

# WAKE COUNTY SUBDIVISION ORDINANCE ANNOTATED

The Wake County Subdivision Ordinance makes up Chapters 3-1 through 3-5 of the Wake County Code of General Ordinances (as reflected in the numbering of its sections). It is applicable to divisions of parcels of land within the planning jurisdiction of the County of Wake, North Carolina. It is not applicable to divisions of land within the planning jurisdictions of the municipalities located within Wake County. (A municipality's planning jurisdiction consists of land within its corporate limits, plus land lying just outside its corporate limits that make up its extraterritorial jurisdiction (ETJ).)

The Wake County Subdivision Ordinance was originally adopted on May 17, 1976, and has been amended many times since. This copy of the Ordinance contains the County's subdivision regulations as amended through:

**Ordinance No. O-02-02, adopted May 19, 2003.**

Copies of this Ordinance and Supplements reflecting subsequent amendments and corrections to it may be obtained from:

*Wake County Subdivision Administration  
P.O. Box 550  
Raleigh, NC 27602-0550  
(919) 856-6216*

An up-to-date copy of this Ordinance is also accessible on Wake County's Planning Department Web site:

[http:// www.co.wake.nc.us/planning/](http://www.co.wake.nc.us/planning/)

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## NOTE ABOUT ANNOTATIONS

This copy of the Wake County Subdivision Ordinance contains the Subdivision Ordinance as readopted and recodified on August 15, 1985, plus all amendments to the Ordinance adopted through the date shown on the title page. To facilitate usage of the Ordinance and determine the applicability of new and changed regulations, this copy has been annotated in the following ways:

[Added Headings] Descriptive headings have been added to divisions containing closely related provisions.

[Description of Provision Changes] Following each division in which text has been amended since recodification on August 15, 1985 is a description of the changes enacted by each amendment, the date the amendment was adopted, the Resolution or Ordinance number of the amendment, and, where appropriate, a cross-reference to another provision changed by the amendment. If the notation immediately follows a provision, it refers only to changes within that provision. If the notation follows a provision as a separate indented paragraph, it refers to changes within the preceding Section, Subsection, Paragraph, Subparagraph, or other division with the same indentation.

[Miscellaneous Notations] Additional notations have been added where deemed appropriate to indicate incorrect cross-references, references to repealed regulations, the alternative location of expected provisions, etc.

## **CHAPTER 3-1 IN GENERAL**

### **SECTION 3-1-1 TITLE**

This ordinance shall be known as the Wake County Subdivision Regulations and may be referred to as the Subdivision Regulations.

### **SECTION 3-1-2 SCOPE**

These regulations shall not apply to any lot or lots forming a part of a subdivision actively being developed in good faith prior to the effective date of this ordinance, provided the subdivider:

- (A) Recorded a plat of the subdivision with Wake County Register of Deeds prior to the effective date of this ordinance; or
- (B) Satisfies the Director of Planning, within ninety (90) days after the effective date of this ordinance, by site inspection and/or documents that the subdivision was actually being developed prior to the effective date of this ordinance.

These regulations are not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, or regulations, or with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants running with the land to which the County is a party. Where these regulations impose a greater restriction upon land than is imposed or required by such existing provisions of law, resolution, contract or deed, the provisions of these regulations shall control.

### **SECTION 3-1-3 ADOPTION, PURPOSE, INTERPRETATION**

This ordinance is adopted under the authority of Chapter 153A, Article 18, Part 2 of the General Statutes of North Carolina. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements adopted for the protection of the public health, safety and welfare. To protect the public among other purposes, such provisions are intended to provide for permanently wholesome community environment, adequate public services and safe roads and highways.

### **SECTION 3-1-4 SEVERABILITY**

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

### **SECTION 3-1-5 JURISDICTION**

This ordinance shall govern any subdivision of land within the jurisdiction of Wake County and outside the extraterritorial jurisdiction or incorporated boundaries of any municipality. This ordinance shall also govern any subdivision of land within the extraterritorial jurisdiction or incorporated boundaries of any municipality whose governing body has by resolution so agreed.

