO that allows for a proportional release of the development for occupation.

- E. Public Notification:** None required.
- F. Appeals:** Appeals of the decisions of the Administrator shall be heard by the North Carolina Department of Insurance.
- G. Permit Validity:** n/a.
- H. Permit Extension:** n/a.

15.6.4 ADMINISTRATIVE MODIFICATION

In keeping with the purpose of these regulations to accomplish coordinated, balanced, and harmonious development in a manner which will best promote the health, safety, and general welfare while avoiding undue and unnecessary hardships, the Administrator is authorized to approve certain requests for minor modifications to dimensional and/or design standards.

- A.** Process Type: Administrative.
- B.** Pre-Application Procedure: Not required.
- C.** Required Application Information: Sketch Plan (15.4.2) and any other relevant information to demonstrate undue and unnecessary hardship (may be waived by Administrator as appropriate).
- D.** Conditions for Modification of Setbacks: Requests for the deviation from required setbacks set forth in this ordinance by up to 10 percent of the required setbacks or 24 inches, whichever is greater, but no less than 12 inches, may be considered upon determination that one or more of the following conditions exists:
 - 1.** There are site or structural conditions that preclude strict adherence to the setback requirements, such as, but not limited to: the lot does not meet the dimensional standards established for the zoning district in which it is located; the lot has topographic limitations that require placement of the structure into the required setback area; or the structure is physically in line with an existing, legally-established wall or walls of a principal structure already within the minimum setback area.
 - 2.** The part of the proposed structure that would encroach into the minimum setback area is less than 50% of the width of the affected building facade(s), provided the part of the structure that would encroach into a front setback shall either be open (such as a porch or screen room) or not subject to occupancy (such as a chimney).
 - 3.** The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety code, flood hazard reduction, Americans with Disabilities Act standard, or other public safety code requirements.
 - 4.** The proposed structure will allow the preservation of significant existing vegetation.
 - 5.** A good faith error was made in the location of a building foundation not exceeding 24 inches due to either field construction or survey error.

- E. Conditions for Dimensional Modification other than Setbacks:** Requests for a deviation from a dimensional maximum may be granted if the “size” of the deviation is equal to or less than 10% of the maximum allowed.
- F. Conditions for other Minor Modifications:** The Administrative Official is authorized to review and approve administratively a minor modification to an approved Development Permit, subject to the following limitations:
- 1. General Limitations.** The minor modification:
 - a. Does not involve a change in uses permitted or the density of overall development permitted;
 - b. Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and
 - c. Meets all other ordinance requirements.
 - 2. Site Design.** Site design minor modifications are limited adjustments to the terms or design of an approved development plan or plat, including site plan attached as a condition to a conditional zoning or special use permit. In addition to the general limitations for minor modifications, a site design minor modification must:
 - a. Comply with underlying zoning standards and other applicable conditions of the approval;
 - b. Be limited to a minor change such as, without limitation, a minor adjustment to road configuration or internal circulation, a minor adjustment to building location, or a minor adjustment to utility alignment.
- G. Limitation on Administrative Discretion:** The Administrator has no discretion to modify any requirements found in Chapter 3.
- H. All Decisions to be in Writing:** Prior to rendering a decision, the Administrator shall notify the City Manager in writing of any minor deviation for approval.
- I. Administrative Authority is Permissive Only:** The authority given to the Administrator to grant such modification shall be construed to be permissive and not mandatory, and the Administrator may decline to make such modification. In the event denial occurs, the applicant shall have the right to submit an application to the Board of Adjustment to grant a variance to these requirements in accordance with Section 15.13. Nothing in this section shall be construed as limiting the Administrator's duties and rights under this chapter, or an applicant's right to apply for a variance.

15.7 ENVIRONMENTAL PROTECTION PERMITS

15.7.1 GRADING PERMIT

- A. Applicability:** To assure that land-disturbing activity undertaken in the City of Wilson does not result in accelerated erosion and sedimentation, no such land-disturbing activity shall take place until plans for controlling erosion associated with the activity have been reviewed and approved in accordance with the procedures set forth below. Land-disturbing activity on development 1 acre or greater in area shall also require approval of a Sedimentation and Erosion Control Plan according to the procedures set forth in Section 15.7.2.

- B. Process Type:** Administrative.
- C. Pre-Application Procedure:** Prior to applying for a Grading Permit and submitting plans, the applicant is required to meet with the Administrator. The purpose of this meeting is to discuss the project, the proposed land development strategies, and to answer questions of the applicant regarding the application and schedules for review.
- D. Required Application Information:** Site Analysis (15.4.1) (may be waived by Administrator as appropriate) & Construction Documents (15.4.4). For applications involving development of 1 acre or greater a Sedimentation and Erosion Control Plan shall also be required according to the review and approval procedures set out for such plans in Section 15.7.2.
- E. Determination of Conformity:** Following submittal of the application and accompanying data, the information shall be reviewed by the Administrator for compliance with the requirements of this ordinance. Once an application is deemed complete and accepted by the Administrator it shall be reviewed and acted on within 30 days of the date it is accepted.
- F. Public Notification:** None required.
- G. Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12 at its next regularly scheduled meeting, but not less than 21 days, after receipt of written notice of disapproval or conditional approval that is unsatisfactory to the applicant. Appeals from the decision of the Board of Adjustment may be taken to the North Carolina Sedimentation Control Commission as provided in NCGS 113A-61(c).
- H. Permit Validity:** When work under a Grading Permit is not initiated within 3 years following the date of issuance of the Grading Permit, the Grading Permit shall be deemed expired.
- I. Permit Extension:** Renewal of an expired Grading Permit shall require the same application procedure as the initial permit. No further grading is to be performed until the new permit is issued.

15.7.2 SEDIMENTATION AND EROSION CONTROL PLAN

- A. Applicability:** To assure that land-disturbing activity undertaken in the City of Wilson does not result in accelerated erosion and sedimentation, no such land-disturbing activity on development 1 acre or greater in area shall take place until plans for controlling erosion associated with the activity have been reviewed and approved in accordance with the procedures set forth below.
- B. Process Type:** Administrative.
- C. Pre-Application Procedure:** Prior to submitting a Sedimentation and Erosion Control Plan, the applicant is required to meet with the Administrator. The purpose of this meeting is to discuss the project, the proposed land development strategies, and to answer questions of the applicant regarding the application and schedules for review.
- D. Required Application Information:** A Sedimentation and Erosion Control Plan shall be presented to the Administrator according to the following provisions:
 - 1. Plan Submission:** Three copies of the plan shall be filed with the Administrator and 1 copy shall be simultaneously submitted to the Wilson

County Soil and Water Conservation District at least 30 days prior to the commencement of the proposed activity.

2. **Financial Responsibility and Ownership:** Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his registered agent. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible, the owner of the land, and any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the erosion and sedimentation control plan, the North Carolina Sedimentation Pollution Control Act of 1973, this section, or rules or orders adopted or issued pursuant to this section. If the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity
 3. **Environmental Policy Act Document:** Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (NCGS 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The city shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to this section shall not begin until a complete environmental document is available for review.
 4. **Content:** The plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this article. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the city on request.
- E. **Wilson County Soil and Water Conservation District comments:** The Wilson County Soil and Water Conservation District shall review the Erosion and Sedimentation Control Plan and submit any comments and recommendations to the Administrator within 20 days after the district receives the plan, or within any shorter period of time as may be agreed upon by the district and the Administrator. Failure of the district to submit its comments and recommendations within 20 days or within any agreed-upon shorter period of time shall not delay final action on the plan.
- F. **Determination of Conformity:** The Administrator will review each complete application, and within 30 days of receipt thereof, will notify the person submitting the application that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a complete application within 30 days of receipt shall constitute approval. The Administrator will review revised applications and, within 15 days of receipt thereof, will notify the person submitting the application that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve, approve with modifications, or disapprove a revised application within 15 days of receipt shall constitute approval.
- G. **Public Notification:** None required.
- H. **Approvals:** The Administrator shall only approve a Sedimentation and Erosion

Control Plan upon determining that the application complies with all applicable state and local regulations for erosion and sedimentation control. The Administrator shall condition approval of plans upon the applicant's compliance with federal and state water quality laws, regulations and rules. Approved Sedimentation and Erosion Control Plans shall be prominently displayed until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved Erosion and Sedimentation Control Plan shall be kept on file at the job site.

- I. Disapproval for Content:** The Administrator may disapprove a Sedimentation and Erosion Control Plan if its content doesn't meet the standards of this ordinance. Such determination shall specifically state in writing the reasons for the disapproval.
- J. Other Disapprovals:** The Administrator may disapprove a Sedimentation and Erosion Control Plan for certain other reasons as specified below. For purposes of this subsection, an applicant's record may be considered for only the 2 years prior to the application date. In the event that a plan is disapproved pursuant to this subsection, the Administrator shall notify the Director of the NCDENR Division of Land Resources of such disapproval within 10 days. The Administrator shall advise the applicant and the director in writing as to the specific reasons that the plan was disapproved. The reasons for disapproval pursuant to this subsection are as follows:
1. The implementation of the Sedimentation and Erosion Control Plan would result in a violation of the rules adopted by the North Carolina Sedimentation Control Commission to protect riparian buffers along surface waters.
 2. The applicant (or a parent, subsidiary or other affiliate of the applicant) is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the commission or a local government pursuant to the Sedimentation Control Act and has not complied with the notice within the time specified in the notice.
 3. The applicant (or a parent, subsidiary or other affiliate of the applicant) has failed to pay a civil penalty assessed pursuant to the Sedimentation Control Act or a local ordinance adopted pursuant to the Sedimentation Control Act by the time the payment is due.
 4. The applicant (or a parent, subsidiary or other affiliate of the applicant) has been convicted of a misdemeanor pursuant to NCGS 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Sedimentation Control Act.
 5. The applicant (or a parent, subsidiary or other affiliate of the applicant) has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to the Act.
- K. Initiation of Land-Disturbing Activity:** No person may initiate a land-disturbing activity before notifying the agency that issued the plan approval of the date that land-disturbing activity will begin.
- L. Preconstruction Conference:** When deemed necessary by the approving authority a preconstruction conference may be required.
- M. Display of Plan Approval:** A plan approval issued under this section shall be prominently displayed until all construction is complete, all permanent sedimentation and erosion control measures are installed and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.

