Recommended Letter for Improvement Permit Denial

 Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Re: Application for improvement permit for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ property site \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Health Department file number \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dear \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Owner or Owner’s Agent)

The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Health Department, Environmental Health Division on *(date)* evaluated the above referenced property at the site designated on the plat/site plan that accompanied your improvement permit application. According to your application the site is to serve a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(describe facility – example: 3 bedroom residence, 10 employee office)* with a design wastewater flow of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ gallons per day. The evaluation was done in accordance with the laws and rules governing wastewater systems in General Statutes 130A-333 to 345 and 15A NCAC 18A .1900.

Based on the criteria set out in 15A NCAC 18A .1940 through .1948, the evaluation indicated that the site is UNSUITABLE for a sanitary system of sewage treatment and disposal. Therefore, we must deny your request for an improvement permit. A copy of the site evaluation is enclosed. The site is unsuitable based on the following:

\_\_\_\_\_\_\_\_\_\_\_ Unsuitable soil topography and/or landscape position (Rule .1940)

\_\_\_\_\_\_\_\_\_\_\_ Unsuitable soil characteristics (structure or clay mineralogy) (Rule .1941)

\_\_\_\_\_\_\_\_\_\_\_ Unsuitable soil wetness condition (Rule .1942)

\_\_\_\_\_\_\_\_\_\_\_ Unsuitable soil depth (Rule .1943)

\_\_\_\_\_\_\_\_\_\_\_ Presence of restrictive horizon (Rule .1944)

\_\_\_\_\_\_\_\_\_\_\_ Insufficient space for septic system and repair area (Rule .1945)

\_\_\_\_\_\_\_\_\_\_\_ Unsuitable for meeting required setbacks (Rule .1950)

\_\_\_\_\_\_\_\_\_\_\_ Other (Rule .1946) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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These severe soil or site limitations could cause premature system failure, leading to the discharge of untreated sewage on the ground surface, into surface waters, directly to ground water, or inside your structure.

The site evaluation included consideration of possible site modifications, as well as use of modified, innovative, or alternative systems. However, the Health Department has determined that none of the above options will overcome the severe conditions on this site. A possible option might be a system designed to dispose of sewage to another area of suitable soil or off-site to additional property.

For the reasons set out above, the property is currently classified UNSUITABLE, and no improvement permit shall be issued for this site in accordance with Rule .1948(c).

A site classified as UNSUITABLE may be classified as PROVISIONALLY SUITABLE if written documentation is provided that meets the requirements of Rule .1948(d). A copy of this rule is enclosed. You may hire a consultant to assist you if you wish to try to develop a plan under which your site could be reclassified as PROVISIONALLY SUITABLE.

*You have a right to an informal review of this decision.* You may request an informal review by the soil scientist or environmental health supervisor at the local health department. You may also request an information review by the NC Department of Health and Human Services regional soil scientist. A request for informal review must be made in writing to the local health department.

*You also have a right to a formal appeal of this decision.* To pursue a formal appeal, you must file a petition for a contested case hearing with the Office of Administrative Hearings, 1711 New Hope Church Rd, Raleigh, NC 27609. To get a copy of a petition form, you may write the Office of Administrative Hearings, call the office at 984-236-1850, or download it from the OAH web site at <http://www.oah.nc.gov>. The petition for a contested case hearing must be filed in accordance with the provision of General Statutes 130A-24 and 150B-23 and all other applicable provisions of Chapter 150B. General Statute 130A-335(g) provides that your hearing will be held in the county where your property is located.

If you wish to pursue a formal appeal, you must file the petition form with the Office of Administrative Hearings **WITHIN 30 DAYS OF THE DATE OF THIS LETTER.** The date of this letter is XXX XX, XXXX. Meeting the 30 day deadline is critical to your formal appeal.

If you file a petition for a contested case hearing with the Office of Administrative Hearings, you are required by General Statute 150B-23 to serve a copy of your petition to the Registered Agent for the Office of General Counsel, Department of Health and Human Services, 2001 Mail Service Center, Raleigh, N.C. 27699-2001. The Registered Agent for the Department of Health and Human Services is Julie Cronin.

*Do not serve the petition on your local health department.* Sending a copy of your petition to the local health department will not satisfy the legal requirement in NC General Statute 150B-23 that you send a copy to the Office of General Counsel, NC Department of Health and Human Services.

You may call or write the local health department if you need any additional information or assistance.

 Sincerely,

 Signature of Authorized Agent – DHHS

Enclosures: (Enclose copy of site evaluation)

 (Copy of Rule .1948)