### **SECTION 3-1-6 DEFINITION OF SUBDIVISION, EXEMPTIONS, AND MINOR SUBDIVISIONS**

#### **(A) DEFINITION OF SUBDIVISION**

"Subdivision" means any division of a tract or parcel of land which creates one or more lots, building sites, or other divisions for the purpose of sale or building development, whether immediate or future, and shall include any division of land involving the dedication of a new road or a change in an existing road.

**(B) EXEMPTIONS FROM DEFINITION OF SUBDIVISION**

"Subdivision" does not mean:

- (1) The division of a tract of land in single ownership into no more than 3 lots, provided that: the tract to be divided is no greater than 2 acres in area; no road right-of-way dedication is involved; and the resulting lots meet or exceed the minimum lot size standards of this ordinance. *[Amended 5-3-05 (OA 04/14)]*
- (2) The division of land resulting in the creation of parcels that are each more than 10 acres in area, provided that no right-of-way is dedicated. *[Amended 5-3-05, removed "into parcels greater than 10 acres apiece where no right of way dedication is involved, a division of land" (OA 04/14)]*
- (3) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased, the resulting lots meet, exceed or come closer to meeting the lot size standards of this ordinance and the subdivision design and improvements standards of this article; and no nonconformities are created. *[Amended 5-3-05; replaced lots "where" the total with lots "if" the total; removed "are equal to or exceed the standards established by this ordinance"; and added "meet, exceed or come closer to meeting..."(OA 04/14)]*
- (4) The public acquisition of land for the establishment (or widening) of roads, rail corridors, parks, open space, greenway corridors, conservation areas, or public water reservoir projects: *[Amended 12/4/00 to add "open space parcels or" and "or the establishment or widening of greenway or rail corridors (O-00-40)] [Amended 5-3-05 to remove "by purchase of open space parcels or strips of land for the widening or opening of streets or the establishment or widening of greenway or rail corridors" & added "of land for the establishment..." (OA 04/14)]*
- (5) The creation of Reserved Conservation Parcels under the requirements of Section 1-1-31 Water Supply Watershed Buffers. *[Amended 5/19/03 to add (7) (OA 02/02)]*
- (6) The division of land into cemetery plots; and
- (7) The division of land solely for the purpose of creating lots to be occupied by electrical substations, water towers, community water and wastewater systems, cell towers, and similar structures used for public or quasi-public utility purposes, provided no road right-of-way is dedicated. *[Amended 5-3-05; added numbers 6 & 7; deleted old numbers 1 and 5; (OA 04-14)]*

In accord with State law, no map or plat showing a division of land within Wake County's planning jurisdiction may be recorded with the Register of Deeds unless and until the Subdivision Administrator has certified that the map or plat is a subdivision approved in accord with this Ordinance or is exempt from this Ordinance's subdivision regulations. Thus persons who contemplate divisions of land which are exempt from this Ordinance are urged to consult with the Wake County Subdivision Administrator to confirm that the proposed division is indeed exempt from this Ordinance, so as to protect the interests of future owners and the public, and to ensure that any lots or building sites which are created can be used or developed under other applicable State and local laws. If the Subdivision Administrator determines that such a map or plat intended to be presented to the Register of Deeds for recording does not fall within this Section's definition of "subdivision," and thus is not subject to the subdivision regulations of this Ordinance, he shall affix the following certificate to the map or plat:

I, \_\_\_\_\_, Subdivision Administrator and Review Officer of Wake County, certify that this plat does not create a subdivision subject to the Wake County Subdivision Ordinance, and that it meets all statutory requirements for recording.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Subdivision Administrator/Review Officer

If the owner of the property does not agree with any exemption ruling of the Subdivision Administrator, he may appeal the decision to the Wake County Board of Commissioners in accord with Section 3-1-9. *[Amended 10/20/97 to make more explicit the requirement that Subdivision Administrator certify approval or exemption of any map or plat showing a division of land, and to add certificate (O-97-47)]*

**(C) MINOR SUBDIVISIONS**

Certain subdivisions that are subject to this ordinance are classified as minor subdivisions and simplified procedures for reviewing and approving them are established in Article II.