- N. Required Revisions:** After approving a Sedimentation and Erosion Control Plan, if the city, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the city shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved plan, the city determines that the plan is inadequate to meet the requirements of this article, the city may require any revision of the plan that is necessary to comply with this article.
- O. Amendment to a Plan:** Applications for the amendment of a Sedimentation and Erosion Control Plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Administrator, the land-disturbing activity shall not proceed except in accordance with the application as originally approved.
- P. Failure to File a Plan:** Any person engaged in land-disturbing activity who fails to file a plan in accordance with this section, or who conducts a land-disturbing activity except in accordance with provisions of an approved Sedimentation and Erosion Control Plan shall be deemed in violation of this ordinance.
- Q. Self Inspections:** The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with NCGS 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by NCGS 113A-61.1.
- R. Appeals:** In the event that an application is disapproved pursuant to Section 15.7.2.J, the applicant may appeal the disapproval directly to the North Carolina Sedimentation Control Commission. Other disapprovals shall be governed by the following provisions:
1. The disapproval or modification of any proposed plan by the city, shall entitle the person submitting the plan to a hearing before the Public Services Director or his/her designee if such person submits written demand for a hearing within 15 business days after receipt of written notice of disapproval of a plan or disapproval of modifications.
 2. A hearing held pursuant to this section shall be conducted by the city within 15 days after the date of the appeal or request for a hearing.
 3. After conducting the hearing, the Public Services Director or his/her designee shall issue an order upholding, reversing, or modifying the original decision. If the appealing party, following notice thereof, fails to appear at said hearing and has not contacted the stormwater management office to request a rescheduling, the appeal will be dismissed and the original decision upheld.

4. The order of the Public Services Director or his/her designee may be appealed in writing within 10 business days after receipt of written notice of the decision. Such appeals are to be heard by the City Council.
 5. Appeal from the decision of the city council shall be to the commission as provided in NCGS 113A-61(c) and 15A NCAC 4B .0118(d)
- S. Permit Validity:** When work under an approved Sedimentation and Erosion Control Plan is not initiated within 3 years following the date of approval, the plan shall be deemed expired.
- T. Permit Extension:** Renewal of an expired Sedimentation and Erosion Control Plan shall require the same application procedure as the initial plan. No further grading is to be performed until the new plan is approved.

15.7.3 FLOODPLAIN DEVELOPMENT PERMITS

No approval shall be granted for construction in a Flood Hazard Area Overlay District, as outlined in Section 2.8, without the issuance of a Floodplain Development Permit.

- A. Process Type:** Administrative.
- B. Permit Required Before Any Land Disturbing Activity:** No land-disturbing activity shall take place in areas designated as Flood Hazard Area Overlay Districts until plans associated with the activity have been reviewed and approved in accordance with the procedures set forth below.
- C. Pre-Application Procedure:** Applicants are encouraged to meet with the Administrator prior to submitting an application for development in the designated flood hazard area. The purpose of this meeting is to discuss the project, the proposed design strategies, and to answer questions of the applicant regarding the application and schedules for review.
- D. Required Application Information:** Site Analysis (15.4.1) (may be waived by Administrator as appropriate), Construction Documents (15.4.4) and a Floodplain Development Plan as outlined in 15.7.3.E below.
- E. Floodplain Development Plan:** In addition to the information required in Section 15.7.2.D. above, a Floodplain Development Plan with the following specific items/information shall be presented to the Administrator in an application for a Floodplain Development Permit:

1. Plan Information Requirements

- a. A plot drawn to scale which includes, but is not limited to, the following specific details of the proposed floodplain development:
 - i. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, existing and proposed infrastructure, the location of utility systems, proposed grading/pavement areas, fill materials, storage areas, drainage facilities, and other proposed development;
 - ii. The boundary of the special flood hazard area as delineated on the Federal Emergency Management Agency: Flood Insurance Rate Map (FIRM) or other flood map, or a statement that the entire lot is within the Special Flood Hazard Area;
 - iii. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map;

- h.** If a Floodplain Development Permit is issued for the placement of recreational vehicles and/or temporary structures, documentation to ensure Section 12.4.2.B.6-7 of this ordinance are met; and
- i.** If a watercourse is proposed to be altered and/or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

2. Certification Requirements

- a.** An elevation certificate (FEMA Form 086-0-33) or floodproofing certificate (FEMA Form 086-0-34) is required after the lowest floor is completed. Within 7 calendar days of establishment of the reference level elevation, or floodproofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, or floodproofed elevation, whichever is applicable in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 7 day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the certification or failure to make said corrections required shall be cause to issue a stop-work order for the project.
- b.** A final as-built elevation certificate (FEMA Form 086-0-33) or floodproofing certificate (FEMA Form 086-0-34) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation or floodproofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a certificate of compliance/occupancy.
- c.** If a manufactured home is placed within an A, AO, AE, or A1-30 zone and the elevation of the chassis is above 36 inches in height, an engineered foundation certification is required.

- d. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a Floodplain Development Permit.
- 3. Certification Exemptions:** The following structures, if located within A, AO, AE or A1-30 zones, as designated on the FIRM, are exempt from the elevation and floodproofing certification requirements specified above:
- a. Recreational vehicles meeting requirements of Section 12.4.2.B.6.a;
 - b. Temporary structures meeting requirements of Section 12.4.2.B.7; and
 - c. Accessory structures less than 150 square feet meeting requirements of Section 12.4.2.B.8.
- F. Determination of Conformity:** Following submittal of the application and accompanying data, the information shall be reviewed by the Administrator for compliance with the requirements of this ordinance. Once an application is deemed complete and accepted by the Administrator it shall be reviewed and acted on within 30 days of the date it is accepted. If the Administrator finds that the application fails to comply with the standards of this ordinance, the Administrator shall notify the applicant in writing, and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application. An approved Floodplain Development Permit shall include the following information:
- 1. A description of the development to be permitted under the floodplain development permit issuance;
 - 2. The special flood hazard area determination for the proposed development per available data;
 - 3. The regulatory flood protection elevation required for the lowest floor and all attendant utilities;
 - 4. The regulatory flood protection elevation required for the protection of all public utilities;
 - 5. All certification submittal requirements with timelines;
 - 6. State that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, if applicable;
 - 7. If in an A, AO, AE or A1-30 zone, specify the minimum foundation opening requirements; and
 - 8. State limitations of below BFE enclosure uses (if applicable) (i.e., parking, building access and limited storage only).
- G. Public Notification:** None required.
- H. Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.
- I. Permit Validity:** Floodplain Development Permits shall be valid for 1 year following the date of issuance. Failure to initiate construction, or otherwise begin the permitted use, within this time period shall render the permit void.

- J. Permit Extension:** Renewal of an expired Floodplain Development Permit shall require the same application procedure as the initial permit. No further development activity is to be performed until the new permit is issued.
- K. As-Builts Required:** After final construction of a project, and before a CO shall be granted, the applicant shall certify that the completed project is in accordance with the approved plans and designs, and shall submit actual “as built” plans (15.4.5) prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. No CO shall be granted without completed as-built plans.

15.7.4 WATERSHED DEVELOPMENT PERMITS

To ensure that development in the city does not result in adverse impacts to the city’s water supply, no approval shall be granted for development in a Watershed Protection Overlay District, as outlined in Section 2.8, without the issuance of a Watershed Development Permit.

- A. Process Type:** Administrative.
- B. Pre-Application Procedure:** Applicants are encouraged to meet with the Administrator prior to submitting an application for development in the designated watershed protection area. This pre-submittal meeting should take place prior to the submission of a Preliminary Plan or other early step in the development process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project and to assess constraints, opportunities and potential approaches to stormwater management design before formal site design engineering is commenced. To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:
 - 1. Existing conditions / proposed site plans;
 - 2. Natural resources inventory;
 - 3. Stormwater management system concept plan.
- C. Required Application Information:** Site Analysis (15.4.1) & Construction Documents (15.4.4) (may be waived by Administrator as appropriate). An approved Site Plan (15.8.1 and 15.8.2) or Final Plat (15.9.1 and 15.9.3) may also be required as appropriate.
- D. Determination of Conformity:** Following submittal of the application and accompanying data, the information shall be reviewed by the Administrator for compliance with the requirements of this ordinance. Once an application is deemed complete and accepted by the Administrator it shall be reviewed and acted on within 30 days of the date it is accepted. If the Administrator finds that the application fails to comply with the standards of this ordinance, the Administrator shall notify the applicant in writing, and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.
- E. Public Notification:** None required.
- F. Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.
- G. Permit Validity:** An issued permit shall become null and void if the applicant fails to secure a building permit, record a final plat or initiate construction on the site within 1 year after the date of approval. In addition, when a Watershed Development Permit is issued in association with a Preliminary Plan or Final Plat,

the Watershed Development Permit shall expire if said plan expires, is significantly modified, or is revoked.

- H. Permit Extension:** The Administrator may grant a single extension of this time limit of 1 year, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan. In granting an extension, the Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.
- I. As-Builts Required:** After final construction of a project is completed, and before a Certificate of Occupancy is granted, the applicant shall certify that the post-construction stormwater management measures have been completed in accordance with the approved plans and designs by submitting actual "as-built" plans (15.4.5) prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. No Certificate of Occupancy shall be granted without completed as-built plans.

15.7.5 STORMWATER PERMITS

To ensure that development in the city does not result in increased stormwater runoff which adversely impacts adjacent property, no development to which this ordinance applies, shall be commenced without the issuance of a Stormwater Permit by the Administrator.

- A. Process Type:** Administrative.
- B. Pre-Application Procedure:** Applicants are encouraged to meet with the Administrator prior to submitting an application for development. This pre-submittal meeting should take place prior to submission of an application for the preliminary plan of the subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:
1. Existing conditions / proposed site plans;
 2. Natural resources inventory;
 3. Stormwater management system concept plan.
- C. Required Application Information:** Site Analysis (15.4.1) & Construction Documents (15.4.4) (may be waived by Administrator as appropriate). An approved Site Plan (15.8.1 and 15.8.2) or Final Plat (15.9.1 and 15.9.3) may also be required as appropriate.
- D. Determination of Conformity:** Following submittal of the application and accompanying data, the information shall be reviewed by the Administrator for compliance with the requirements of this ordinance. Once an application is deemed complete and accepted by the Administrator it shall be reviewed and acted on within 30 days of the date it is accepted. The Administrator may impose reasonable conditions upon the issuance of the permit to ensure compliance with this article including, but not limited to, specifications of the materials to be used and the manner in which the work or alteration is to be performed. If the Administrator finds that the application fails to comply with the standards of this section, the

Administrator shall notify the applicant in writing, and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

- E. Public Notification:** None required.
- F. Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.
- G. Permit Validity:** An issued permit shall become null and void if the applicant fails to secure a building permit, record a final plat or initiate construction on the site within 1 year after the date of approval. In addition, when a Stormwater Permit is issued in association with a Preliminary Plan or Final Plat, the Stormwater Permit shall expire if said plan expires, is significantly modified, or is revoked.
- H. Permit Extension:** The Administrator may grant a single extension of this time limit of 1 year, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan. In granting an extension, the Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.
- I. As-Builts Required:** After final construction of a project is completed, and before a Certificate of Occupancy is granted, the applicant shall certify that the post-construction stormwater management measures have been completed in accordance with the approved plans and designs by submitting actual "as-built" plans (15.4.5) prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. No Certificate of Occupancy shall be granted without completed as-built plans.

15.7.6 SPECIAL FLOOD HAZARD CONSERVATION AREA AMENDMENT

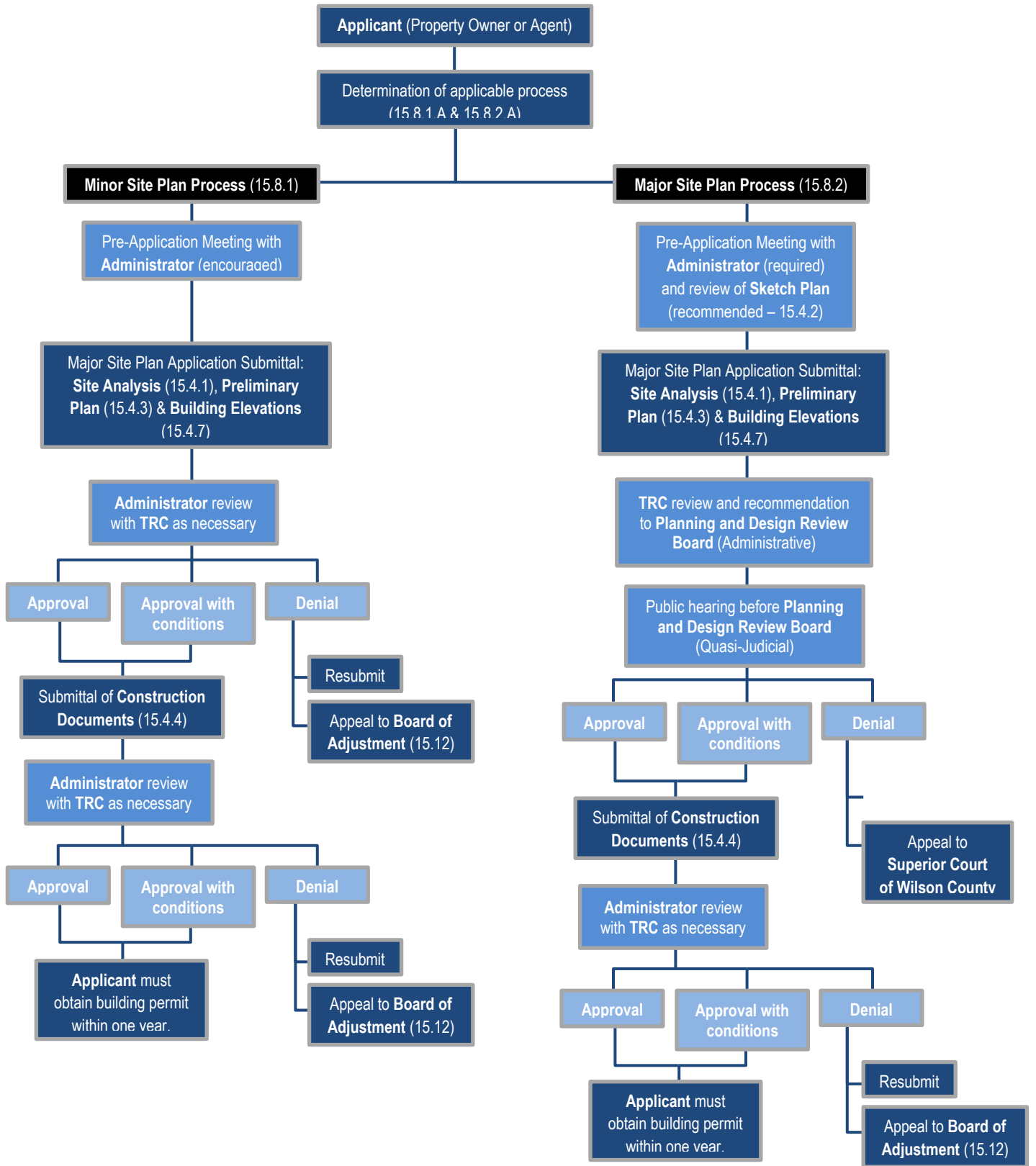
The purpose of this part is to provide an administrative procedure whereby the Administrator will review the scientific or technical submissions of an owner or lessee of property who believes his property has been inadvertently included in designated in the Special Flood Hazard Conservation Area (SFHCA) OR a different delineation of the SFHCA provides equal or better protection to life and property.

- A. Process Type:** Administrative.
- B. Pre-Application Procedure:** Applicants are encouraged to meet with the Administrator prior to submitting an application for SFHCA Amendment. The purpose of this meeting is to discuss the potential information necessary to certify the proposed amendment provides equal or better protection.
- C. Required Application Information:**
 - 1. An actual copy of the recorded plat map indicating the official recordation and proper citation (Deed or Plat Book Volume and Page Numbers);
 - 2. A topographical map showing (i) ground elevation, (ii) the total area of the property in question, (iii) the location of the structure or structures located on the property in question, (iv) the elevation of the lowest adjacent grade to a structure or structures and (v) the SFHCA boundary line as provided by the City of Wilson;
 - 3. A copy of the FIRM indicating the location of the property in question;
 - 4. Proposed location on the SFHCA boundary line;

5. Engineering calculations to show proposed SFHCA boundary line provides equal or better protection which may include, flood storage volume comparisons or hydrologic analysis;
 6. Other additional information as deemed necessary by the Administrator; and
 7. A certification by a Registered Professional Engineer or Licensed Land Surveyor that the proposed SFHCA boundary line provides equal or better protection to life and property on the property in question AND throughout the jurisdictional floodplain.
- D. Determination of Conformity:** The Administrator, after reviewing the scientific or technical information submitted under this section, shall notify the applicant in writing of his/her determination within 30 days after receiving the applicant's scientific or technical information. This determination shall either be: (a) The proposed SFHCA does not provide equal or better protection and is denied and the applicant shall have an opportunity to submit a revised application; OR (b) The proposed SFHCA is approved and will be updated on the official SFHCA map.
- E. Public Notification:** None required.
- F. Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.
- G. Administrative Authority is Permissive Only:** The authority given to the Administrator to grant such modification shall be construed to be permissive and not mandatory, and the Administrator may decline to make such modification. In the event denial occurs, the applicant shall have the right to submit an application to the Board of Adjustment to grant a variance to these requirements in accordance with Section 15.13. Nothing in this section shall be construed as limiting the Administrator's duties and rights under this chapter, or an applicant's right to apply for a variance.

15.8 SITE PLANS / DESIGN REVIEW

SITE PLANS / DESIGN REVIEW PROCESS CHART



15.8.1 SITE PLAN/DESIGN REVIEW (MINOR)

- A. Applicability:** The Minor Site Plan/Design Review process shall apply to all development types for which discretionary review is NOT required by Section 5.2.2.B, unless a discretionary review is requested by the applicant.
- B. Process Type:** Administrative.
- C. Pre-Application Procedure:** No meeting is required, but applicants are encouraged to call or visit the Administrator to determine what information is required for the application.
- D. Required Application Information:** Site Analysis (15.4.1), Preliminary Plan (15.4.3) & Building Elevations for Design Review (15.4.7) (may be waived by Administrator as appropriate). A Watershed Permit (15.7.4), if applicable, and a Stormwater Permit (15.7.5) shall be required as prerequisite approvals.
- E. Determination of Compliance:** Once an application is deemed complete by the Administrator, the Administrator and Technical Review Committee shall review the application and approve, deny, or approve with conditions the Minor Site Plan based on compliance with the standards contained in this ordinance. All decisions shall be in writing. Following an approval or approval with conditions, the applicant shall be directed to prepare detailed Construction Documents (15.4.4) for final approval by the Administrator and TRC (as necessary).
- F. Public Notification:** None required.
- G. Appeals:** Appeals of the decisions of the Administrator or TRC shall be heard by the Board of Adjustment in accordance with Section 15.12.
- H. Permit Validity:** Upon the approval of the Minor Site Plan, the applicant shall have 1 year to obtain a building permit. Failure to secure building permits for the permitted work within this time shall render the compliance void. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the Minor Site Plan and any subsequent building permits.
- I. Permit Extension:** The Administrator may grant a single extension of this time period of up to 1 year upon submittal by the applicant of sufficient justification for the extension.