"Minor Subdivision" means any subdivision that meets all of the following criteria: *[Amended 5-3-05; added "any subdivision that..." (OA 04/14)]*

- (1) creates no more than 3 lots with direct access to a new, existing or extended private road or to an existing public road;
- (2) does not involve any new public road;
- (3) does not involve the extension of public wastewater or water lines;\
- (4) does not land-lock or prevent development of the remainder of the parcel or abutting property;
- (5) does not create any new or residual parcels that do not comply with the requirements of this ordinance or applicable state or local regulations; and
- (6) is not located, wholly or substantially, in a flood hazard area.

*[Amended 5-3-05; deleted old numbers 1 and 2 and subsections; added new numbers 1-6 (OA 04/14)]*

**SECTION 3-1-7 PROHIBITED ACTS, ENFORCEMENT, PENALTIES**

- (A) No person shall create a subdivision or transfer or sell land by reference to, exhibition of, or any other use of a plat showing a subdivision unless the subdivision has been approved, created, and recorded as provided herein. The description of metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this ordinance.
- (B) The Register of Deeds shall not record a plat of any subdivision unless the plat has been approved as provided herein or the Subdivision Administrator has certified that the subdivision is exempt from this ordinance. Permits required for the installation of roads, utilities, and other improvements necessary to the construction of the subdivision may be issued by the appropriate County agency upon approval of the construction plat as provided by this ordinance. Otherwise, no officer or agency of the County may issue permits for the construction of any building or structure until the subdivision has been approved, created, and recorded as provided herein.
- (C) The position of Subdivision Administrator shall be maintained in Wake County Community Development Services. The Subdivision Administrator shall enforce the ordinance and bring any violation to the attention of the County Attorney.
- (D) Violation of this ordinance shall be a misdemeanor as provided by N.C.G.S. §153A-123(A) and N.C.G.S. §153A-334. This ordinance may be enforced by injunction and order of abatement and all other appropriate equitable remedies to ensure compliance with this ordinance. Each day's continuing violation constitutes a separate and distinct offense as provided in N.C.G.S. §153A-123(g). The Subdivision Administrator shall act as complaining witness when necessary to initiate criminal action against a violator or violators. The Subdivision Administrator is hereby authorized to sign and execute all necessary documents related to a civil action to enforce this ordinance.
- (E) When the regulations of this ordinance conflict with those of any other applicable State law or local regulation, the more stringent regulation shall govern.
- (F) This ordinance is not intended to abrogate or annul any easement, covenant or other agreement between parties; provided, however, that where this ordinance imposes more stringent restrictions that those of such easement, covenant or private agreement, this ordinance shall

govern.

### **SECTION 3-1-8 VARIANCES**

Where the Planning Board finds that, because of extraordinary conditions or circumstances peculiar to the land, strict application of any provision of this ordinance would prohibit a subdivision that is otherwise in accordance with the spirit and intent of this ordinance, it may grant a variance from the provision so as to avoid extraordinary and unnecessary hardship, provided it finds that such variance will not result in detriment to the public interest nor violate the intent and purpose of these regulations. In granting variances, the Planning Board may impose such additional conditions as will, in its judgment, secure substantially the objectives of the requirements so varied. The burden of producing substantial evidence to support the required findings by the Planning Board is upon the applicant and the Planning Board shall deny any request for a variance not supported by substantial evidence.

*[Amended 5/19/97 to simplify Planning Board reference, substitute "grant a variance from" for "vary the application of," and substitute "provided it finds" for "provided"(O-97-21)]*

If a requested variance would result in the relaxation of any of the State Environmental Management Commission's minimum watershed management requirements for the low density option (see 15A NCAC 2B), the Subdivision Administrator shall, at least ten (10) days before the Planning Board's review of the variance request, send written notice of the Board meeting to all other local governments having jurisdiction within the same water supply watershed. *[Added 5/19/97 (O-97-21)]*

If the Planning Board grants a variance that would result in the relaxation, by a factor greater than ten (10) percent), of any of the State Environmental Management Commission's minimum watershed management requirements for the low density option (see 15A NCAC 2B), the Board's decision is subject to review and approval by the State Environmental Management Commission before it becomes final. In such cases, the Subdivision Administrator shall prepare a preliminary record of the variance petition, the evidence submitted to the Board, and the Board's findings and decision, and submit it to the State Environmental Management Commission. If the Commission approves the variance as granted by the Planning Board, the Board's decision shall then be considered final and the variance granted. If the Commission approves the variance with conditions varying from, or in addition to, those imposed by the Planning Board, the Board shall revise its decision to include the varied or added conditions. If the Commission denies the variance, the Planning Board shall reverse its decision and deny the variance. *[Added 5/19/97 (O-97-21)]*

The Subdivision Administrator shall, by January 1, submit to the State Division of Water Quality, or its successor agency, a report of any variances granted within water supply watersheds during the previous calendar year that would result in a variation from the State Environmental Management Commission's minimum watershed management requirements (see 15A NCAC 2B). The report shall describe each project receiving a variance and the reason for granting the variance. *[Added 12/20/93 (O-93-24); amended 5/19/97 to clarify deadline for report submittal and limit variances reported to those resulting in a variation from State requirements (O-97-21)]*

### **SECTION 3-1-9 APPEALS TO THE BOARD OF COUNTY COMMISSIONERS**

- (A) Any property owner or aggrieved subdivider or any officer or agency of Wake County affected by any decision of the Planning Board or Subdivision Administrator which relates to the interpretation or application of this ordinance may file an appeal to the Board of County Commissioners. Any alleged error of the Planning Board or Subdivision Administrator in making or refusing to make a decision, including the failure to make a decision within the required time, may be the basis for an appeal to the Board of County Commissioners.
- (B) Any appeal must be filed with the Chairman of the Board of County Commissioners within thirty (30) days of the decision complained of. The appeal must specify the grounds therefore, and a copy must be filed with the Planning Board or Subdivision Administrator within the same period of time.
- (C) The Board of County Commissioners shall fix a time and place for the hearing of an appeal which shall be held no sooner than fifteen (15) days nor later than sixty (60) days after filing of

an appeal. At least ten (10) days prior to the hearing, the Board of County Commissioners shall publish a notice thereof in a newspaper of general circulation within the County.

- (D) No appeal may be disposed of, unless the Board of County Commissioners with respect to the specific appeal, makes a decision in writing which includes findings of fact together with the reasons therefore and a summary of the evidence or testimony presented. The burden of producing substantial evidence or testimony is upon the party who files an appeal, and if he fails to do so, the Board of County Commissioners shall deny the appeal.

### **SECTION 3-1-10 AMENDMENTS**

The County Commissioners may from time to time adopt, amend, supplement, or repeal the regulations and provisions of this ordinance. Before adopting any amendment which was not initiated by the Planning Board, the County Commissioners shall refer the proposed amendment to the Planning Board, and the Planning Board shall have thirty (30) days from its receipt of the amendment to prepare a recommendation thereon. Before adopting an amendment to this ordinance, the County Commissioners shall also give notice and hold a public hearing as provided in §153A-323 of the General Statutes of North Carolina.

### **SECTION 3-1-11 RESERVED** *[Section deleted 1/3/00 (O-00-1)]*

### **SECTION 3-1-12 FILING OF ORDINANCE AND AMENDMENTS**

Upon adopting this ordinance or any amendments to it, the Clerk to the Board of Commissioners shall file a copy with the Wake County Register of Deeds. The Planning Director shall submit copies of any amendment relating to the protection of water supply watersheds to the State Division of Water Quality, or its successor agency. *[Amended 5/19/97 to add second sentence (O-97-21)]*

### **SECTION 3-1-13 RESERVED** *[Section deleted 1/3/00 (O-00-1)]*

### **SECTION 3-1-14 EFFECTIVE DATE**

This ordinance is effective upon its adoption.

### **SECTION 3-1-15 ACCEPTANCE OF PUBLICLY-DEDICATED ROAD RIGHTS-OF-WAY**

Wake County may accept, for the use and benefit of the general public, all offers of dedication of public road rights-of-way shown on a previously recorded subdivision plat and not yet accepted by a public body or withdrawn or revoked. The County may do so by recording with the Register of Deeds an instrument that is referenced to the subdivision, states the County's acceptance of the dedication offers shown on the plat, and is signed by the Subdivision Administrator. Any public road right-of-way so accepted thereafter may be used for public road access and associated public purposes, including the construction or installation thereon - in accord with applicable County and State regulations - of roadways, associated stormwater management improvements and erosion and sedimentation control devices, utilities serving development along the road, and other public improvements appropriate to the public purposes to which the road right-of-way is dedicated. The County's acceptance, on behalf of the public, of offers of dedication of public road rights-of-way does not include the County's acceptance of any responsibility to construct, install, or maintain the roadway or other improvement intended to be constructed or installed within the right-of-way. *[Section added 10/20/97 (O-97-48)]*