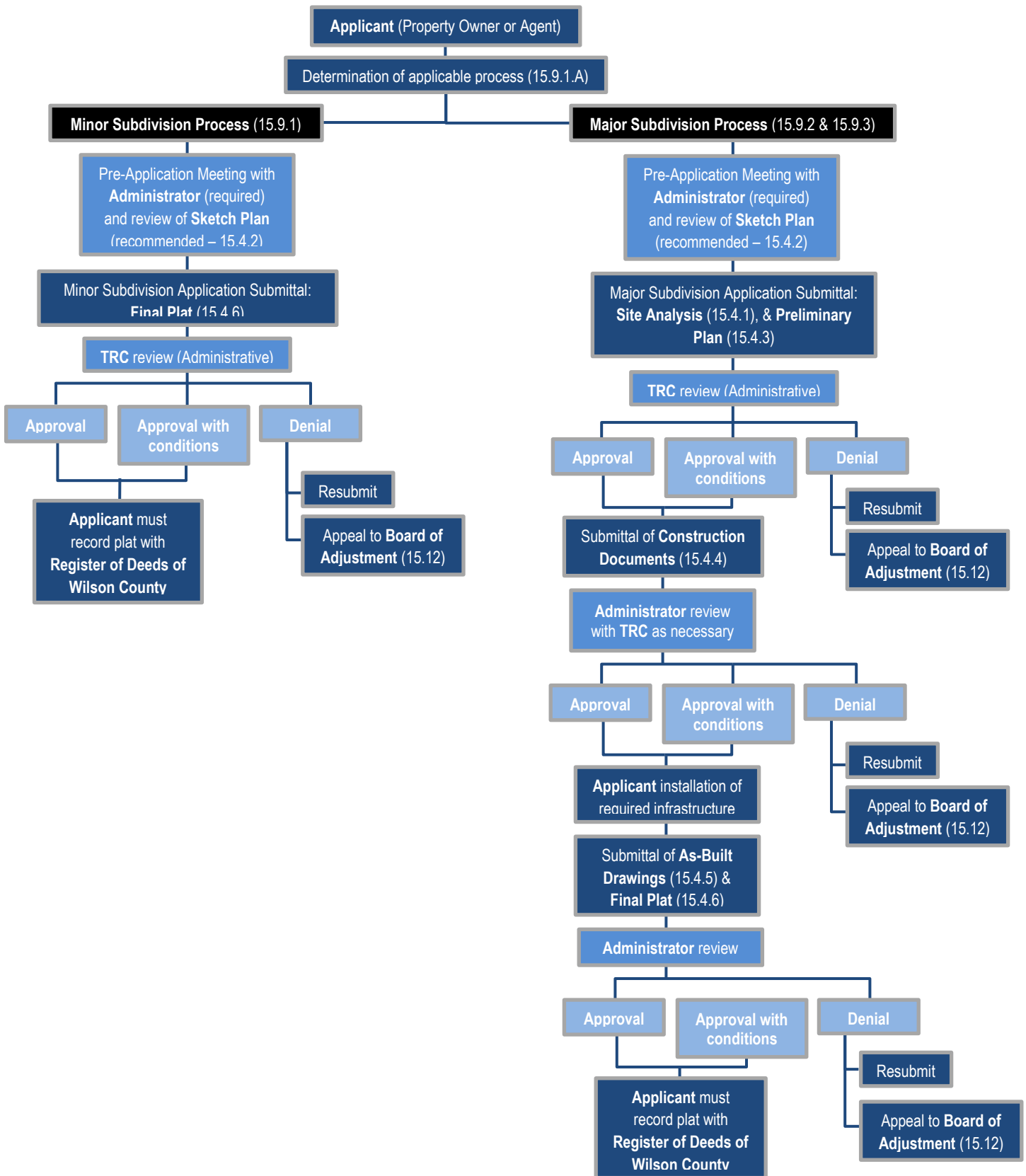
15.8.2 SITE PLAN/DESIGN REVIEW (MAJOR)

- A. Applicability:** The Major Site Plan/Design Review process shall apply to all development types for which discretionary review is required by Section 5.2.2.B, and in any other instance where discretionary review is requested by the applicant.
- B. Process Type:** Quasi-Judicial. (See also 15.5)
- C. Pre-Application Procedure:** It is required that every applicant for a Major Site Plan meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. It is recommended that the applicant provide a Sketch Plan (15.4.2) to the Administrator prior to or at the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Site Plan.
- D. Required Application Information:** Site Analysis (15.4.1), Preliminary Plan (15.4.3) & Building Elevations for Design Review (15.4.7) (may be waived by Administrator as appropriate). A Watershed Permit (15.7.4), if applicable, and a Stormwater Permit (15.7.5) shall be required as prerequisite approvals.

- E. Determination of Completeness:** The Technical Review Committee (hereafter referred to as the “TRC”) shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Planning and Design Review Board.
- F. Public Notification:** Level 1 &2 as defined in Section 15.3.
- G. Neighborhood Meeting (15.3.5):** Optional.
- H. Public Hearing:** The Planning and Design Review Board shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
- I. Decisions/Findings of Fact:** Following the public hearing the Planning and Design Review Board may approve, deny, or approve with conditions the application for a Major Site Plan. No Major Site Plan shall be granted unless the following “findings of fact” can be made:
1. The plan is consistent with the adopted plans and policies of the city;
 2. The plan complies with all applicable requirements of this ordinance;
 3. There exists adequate infrastructure (transportation and utilities) to support the plan as proposed;
 4. The proposed plan conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site; and
 5. The application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.
- J. Review by Planning and Design Review Board:** Applications for Major Site Plans shall be acted upon within 90 days after filing, otherwise the application shall be deemed approved and a permit shall be issued. An extension of time may be granted by mutual consent of the Planning and Design Review Board and the applicant. Following an approval or approval with conditions, the applicant shall be directed to prepare detailed Construction Documents (15.4.4) for final approval by the Administrator and TRC (as necessary).
- K. Appeals:** An appeal from the decision of the Planning and Design Review Board regarding a Major Site Plan request may be made by an aggrieved party and shall be made to the Superior Court of Wilson County in the nature of certiorari. Any such petition to the Superior Court shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Planning and Design Review Board.
- L. Permit Validity:** Upon the approval of the Major Site Plan, the applicant shall have 1 year to obtain a building permit. Failure to secure building permits for the permitted work within this time shall render the compliance void. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the Compliance Certificate and any subsequent building permits.
- M. Permit Extension:** The Administrator may grant a single extension of this time period of up to 1 year upon submittal by the applicant of sufficient justification for the extension.

15.9 SUBDIVISIONS

SUBDIVISION PROCESS CHART



15.9.1 SUBDIVISION (MINOR & RECOMBINATION)

- A. Applicability:** The Minor Subdivision review process is allowed for any recombination of land and for those divisions of land which:
- do not require dedication of public utilities or public streets, and
 - include 10 or fewer acres or subdivide land into 5 or fewer lots, and
 - do not result in an increase in the number of lots/parcels included in a subdivision previously approved by the City of Wilson, and
 - do not involve any other conditions that require any additional approval(s) from any city board or commission, as determined by the Administrator or TRC.

Any division of land which does not meet all of the above criteria shall be required to use the Major Subdivision process as outlined in Sections 15.9.2 and 15.9.3., except that multi-family buildings with units under separate individual ownership including, but not limited to, townhome and condominium developments, shall also submit minor subdivision plats after the common walls of the building are established.

- B. Process Type:** Administrative.
- C. Pre-Application Procedure:** No meeting is required but, applicants are encouraged to call or visit the Administrator for clarification and assistance in the preparation and submission of plats for approval. It is recommended that the applicant provide a Sketch Plan (15.4.2) to the Administrator prior to or at a pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Minor Subdivision Plan.
- D. Required Application Information:** Final Plat (15.4.6) by a registered land surveyor. A Watershed Permit (15.7.4), if applicable, and a Stormwater Permit (15.7.5) shall be required as prerequisite approvals.
- E. Determination of Compliance:** Once an application is deemed complete by the Administrator, the TRC shall review the application and approve, deny, or approve with conditions the Minor Subdivision Plat based on compliance with the land development standards contained in this ordinance within 65 working days of its submittal. If no action is taken by the TRC within this time period, the Minor Subdivision Plat shall be deemed approved.
- F. Public Notification:** None required.
- G. Appeals:** Appeals of the decisions of the TRC shall be heard by the Board of Adjustment in accordance with Section 15.12. Such an appeal must be made in writing within 30 days of the receipt of the decision by the property owner or the property owner's agent.
- H. Permit Validity:** Upon approval of a plat for a Minor Subdivision, said plat shall be signed in the appropriate place by the Administrator and the owner(s). Minor Subdivision plats that have been granted approval shall be recorded within 180 days following approval or the approval becomes invalid. A plat for Minor Subdivision must be recorded in the office of the Register of Deeds of Wilson County. No lots shall be sold prior to approval by the city and the recording of the plat for the subdivision

- I. **Permit Extension:** The TRC may grant a single extension of this time period of up to 180 days upon submittal by the applicant of sufficient justification for the extension.
- J. **Revisions of Plat After Approval:** Where minor lot line measurements or other minor deviations from the approved Minor Subdivision Plat occur in association with in-the-field construction adjustments, such minor modifications may be approved at the discretion of the Administrator before the plat is recorded. Changes other than minor ones associated with in-the-field construction adjustments shall be subject to approval by the TRC.