## CHAPTER 3-2

### PROCEDURES FOR REVIEW OF MINOR SUBDIVISION PROPOSALS

#### **SECTION 3-2-1 SIMPLIFIED APPROVAL PROCESS**

Because a minor subdivision, as defined in Section 3-1-6, does not involve any new public road (or any new private road serving more than three (3) lots) and minimal construction or installation of improvements, it can be reviewed under a much more simplified process than applicable to regular subdivisions. A minor subdivision of land simply requires the Subdivision Administrator's review and approval of a record plat (which, on recordation with the Register of Deeds, actually creates the proposed lots and easements).

#### **SECTION 3-2-2 MINOR SUBDIVISION RECORD PLAT REVIEW**

##### **(A) GENERAL**

No lot proposed to be created through the minor subdivision of a parcel shall be sold or offered for sale until a record plat showing the subdivision has been approved by the Subdivision Administrator as complying with all applicable provisions of this Ordinance, and has been recorded with the Wake County Register of Deeds.

##### **(B) PROCEDURES FOR REVIEWING APPLICATIONS FOR RECORD PLAT APPROVAL**

###### **(1) Pre-Application Conference**

A person intending to submit an application for record plat approval for a minor subdivision is strongly encouraged to confer with the Subdivision Administrator before submitting the application. At such conference, the Subdivision Administrator shall explain requirements applicable to the application (including options for meeting the recreation area contribution requirement in Section 3-4-14) and shall identify potential conflicts with applicable standards. *[Amended 5/20/2002 to add reference to recreation area contribution requirement (O-02-7)]*

###### **(2) Application Submittal and Acceptance**

###### **(a) Submittal**

A person seeking approval of a record plat for a minor subdivision shall submit an application for minor subdivision record plat approval to the Subdivision Administrator. The application shall include, with sufficient copies for necessary referrals and records, those forms, maps, plans, and other documents prescribed by the Planning Director as necessary to identify the applicant and owner(s) of the parcel proposed to be subdivided, confirm the owner's authorization for submittal of the application, depict the nature and scope of the proposed subdivision and any associated development, identify and depict the boundaries and area of all proposed lots and other parcels, identify and depict the boundaries of all existing and proposed rights-of-way and easements, effect proposed dedications and restrictions, and show how the subdivision complies with all applicable provisions of this Ordinance and all applicable requirements for recording set forth in the North Carolina General Statutes. The Subdivision Administrator may waive submittal requirements he or she certifies in writing as unnecessary in the particular case to determine compliance with applicable regulations. The applicant shall also submit the fee prescribed for the type of application by the Board of Commissioners. *[Amended 9/3/02 to substitute Planning Director for Planning Board (O-01-?)]*

###### **(b) Acceptance of Application**

The Subdivision Administrator shall review a submitted application and determine whether it complies with submittal requirements. If the application does not comply with submittal requirements, the Subdivision Administrator shall notify the applicant of the submittal deficiencies and invite the applicant to revise the application to

correct the deficiencies. If or when the application complies with all submittal requirements, the Subdivision Administrator shall accept the application as complete and notify the applicant of its acceptance.

(3) **Staff Review**

(a) **Initial Staff Review**

After accepting an application as complete, the Subdivision Administrator shall refer it to appropriate staff for review. The review staff shall review the application, determine whether the record plat complies with all applicable regulations, identify any noncompliant features of the plat, and, whenever feasible, suggest modifications to correct the noncompliant features. The Subdivision Administrator shall notify the applicant of the identified noncompliant features and suggested modifications, and invite the applicant to discuss the review staff comments.

(b) **Opportunity to Revise Application**

Following receipt of the review staff comments and any discussions thereof with the Subdivision Administrator, the applicant shall either: (i) ask the Subdivision Administrator to take action on the application as submitted; or (ii) notify the Subdivision Administrator of an intent to revise the application to address staff comments and submit a revised application to the Subdivision Administrator. If the Subdivision Administrator receives no response within five (5) days after notifying the applicant of the application's noncompliant features, he or she shall presume that the applicant asks that the staff take action on the application as submitted.

If the applicant submits a revised application, the Subdivision Administrator shall determine whether it continues to comply with submittal requirements. On accepting a revised application as complete, the Subdivision Administrator shall refer it to appropriate staff, who shall review it for correction of previously identified noncompliant features.

(4) **Staff Action**

Following the applicant's request for staff action on the original application, or staff review of a revised application, the Subdivision Administrator shall review staff comments, and, based on findings as to the application's compliance with all applicable provisions of this Ordinance, decide to approve the application as submitted or deny the application.

(5) **Withdrawal of Application**

An applicant may withdraw an application for minor subdivision record plat approval at any time by submitting written notice of the withdrawal to the Subdivision Administrator.

(6) **Timely Review of Applications**

The Subdivision Administrator shall make every reasonable effort to process, review, and decide applications for minor subdivision record plat approval in a timely manner, consistent with the need to fully consider the proposed plat's compliance with applicable regulations.

(C) **NOTICE OF DECISION**

The Subdivision Administrator shall send the applicant written notice of his or her final decision on the application, and shall file a copy of the decision in his or her office. If the application is denied, the notice shall state the reasons for the denial.

(D) **PLAT CERTIFICATIONS**

(1) **Approval**

If the Subdivision Administrator approves the application, he or she shall enter the following certification on the approved record plat:



**(B) EXCEPTION**

The limitation in Subsection (A) shall not apply to a minor subdivision for which the owner and grantee certify the applicability of each of the following conditions:

- (1) The grantee of each lot is the child or child and spouse, or grandchild, or grandchild and spouse of the owner.
- (2) No consideration shall be paid for any of the lots.
- (3) The purpose of the minor subdivision is not to circumvent the provisions of the Wake County Subdivision Ordinance and that none of the lots shall be conveyed to third parties for a period of not less than three (3) years, and that the recorded plat shall indicate same.

Failure of any person to comply with these certifications shall be a violation of this Ordinance and all the remedies available in Section 3-1-7 of this Ordinance shall apply.

**SECTION 3-2-4 IMPROVEMENTS**

If an approved minor subdivision involves any associated improvements (such as a private road, public road widening, water supply or sewage disposal system other than individual wells and septic systems, stormwater management facilities or easements, erosion and sedimentation control devices, or any other improvements required as part of the minor subdivision approval), the construction or installation and maintenance of such improvements shall be subject to the provisions in Section 3-3-11, Subsections (A), (B), (C), and (D), and the first sentence of Subsection (E).

*[Entire Chapter revised in its entirety 1/3/00 (O-00-1)]*

## CHAPTER 3-3 PROCEDURES FOR REVIEW AND APPROVAL OF OTHER SUBDIVISIONS

### **SECTION 3-3-1 THREE-STEP APPROVAL PROCESS**

Any subdivision other than a minor subdivision, as defined in Section 3-1-6, is a regular subdivision. A regular subdivision of land, and authorization for development associated with the subdivision, involves a three-step review and approval process. First, a **preliminary plan** must be reviewed and approved. If the preliminary plan is approved, the applicant may then apply for approval of a **construction plat** for development associated with the subdivision or approved phase thereof, and for approval of a **record plat** for the subdivision or approved phase thereof. Construction plat approval authorizes development of roads, utilities, stormwater management facilities, erosion and sedimentation control devices, and other improvements consistent with the preliminary plan approval. Record plat approval authorizes recording of the record plat with the Register of Deeds - an action that effectuates the creation of lots and parcels, the reservation or dedication of rights-of-way, easements, and open space, and other conditions or requirements consistent with the preliminary plan approval. Generally, construction plat approval and completion of improvements in accord with the construction plat are to take place before record plat review and approval, but record plat approval may occur first under certain restrictions (see Section 3-3-11(D)).