15.9.2 SUBDIVISION (MAJOR) – PRELIMINARY PLAN

- A. **Process Type:** Administrative.
- B. **Permit Required Before Any Land Disturbing Activity:** No land-disturbing activity shall take place until a Preliminary Plan has been approved.
- C. **Pre-Application Procedure:** It is required that every applicant for a Major Subdivision meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. It is recommended that the applicant provide a Sketch Plan (15.4.2) to the Administrator prior to or at the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Subdivision Plan.
- D. **Required Application Information:** Site Analysis (15.4.1) & Preliminary Plan (15.4.3). A Watershed Permit (15.7.4), if applicable, and a Stormwater Permit (15.7.5) shall be required as prerequisite approvals.
- E. **Preliminary Plan Determination of Compliance:** Once an application is deemed complete by the Administrator, the TRC shall review the application and approve, deny, or approve with conditions the Preliminary Plan based on compliance with the land development standards contained in this ordinance within 65 working days of its submittal. If no action is taken by the TRC within this time period, the Preliminary Plan shall be deemed approved.
- F. **Public Notification:** None required.
- G. **Decisions:** Following an approval or approval with conditions of the Preliminary Plan, the applicant will be directed to prepare detailed Construction Documents (15.4.4) for review by the Administrator and members of the TRC (as necessary). If the TRC disapproves or approves conditionally the Preliminary Plan, the reasons for such action shall be stated in writing. The applicant may make changes and submit a revised plan which revision shall be submitted, reviewed and acted on in accordance with the procedures set forth in this section. Once the applicant secures an approved Preliminary Plan and Construction Documents, the applicant will be directed to proceed to the preparation of a Final Plat (15.9.3).
- H. **Appeals:** Appeals of the decisions of the TRC shall be heard by the Board of Adjustment in accordance with Section 15.12. Such an appeal must be made in writing within 30 days of the receipt of the decision by the property owner or the property owner's agent.
- I. **Permit Validity:** Approval of a Preliminary Plan shall be valid for 2 years from the date of approval. If the approved Preliminary Plan provides for multiple phases within the subdivision, a Final Plat approval for any one phase shall extend the Preliminary Plan approval for all other phases for a period of up to 2 years from the

date of the Final Plat approval for that phase. If a Final Plat approval has not been obtained prior to the end of this 2 year period, the Preliminary Plan approval shall become void.

- J. Permit Extension:** The Administrator may grant a single extension of this time period of up to 1 year upon submittal by the applicant of sufficient justification for the extension.

15.9.3 SUBDIVISION (MAJOR) – FINAL PLAT

- A. Process Type:** Administrative.
- B. Improvements to Be Installed or Guaranteed:** All required infrastructure improvements shall be either installed or financially guaranteed in accordance with Section 6.13 and all other local, State and Federal regulations.
- C. Revisions of Preliminary Plan After Approval:** Where minor lot line measurements or other minor deviations from the approved Preliminary Plan occur in association with in-the-field construction adjustments, such minor modifications may be approved at the discretion of the Administrator before the plat is recorded. Changes other than minor ones associated with in-the-field construction adjustments shall be subject to approval by the TRC.
- D. As-Builts Required:** Upon completion of required improvements, and before a Final Plat shall be granted (unless financially guaranteed), the applicant shall certify that the completed improvements are in accordance with the approved plans and designs, and shall submit actual “as built” plans (15.4.5) for all public infrastructure after final construction is completed.
- E. Required Application Information:** Final Plat (15.4.6) A Watershed Permit (15.7.4), if applicable, and a Stormwater Permit (15.7.5) shall be required as prerequisite approvals.
- F. Determination of Conformity:** The Final Plat of a Major Subdivision shall be reviewed by the TRC for compliance with the requirements of this chapter and for conformity with the approved Preliminary Plan. Provided the application has been deemed complete, the TRC shall approve, deny, or approve with conditions the Final Plat within 65 working days of its submittal. If no action is taken by the TRC within this time period, the Final Plat shall be deemed approved.
- G. Public Notification:** None required.
- H. Appeals:** Appeals of the decisions of the TRC shall be heard by the Board of Adjustment in accordance with Section 15.12. Such an appeal must be made in writing within 30 days of the receipt of the decision by the property owner or the property owner’s agent.
- I. Effect of Approval:** The approval of a Final Plat does not constitute acceptance for maintenance or other purposes of improvements in rights-of-way, such as utility lines, street paving, drainage facilities or sidewalks. Such improvements, when located within the corporate limits of the City of Wilson, may be accepted only by action of the city following inspection and approval. Land designated as public open space or a park on a plat shall be considered to be offered for dedication, but not accepted until City Council has by expressed action done so.
- J. Phasing:** Final plats for phased subdivisions shall be reviewed and recorded individually in accordance with the schedule presented by the applicant during the Preliminary Plan approval.

- K. Permit Validity:** Final plats for Major Subdivisions that have been granted approval must be recorded within 180 days following approval or the approval becomes invalid. No lots shall be sold prior to approval by the city and recording of the Final Plat for the subdivision.
- L. Permit Extension:** The TRC may grant a single extension of this time period of up to 180 days upon submittal by the applicant of sufficient justification for the extension.

15.10 SPECIAL USE PERMITS (SUP)

Special uses are land uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district. Applications requiring a Special Use Permit are noted in the Use Table – Section 2.8.3. Specific additional standards related to Special Use Permit approval are located in Chapter 3.

15.10.1 APPLICATION PROCEDURES

- A. Process Type:** Quasi-Judicial. (See also 15.5)
- B. Pre-Application Meeting:** Every applicant for a Special Use Permit is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.
- C. Required Application Information:** An application for a Special Use Permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Each application for a Special Use Permit shall contain, at a minimum, a Site Analysis (15.4.1), Preliminary Plan (15.4.3) and Building Elevations for Design Review (15.4.7) (may be waived by Administrator as appropriate). Other information necessary to show that the use or structure complies with the standards set forth in this ordinance shall also be provided.
- D. Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Board of Adjustment.

15.10.2 REVIEW PROCESS

- A. Public Notification:** Level 1 & 3 as defined in Section 15.3.
- B. Neighborhood Meeting (15.3.5):** Optional.
- C. Public Hearing:** The Board of Adjustment shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
- D. Board of Adjustment Decision:** Following the public hearing, the Board of Adjustment may approve, deny, or approve with conditions the application for a Special Use Permit within 35 days of the date of the public hearing.
- E. Findings of Fact:** In addition to determining that the application meets all other requirements of this ordinance (no variances are permitted), the Board of Adjustment must find the following:

1. That the proposed special use conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site;
 2. That adequate measures will be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads;
 3. That adequate utilities (water, sewer, drainage, electric, etc.) are available for the proposed use;
 4. That the proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas;
 5. That the establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the land development district; and
 6. That the establishment, maintenance and/or operation of the proposed use will not be detrimental to or endanger the public health, safety or general welfare.
 7. That the establishment will be operated in compliance with all local, state and federal laws and will not become a nuisance by creating criminal activity or public disturbance.
- F. Additional Conditions:** The Board of Adjustment may place conditions on the use as part of the approval to assure that appropriate mitigation measures are associated with the use. The conditions shall become part of the Special Use Permit approval and shall be included in the final site plan application.
- G. Recordation:** It shall be required that Special Use Permits (SUPs) be recorded with the Register of Deeds as allowed by NCGS 160D-705 (c).
- H. Revocation of Special Use Permits:** If at any time after a Special Use Permit has been issued for any special use, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a Special Use Permit, the permit shall immediately be terminated and the operation of such a use discontinued. Any such “finding” shall be made in an open meeting of the Board in full compliance with the review process herein described, and the permit holder’s right to due process shall be maintained. If a Special Use Permit is terminated for any reason, it may be reinstated only after a public hearing is held.

15.10.3 EFFECT OF DECISIONS

- A. Appeals:** An appeal from the decision of the Board of Adjustment regarding a Special Use Permit application may be made by an aggrieved party and shall be made to the Superior Court of Wilson County in the nature of certiorari. Any such petition to the Superior Court shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Board of Adjustment.
- B. Permit Validity:** Following the approval of a Special Use Permit the applicant shall have 2 years to obtain a building permit or the Special Use Permit shall become void. Such permit shall remain valid as long as a valid building permit exists for the project.
- C. Permit Extension:** The Board of Adjustment may grant a single extension of this time period of up to 6 months upon submittal by the applicant of sufficient justification for the extension.

15.11 HISTORIC PRESERVATION

15.11.1 DESIGNATION OF HISTORIC LANDMARKS

Landmarks are those properties deemed and found by the Historic Preservation Commission (hereafter referred to as the HPC) to be of special significance in terms of their historical, pre-historical, architectural or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association. Upon complying with the required designation procedures set forth in NCGS 160D-940 et seq. the City Council may adopt, and from time to time, amend, or repeal, an ordinance designating one or more historic landmarks.

A. Process Type: Legislative.

B. Inventory of Historic Landmarks: As a guide for the identification and evaluation of landmarks, the HPC shall maintain an inventory of properties of historical, architectural, pre-historical and cultural significance within the land development jurisdiction of the city.

C. Process for Landmark Designation:

1. An investigative report documenting the historical, architectural, pre-historical, educational or cultural significance of the property shall be prepared.
2. The Preservation Planner shall review the report, after which, a copy shall be forwarded to the North Carolina Department of Cultural Resources, Division of Archives and History for formal comment.
3. The HPC shall review the report after the State has commented and make a recommendation to City Council.

D. Creation of Ordinance for Designation: Once recommended for designation, the Administrator shall draft an ordinance for landmark designation. Such ordinance shall include a description of the property(ies) to be designated, the name of the owner(s), those elements of the property that are integral to its historical, architectural or pre-historical value, including the land area to be designated, and any other information the City Council deems necessary.

E. Public Notification: Level 1, 2 & 3 as defined in Section 15.3.

F. Neighborhood Meeting (15.3.5): Optional.

G. Public Hearing and Decision by the City Council: The HPC and the City Council, either jointly or separately, shall hold a public hearing(s) on the proposed ordinance. Following the public hearing(s), the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

H. Post-Adoption Procedures: Upon the adoption of the ordinance, or any amendments thereto, the following shall occur:

1. The owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits.
2. The ordinance shall be filed in the office of the Register of Deeds of Wilson County and shall be indexed according to the name of the owner in the Grantee and Grantor indexes.
3. The HPC shall give notice thereof to the Tax Supervisor of Wilson County.
4. The HPC may also provide for a sign or marker indicating its historic designation.

15.11.2 DESIGNATION OF HISTORIC DISTRICTS

Historic districts consist of areas which are deemed to be of special significance in terms of their history, prehistory, architecture, and/or culture, and to possess integrity of design, setting, materials, feeling and association. Upon complying with the required designation procedures set forth in NCGS 160D-940 et seq., the City Council may designate, and from time to time, amend one or more historic districts as Historic Overlay Districts.

A. Process Type: Legislative.

B. Process for Historic District Establishment and Boundary Changes:

1. The HPC shall prepare an investigation and report documenting the significance of the buildings, structures, features, sites or surroundings included in any proposed district, and a description of the boundaries of such district.
2. The NC Department of Cultural Resources, acting through the State Historic Preservation Office, shall make an analysis of and recommendations concerning such report and boundaries.
3. The Administrator shall draft an ordinance for the designation of said historic district.
4. The ordinance, together with the investigative studies and reports for any changes in the boundaries or creation of additional districts, shall be referred to the Planning and Design Review Board for review and comment.
5. Following the recommendation of the Planning and Design Review Board, the ordinance and reports shall be scheduled for a public hearing before the City Council.

C. Public Notification: Level 1, 2 & 3 as defined in Section 15.3.

D. Neighborhood Meeting (15.3.5): Optional.

E. Public Hearing and Decision by the City Council: The City Council shall hold a public hearing on the proposed ordinance. Following the public hearing, the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

15.11.3 CERTIFICATE OF APPROPRIATENESS – MAJOR WORKS

The HPC shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or other significant features which would be incongruous with the special character of a designated historic landmark or historic district.

A. Applicability: For all historic landmarks and properties in a local historic district, major works are those exterior changes that involve substantial alterations, additions or removals that could impair the integrity of the landmark, district property and/or historic district as a whole. Major works include new construction, additions, relocation, demolition (in part or in whole), and changes in design/materials.

B. Process Type: Quasi-Judicial. (See also 15.5)

C. Pre-Application Meeting: A pre-application conference is recommended prior to applying for a Certificate of Appropriateness for Major Works (hereafter referred to

as “COA–Major”) to determine what information will be required for the application.

- D. Required Application Information:** Sketch Plan (15.4.2) and Building Elevations for Design Review (15.4.7) (may be waived by Administrator as appropriate). Other information necessary to show any proposed changes, including a site plan, floor plan(s), photographs and a written description of materials and details may also be required as appropriate.
- E. Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a hearing before the HPC.
- F. Public Notification:** Level 1 & 3 as defined in Section 15.3.
- G. Hearing:** The HPC shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
- H. Findings of Fact:** HPC action on an application must be supported by specific findings of fact indicating the extent to which the application is, or is not, incongruous with the special character of the historic district or landmark.
- I. Historic Preservation Commission Review:** Following the hearing the HPC may approve, deny, or approve with conditions the application for a COA-Major. No COA-Major shall be granted unless the HPC finds that the application complies with its adopted Standards.
- J. Delay in Demolition:** An application for a COA-Major authorizing the demolition, removal or destruction of a building, structure or site may not be denied except as provided below:
1. **Applicability:** The HPC is authorized to act on demolition requests for:
 - a. Landmark structures
 - b. Properties located in local historic districts
 - c. Contributing and Pivotal properties located in the Central Business/Tobacco Warehouse National Register Historic District as authorized by Session Law 2008-58 under the provisions of NCGS 160D-950.
 2. The effective date of a COA-Major may be delayed for up to 365 days from the date of approval. The period of delay may be reduced by the HPC if it finds that the owner has demonstrated that he/she would suffer extreme economic hardship or be permanently deprived of beneficial use or return from such property by virtue of the delay.
 3. During the delay period, the HPC and other parties may negotiate with the owner in an effort to find a means of preserving the building, structure or site.
 4. If the HPC finds that a building, structure or site has no special significance or value toward maintaining the character of a district, it may waive all or part of such period of delay and authorize earlier demolition or removal.
 5. If the HPC has voted to recommend the designation of a landmark or the designation of an area as an historic district, and final designation has not been made by the City Council, the demolition or destruction of any building, structure or site in the proposed district or of the proposed landmark may be

delayed by the HPC for up to 180 days, or until the City Council takes final action on the designation, whichever occurs first.

6. An application for a COA-Major authorizing the demolition of a building, structure or site determined by the State Historic Preservation Office as having statewide significance, as defined in the criteria of the National Register of Historic Places, may be denied except where the HPC finds that the owner would suffer extreme economic hardship or be permanently deprived of beneficial use or return by virtue of the denial.
 7. The City Council may enact an ordinance to prevent the demolition by neglect (see Section 16.2.3) of any designated landmark or any structure or building within an established local or national historic district. Such ordinance shall provide appropriate safeguards to protect property owners from extreme economic hardship.
- K. Review Period by Historic Preservation Commission:** Applications for a COA-Major shall be acted upon within 180 days after filing, otherwise the application shall be deemed approved and a certificate shall be issued. An extension of time may be granted by mutual consent of the HPC and the applicant.
- L. Appeals:** An appeal from the decision of the HPC regarding a COA-Major application may be made to the Board of Adjustment. Appeals may be taken by any aggrieved party, shall be within the time prescribed in the adopted Rules of Procedure and shall be in the *nature of certiorari per NCGS 160D-406(b)*. Any such appeal must be made no later than 30 days after the hearing date of the HPC.
- M. Permit Validity:** Discontinuance of work or a lack of progress toward achieving compliance with the approved certificate for a period of 12 months shall render the certificate null and void.
- N. Permit Extension:** A one-time extension of a COA-Major may be granted administratively if request is received in writing prior to the expiration date. Significant changes in the proposal shall require a new application.

15.11.4 CERTIFICATE OF APPROPRIATENESS – MINOR WORKS

- A. Applicability:** Minor works are those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or historic district as a whole.
- B. Process Type:** Administrative.
- C. Pre-Application Meeting:** No pre-application conference is required prior to applying for a Certificate of Appropriateness for Minor Works (hereafter referred to as “COA-Minor”). Applicants are strongly encouraged to call or visit the Administrator prior to submitting an application to determine what information is required for the application.
- D. Required Application Information:** Sketch Plan (15.4.2) and Building Elevations for Design Review (15.4.7) (may be waived by Administrator as appropriate). Other information necessary to show any proposed changes, including a site plan, photographs and color samples may also be required as appropriate.
- E. Determination of Conformity:** Once an application is deemed complete by the Administrator, the Administrator shall review the application and approve it based on compliance with the standards contained in the Historic Preservation Standards.

Those applications that do not meet these standards shall be referred to the HPC for review.

- F. Public Notification:** None required.
- G. Appeals:** Appeals of the decisions of the Administrator shall be heard by the HPC.
- H. Permit Validity:** Failure to complete the construction/alterations/additions granted in the approval of the certificate within a period of 12 months following the approval of the certificate shall render the certificate null and void.
- I. Permit Extension:** A one-time extension of a COA-Minor may be granted administratively if request is received in writing prior to the expiration date. Significant changes in the proposal shall require a new application.

15.11.5 APPEALS OF HISTORIC PRESERVATION DECISIONS

This process is hereby established to provide an appeal process for parties aggrieved by any, decision or determination, made by the preservation planner charged with enforcing the provisions of this section.

15.11.5.1 FILING PROCEDURES

- A. Process Type:** Quasi-Judicial *in the Nature of Certiorari*. (See also 15.5)
- B. Filing Procedure:** An appeal of the preservation planner decision may be taken by any person aggrieved (or by their authorized agent). Such an appeal shall be made to the HPC within 30 days of the date of Hearing.
- C. Stay of Proceedings:** The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order granted by the Superior Court of Wilson County on notice to the administrative official from whom the appeal is taken with due cause shown.
- D. Required Application Information:** All information relevant to describing the applicant's appeal to the Historic Preservation Commission is required. The preservation planner shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.
- E. Public Notification:** Level 1 & 3 as defined in Section 15.3.

15.11.5.2 FORMAL REVIEW

- A.** Upon receiving the application, the HPC shall conduct a public hearing on the matter. Any party may appear in person or be represented by an agent at the hearing.
- B.** After conducting the public hearing, the HPC shall adopt an order reversing or affirming, wholly or in part, or modifying the decision or determination in question.
- C.** The decision of the HPC must be in writing and permanently filed in the minutes of that reviewing body as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the HPC, which must be delivered to parties of interest by certified mail.

15.11.5.3 APPEALS OF THE HISTORIC PRESERVATION COMMISSION

Any appeal from a decision of the HPC may be made by an aggrieved party and shall be made to the Board of Adjustment in the nature of certiorari (per NCGS 160D-406(h)). Any such petition shall be filed no later than 30 days after the Hearing date of the HPC.

15.12 APPEALS OF ADMINISTRATIVE DECISIONS

15.12.1 APPLICABILITY

This process is hereby established to provide an appeal process for parties aggrieved by any administrative order, requirement, decision or determination, made by an administrative officer charged with enforcing the provisions of this ordinance.

15.12.2 FILING PROCEDURES

- A. **Process Type:** Quasi-Judicial. (See also 15.5)
- B. **Filing Procedure:** An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board or bureau of the city. Such an appeal shall be made to the city within 30 days of the receipt of the written notice of decision from the city.
- C. **Stay of Proceedings:** The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order granted by the Superior Court of Wilson County on notice to the administrative official from whom the appeal is taken with due cause shown.
- D. **Required Application Information:** All information relevant to describing the applicant's appeal to the Board of Adjustment is required. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.
- E. **Public Notification:** Level 1 & 3 as defined in Section 15.3.

15.12.3 FORMAL REVIEW

- A. Upon receiving the application, the Board shall conduct a public hearing on the matter. Any party may appear in person or be represented by an agent at the hearing.
- B. After conducting the public hearing, the Board shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision or determination in question. It shall take a simple majority vote of the Board to reverse or modify the contested action.
- C. The Board, in making its ruling, shall have all the powers of the Administrator from whom the appeal is taken, and may issue or direct the issuance of a permit.
- D. The decision of the Board must be in writing and permanently filed in the minutes of that reviewing body as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board, which must be delivered to parties of interest by certified mail.

15.12.4 APPEALS

- A. Any appeal from a decision of the Board of Adjustment may be made by an aggrieved party and shall be made to the Superior Court of Wilson County in the nature of certiorari. Any such petition shall be filed no later than 30 days after the applicant receives a written copy of the decision of the Board of Adjustment.
- B. Any appeal from a decision relating to sedimentation and erosion control shall be made to the North Carolina Sedimentation Control Commission. Any such appeal shall be filed no later than 15 days after the applicant receives a written copy of the decision of the Board of Adjustment.

15.13 VARIANCES

15.13.1 PURPOSE/LIMITATIONS

- A. **Purpose:** The variance process administered by the Board of Adjustment is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this ordinance.
- B. **Financial Hardship Not Sufficient Ground for Variance:** It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this ordinance may impose on property owners in general or to increase the profitability of a proposed development.
- C. **Use Variances Not Permitted:** Except as provided in Section 15.13.3.B.2.6 below, in no event shall the Board of Adjustment grant a variance which would allow the establishment of a use which is not otherwise allowed in a land development district or which would change the land development district classification or the district boundary of the property in question. Nor shall the Board grant a variance which would allow the establishment of a use set forth herein as requiring certain conditions or standards under conditions or standards less than those minimums.
- D. **Authority Limited to this Ordinance/Conflicts with other Laws Prohibited:** In no event shall the Board of Adjustment grant a variance which would conflict with the North Carolina State Building Code or any other state code unless otherwise authorized by duly enacted applicable laws and regulations.

15.13.2 FILING PROCEDURES

- A. **Process Type:** Quasi-Judicial. (See also 15.5)
- B. **Pre-Application Procedure:** Every applicant for a variance is strongly encouraged to meet with the planning department in a pre-application conference prior to the submittal of a request for a variance. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.
- C. **Filing Procedure:** An application for a variance may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application.
- D. **Required Application Information:** All information relevant to describing the applicant's request to the Board of Adjustment.
- E. **Public Notification:** Level 1 & 3 as defined in Section 15.3.
- F. **Determination of Completeness:** Staff shall review an application for a variance to determine if it is complete. If an application is complete, the Administrator shall schedule the matter for consideration at a meeting of the Board of Adjustment. The

Administrator shall prepare a staff report regarding the submitted variance application.

15.13.3 FORMAL REVIEW

A. Action by the Board of Adjustment

1. Upon receipt of the request for a variance from the Administrator, the Board of Adjustment shall hold a quasi-judicial hearing on the request.
2. After conducting the hearing, the Board of Adjustment may: deny the application; conduct an additional public hearing on the application; or grant the application. It shall take a simple majority vote of the Board to grant a variance.
3. A decision by the Board of Adjustment shall be made within 35 days of the date of the hearing.
4. Any approval or denial of the request shall be accompanied by written findings that the variance meets or does not meet each of the standards set forth in Section 15.13.3.B.1, below. Standards for floodplain development regulation variances are set forth in Section 15.13.3.B.2.
5. Any applicant to whom a variance from the floodplain development regulations is granted shall be given written notice signed by the Administrator. This notice shall state that such construction below the base flood level increases risks to life and property and that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance commensurate with the increased risk resulting from the reduced lowest floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage). Such notification shall be maintained with a record of all variance actions. Variances records shall be provided to the Federal Emergency Management Agency upon request, or as required by law.

B. Standard of Review

1. **General Variance Requests:** The Board of Adjustment shall not grant a variance unless and until it makes all of the following findings:
 - a. Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
 - c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - d. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

2. **Floodplain Development Regulation Variance Requests:** Variances from the standards set forth in this ordinance for flood damage prevention may be granted according to the following provisions.
- a. **Applicability:** Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result, or when the variance will make the structure in violation of other federal, state or local laws.
 - b. **Conditions for Variance:** Variances shall only be issued upon the following:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship;
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing laws or ordinances; and
 - iv. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - c. **Evaluation Criteria:** In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance and:
 - i. The danger that material may be swept onto other lands to the injury of others;
 - ii. The danger to life and property due to flooding or erosion damage;
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. The importance of the services provided by the proposed facility to the community;
 - v. The necessity to the facility of a waterfront location, where applicable;
 - vi. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - vii. The compatibility of the proposed use with existing and anticipated development;
 - viii. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
 - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - xi. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

A written report addressing each of these factors shall be submitted with the application for a variance.

- d. **Variance for Historic Properties:** Variances may be issued to allow repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will preserve the historic character and design of the structure.
- e. **Variance for Specific Uses:** A floodplain development permit for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities may only be issued if a variance from the floodplain regulations of this ordinance is granted. Such variance may only be granted if all of the following conditions are met.
 - i. The use serves a critical need in the community;
 - ii. No feasible location exists for the use outside the special flood hazard area;
 - iii. The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection level; and
 - iv. The use complies with all other applicable federal, state and local laws.
 - v. The Administrator has notified the North Carolina Secretary of Crime Control and Public Safety of its intention to consider granting a variance at least 30 days prior to granting the variance.
- f. **Required Notification to the Applicant:** In granting a variance from floodplain development regulations the city shall notify the applicant in writing over a signature of a city official of the following:
 - i. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to as high as \$25 for \$100 of insurance coverage and,
 - ii. Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions as required; and the Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

- 3. **Additional Conditions:** In granting any variance, the Board of Adjustment may attach such conditions to the approval as it deems necessary and appropriate to satisfy the purposes and objectives of this ordinance. The Board may also attach conditions in order to reduce or minimize any injurious effect of such variance upon other property in the neighborhood and to ensure compliance with other terms of this ordinance.

15.13.4 APPEALS

An appeal from the decision of the Board of Adjustment regarding a variance request may be made by an aggrieved party and shall be made to the Superior Court of Wilson County in the nature of certiorari. Any such petition to the Superior Court shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Board of Adjustment.

15.14 TEXT AMENDMENTS AND REZONINGS

The City Council may from time to time amend any part of the text of this ordinance or amend the Zoning Map of the city.

15.14.1 APPLICATION PROCEDURES

- A. **Process Type:** Legislative.
- B. **Applicants:** Map or text amendments may be submitted by any of the following:
 - The City Council.
 - The Planning and Design Review Board.
 - The Board of Adjustment.
 - The Planning Department.
 - Owner of property within the land use jurisdiction of the city.
- C. **Pre-Application Procedure:** Before filing a petition of an amendment, an applicant (if an owner requesting a map amendment) shall meet with the Administrator to discuss the proposed amendment or request and to become more familiar with the applicable requirements and approval procedures of the city.
- D. **Content of Application:** A petition for an amendment to the city's official land development map or text shall be filed on a form provided by the Administrator. Such a petition shall contain all the information required on the form and must be determined to be complete by the Administrator prior to advancing it through the review process.
- E. **Determination of Completeness:** Staff shall review an application for amendment to determine if it is complete. If an application is complete, the Administrator shall schedule the matter for consideration at a meeting of the Planning and Design Review Board. The Administrator and Technical Review Committee shall prepare a staff report and recommendation on the matter.

15.14.2 REVIEW BY PLANNING AND DESIGN REVIEW BOARD

- A. **Public Notification (Prior to Planning and Design Review Board):** Levels 1 & 2, as defined in Section 15.3, are required for all amendments to the UDO. Level 3 is required for all amendments to the UDO that involve a specific parcel of land. Such actions include, but are not limited to, map amendments (rezonings), amendments to zoning district boundaries, and the application of new overlay zones.
- B. **Neighborhood Meeting (15.3.6):** Optional.
- C. **Consideration by Planning and Design Review Board:** The Planning and Design Review Board shall conduct a public hearing and receive public input on the proposed amendment and shall provide a written recommendation to the City Council regarding whether to approve or deny each proposed amendment within 35 days of its first consideration on the matter. The recommendation shall address consistency with the Comprehensive Plan and other matters deemed appropriate by the Board. A recommendation for denial of the petition shall not preclude consideration or approval of the proposed amendment by the City Council.

15.14.3 PROTEST PETITIONS

- A. Qualification of Protest:** In accordance with G.S. 160D-603 any resident or property owner in the City may submit a written statement regarding a proposed amendment, modification, or repeal to regulation including a text or map amendment to the City Clerk at least two business days prior to the proposed vote on such change.
- B. Withdrawal of Protest Petition:** Any property owner who signed the protest petition may withdraw their protest against a proposed zoning amendment any time prior to the meeting at which the rezoning will be considered.
- C. Effect of Protest Petition of City Council Vote:** With a valid protest petition, the amendment shall not become effective except by favorable vote of a simple majority of the City Council.

15.14.4 CONSIDERATION BY CITY COUNCIL

- A. Public Notification (Prior to Planning and Design Review Board):** Level 1 & 2, as defined in Section 15.3, are required for all amendments to the UDO. Level 3 is required for all amendments to the UDO that involve a specific parcel of land. Such actions include, but are not limited to, map amendments (rezonings), amendments to zoning district boundaries, and the application of new overlay zones.
- B. Consideration by the City Council:** Following receipt of a recommendation or appeal of a proposed amendment, the City Council shall conduct a public hearing on the matter. Upon reviewing all of the pertinent information, the City Council may:
 - 1. Adopt the proposed amendment.
 - 2. Adopt the proposed amendment with modifications.
 - 3. Reject the proposed amendment.
 - 4. Refer the proposed amendment back to the Planning and Design Review Board for further consideration.
 - 5. Refuse to take any further action.

15.14.5 PLAN CONSISTENCY

In accordance with G.S. 160D-604(d), all such amendments shall be made in accordance with the Comprehensive Plan and any other officially adopted applicable plan. Prior to adopting or rejecting any zoning amendment, the City Council shall adopt a statement describing whether its action is consistent with the adopted Comprehensive Plan and explaining why the City Council considers the action taken to be reasonable and in the public interest.

15.14.6 WAITING PERIOD FOR SUBSEQUENT APPLICATIONS

- A.** When an application for an amendment has been approved or denied by the City Council, no application shall be considered on the same issue within the next 12 months after approval or denial.
- B.** This waiting period may be waived by the City Council if it determines that there have been substantial changes in conditions or circumstances which may relate to the request.

15.15 CONDITIONAL DISTRICTS (CD)

Conditional Districts (hereafter referred to as “CD”) (Section 2.6) are refined districts formed from base districts with conditions voluntarily added by the applicant and approved in a legislative procedure by the City Council in accordance with G.S. 160D-703(b). CDs provide for orderly and flexible development under the general policies of this ordinance without the constraints of some of the prescribed standards guiding by-right development. CDs may be based on any district, but are not intended to relieve hardships that would otherwise be handled using a variance procedure. The district designation (or abbreviation) is formed by adding the postfix "(CD)" to the basic district designation (thus, the CD zone for the GC district is the GC-CD district).

15.15.1 APPLICATION PROCEDURES

- A. Applicant and Property:** A CD classification shall only be considered upon the request of the owners and/or their representatives of all the property to be included. A CD shall consist of land under unified control which may be planned and developed as a single development or as an approved programmed series of development phases by multiple developers. "Unified control" means that all land to be included within a CD shall be owned or otherwise under the legal control of the person(s) or legal entity(ies) which has/have applied for a CD. Such person(s) or entity(ies) shall be legally capable of providing a commitment to the city that the CD development will comply with all documents, plans, standards and conditions ultimately approved by the city.
- B. Standards of District to be Met:** Within an approved CD, no use shall be permitted except pursuant to the conditions imposed by the applicant on the CD in the approval of the rezoning. The City Council may negotiate additional reasonable and appropriate conditions or safeguards to serve the purpose and intent of this Section, ensure conformity with the Comprehensive Plan, protect the value of adjoining or abutting property, and preserve public welfare, and justice.
- C. Content of Application:** A CD application shall consist of a Site Analysis (15.4.1) and Preliminary Plan (15.4.3); as well as any other plans, drawings, renderings, elevations, maps and documents deemed necessary for approval by the City Council. Any CD Preliminary Plan, as a site specific Conditional Zoning Plan, is itself a condition of the CD rezoning. Any CD Preliminary Plan shall, at a minimum consist of the following:
 1. The overall boundary and area of the district, including underlying zoning districts;
 2. The general location, orientation and size of proposed principal structures and associated parking areas; landscape and buffer areas; open space areas; the location, size and general treatment of environmentally sensitive areas; the general location and size of existing and proposed water mains and sewer trunk lines required to service the development; and general traffic routes (external and internal) to and from the development with major access points identified;
 3. Tabular data, including the range and scope of proposed land uses, proposed densities, floor area ratios or impervious surface ratios as applicable to development type; and land areas devoted to each type of general land use and phase of development;
 4. Full list of proposed uses consistent in character with the underlying zoning district. Such use classifications may be selected from any of the uses, whether permitted, by right or conditional, allowed in the general zoning district upon

which the CD is based. Uses not otherwise permitted within the base zoning district shall not be permitted within the CD; and

5. A proposed development schedule if the project is to be phased.

15.15.2 FORMAL REVIEW

- A. **Public Notification: (Prior to Planning and Design Review Board):** Level 1, 2 & 3 as defined in Section 15.3.
- B. **Procedure:** The procedure for approval shall follow the procedure outlined in Section 15.14, Text & Map Amendments (Rezoning).
- C. **Reviewing Agency:** The Planning and Design Review Board shall review the CD application and shall make a recommendation relevant to the following:
 1. Uses proposed,
 2. Compatibility with surrounding property,
 3. Area impacts,
 4. Market conditions,
 5. Adequate facilities, infrastructure, etc.,
 6. Building and site design, immediate context and compatibility, etc.,
 7. Conformance with adopted plans, and
 8. Any other consideration deemed by the Planning and Design Review Board to be appropriate and relevant to the CD Preliminary Plan.
- D. **Decisions:** In accordance with N.C.G.S. 160A-75, decisions by the City Council shall be by majority vote, unless the Council votes on a CD on the same day in which it was introduced, in that case a 2/3 majority vote of all eligible members shall be required for approval of a CD. In addition, if a valid Protest Petition in accordance with Section 15.14.3 has been filed, a 3/4 majority vote of eligible members shall be required for approval of a CD.
- E. **Fair and Reasonable Conditions:** The provisions of the CD Preliminary Plan shall replace all conflicting development regulations set forth in this ordinance which would otherwise apply to the development site. The Planning and Design Review Board may recommend and the City Council (with mutual approval of the applicant) may attach reasonable and appropriate conditions including, but not limited to, the location, nature, hours of operation, and extent of the proposed use(s). Conditions and site-specific standards shall be limited to those that address conformance of the development and use of the site to this ordinance and officially adopted plans and those standards and conditions that address the impacts reasonably expected to be generated by the development and use of the site. The applicant will have a reasonable opportunity to consider and respond to any conditions and site-specific standards proposed by either the Planning and Design Review Board or the City Council prior to final action.

15.15.3 EFFECT OF APPROVAL/CHANGES

The applicant may proceed with development only after approval of the CD Preliminary Plan by City Council, followed by all other pertinent approvals. The development and use of all land within the CD shall be in keeping with the approved Preliminary Plan and all applicable provisions therein.

- A. **Final Approval by Stages:** If so reflected on a CD Preliminary Plan, the City Council may allow the staging of final development. Each phase of development

shall adhere to all applicable provisions and standards of this section and the applicable CD Preliminary Plan.

B. Substantial Changes: Any substantial change to a Preliminary Plan as noted below shall be reviewed by the Planning and Design Review Board and approved or denied by the City Council as an amended CD. The following changes to a CD Preliminary Plan shall require approval by the City Council:

1. Land area being added or removed from the CD;
2. Modification of special performance criteria, design standards, or other requirements specified by the enacting ordinance;
3. A change in land use or development type beyond that permitted by the approved CD Preliminary Plan;
4. When there is introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access;
5. When there is an increase in the total number of residential dwelling units originally authorized by the approved CD Preliminary Plan; and
6. When the total floor area of a commercial or industrial classification is increased more than 10 percent beyond the total floor area last approved by City Council.

C. Additional Changes: Subsequent plans and permits for development within a conditional zoning district may include minor modifications from the approved preliminary development plan, provided such modifications are limited to changes addressing technical considerations that could not have reasonably been anticipated during the conditional zoning classification process, or any other change that has no material effect on the character of the approved development. These may be approved administratively at the discretion of the Administrator. However, if in the judgment of the Administrator, the requested changes alter the basic development concept of the CD, the Administrator may require approval by the City Council.

D. Rescission of Conditional Districts: The Applicant shall secure a valid building or construction permit(s) within 2 years from date of approval of the CD unless otherwise specified. If such project is not complete or a valid building or construction permit is not in place at the end of the 2 year period, the Administrator shall notify the applicant of either such finding. Within 65 calendar days of notification, the Administrator shall make a recommendation concerning the rescission of the CD to the City Council. The City Council may grant a single extension of up to 1 year upon submittal by the applicant of sufficient justification for the extension and following a public hearing on the matter. The City Council may also rescind the CD pursuant to the same procedure as was needed for approval.

15.16 VESTED RIGHT

15.16.1 PURPOSE AND APPLICABILITY

The zoning vested right is a right which is established pursuant to N.C.G.S. 160D-108 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan. Obtaining a zoning permit or Preliminary Plan subdivision approval through the vested rights procedure gives the applicant the right to start construction of the development as approved an additional 2 to 5 years to begin and/or complete work as appropriate.

15.16.2 VESTED RIGHT PROCEDURES

- A. **Process Type:** Legislative.
- B. **Pre-Application Procedure:** The applicant shall meet with the Administrator prior to submitting an application to inquire about specific zoning requirements and obtain the proper application forms. The applicant shall be advised of all necessary information and requirements of the vested rights procedure.
- C. **Required Application Information:** Preliminary Plan (15.4.3).
- D. **Determination of Completeness:** The Administrator shall review the application and accompanying site plan for compliance with the requirements of this chapter and other applicable regulations and schedule the matter for a public hearing before the City Council.
- E. **Public Notification:** Level 1 & 2 as defined in Section 15.3.
- F. **Formal Review:** Following a public hearing, the City Council shall take one of the following actions:
 - 1. Approve the vested rights request. The Administrator is then directed to issue a vested rights zoning permit.
 - 2. Approve the vested rights request subject to conditions which are necessary to protect the public health, safety and welfare. The Administrator is then directed to issue the vested rights zoning permit subject to the changes in the site plan to be made by the developer.
 - 3. Table the vested rights request pending the submittal of additional information.
 - 4. Deny the vested rights request.
- G. **Appeals:** None.

15.16.3 VESTED RIGHT DURATION – EFFECT OF APPROVAL

- A. **Maximum Term:** A zoning right that has been vested as provided in this section shall remain vested for a period of 2 to 5 years as approved by the City Council.
- B. **Building Permit/Preliminary Plan Required:** Upon issuance of a building permit/preliminary plan approval, the expiration provisions for those permits shall apply, except that they shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding. A zoning vested right shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.
- C. **City May Terminate Vested Rights Early:** The city may terminate the zoning vested rights upon payment to the affected landowner of compensation for all costs, expenses and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of all financing and all architectural, legal and other fees incurred after approval by the city.
- D. **State or Federal Regulation Not Bound by Vested Right:** The zoning vested right may be terminated upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan. In such a case the City Council may, by ordinance, after notice and a hearing, modify the affected provisions upon a finding that the change in state or federal law has a fundamental effect on the plan.
- E. **Shall Run with the Property:** A zoning vested right is not a personal right but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

- F. **Vested Right Not Exclusive:** Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this chapter.

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