### **SECTION 3-3-2 PRELIMINARY PLAN REVIEW**

#### (A) **GENERAL**

The Planning Director or Planning Board, as appropriate, shall approve an application for preliminary subdivision plan approval on determining that the proposed subdivision and associated development, as shown by the preliminary plan, would comply with all applicable provisions of this Ordinance. Approval of an application for preliminary plan approval does not authorize any development, but authorizes the applicant to apply to the Subdivision Administrator for approval of construction plats and record plats for the subdivision or approved phase thereof.

#### (B) **PROCEDURES FOR REVIEWING APPLICATIONS FOR PRELIMINARY PLAN APPROVAL**

##### (1) **Pre-Application Conference**

A person intending to submit an application for preliminary plan approval is strongly encouraged to confer with the Planning Director before submitting the application. At such conference, the Planning Director shall explain requirements applicable to the application (including the applicability of the traffic impact analysis requirement in Section 1-1-30 of the Zoning Ordinance and and options for meeting the recreation area contribution requirement in Section 3-4-14) and shall identify potential conflicts with applicable standards. *[Amended 5/20/2002 to add reference recreation area contribution requirement (O-02-7)]*  
*[Amended 1/18/05]*

##### (2) **Application Submittal and Acceptance**

###### (a) **Submittal**

A person proposing a regular subdivision shall submit an application for preliminary subdivision approval to the Planning Director. The application shall include, with sufficient copies for necessary referrals and records, those forms, maps, plans, and other documents prescribed by the Planning Director as necessary to identify the applicant and owner(s) of the parcel proposed to be subdivided, confirm the owner's authorization for submittal of the application, indicate significant topographical features of the subdivision site and surrounding area, indicate the site's relationship to adjacent development, depict the nature and scope of the proposed subdivision and associated development, and show how the subdivision comply with applicable provisions of this Ordinance. If required by Section 1-1-30 of the Zoning Ordinance,

the application shall also include a traffic impact analysis prepared in accordance with that Section's requirements. The Planning Director may waive submittal requirements he or she certifies in writing as unnecessary in the particular case to determine compliance with applicable regulations. The applicant shall also submit the fee prescribed for the type of application by the Board of Commissioners, including any authorized fee authorized for review of a traffic impact analysis. *[Amended 9/3/02 to substitute Planning Director for Planning Board (O-01-?)] [Amended 1/1805]*

(b) **Acceptance of Application**

The Subdivision Administrator shall review a submitted application and determine whether it complies with submittal requirements. If the application does not comply with submittal requirements, the Subdivision Administrator shall notify the applicant of the submittal deficiencies and invite the applicant to revise the application to correct the deficiencies. If or when the application complies with all submittal requirements, the Subdivision Administrator shall accept the application as complete and notify the applicant of its acceptance.

(3) **Staff Review and Opportunity for Revisions**

(a) **Staff Review**

After accepting an application as complete, the Subdivision Administrator shall refer it to appropriate staff for review. The review staff shall review the application, determine whether the proposed subdivision complies with all applicable regulations, identify any noncompliant features of the proposal, and, whenever feasible, suggest modifications to correct the noncompliant features. The Subdivision Administrator shall notify the applicant of the identified noncompliant features and suggested modifications, and invite the applicant to discuss the review staff comments.

(b) **Opportunity to Revise Application**

Following receipt of the review staff comments and any discussions thereof with the Subdivision Administrator, the applicant shall either: (i) ask the Subdivision Administrator to prepare a staff report on the application as submitted; or (ii) notify the Subdivision Administrator of an intent to revise the application to address staff comments and submit a revised application to the Subdivision Administrator. If the Subdivision Administrator receives no response within five (5) days after notifying the applicant of the application's noncompliant features, he or she shall presume that the applicant asks that the staff take action on the application as submitted. The applicant will have no further opportunity to revise the application except in accord with Section 3-3-2(B)(5)(c).

If the applicant submits a revised application, the Subdivision Administrator shall determine whether it continues to comply with submittal requirements. On accepting a revised application as complete, the Subdivision Administrator shall refer it to appropriate staff, who shall review it for correction of previously identified noncompliant features.

(4) **Staff Action**

(a) **If Application is Not Accompanied by a Variance Request under Section 3-1-8 (Professional Decision)**

Following the applicant's request for the staff action on the original application, or staff review of a revised application, the Subdivision Administrator shall review staff comments, and make findings as to the proposed subdivision's compliance with all applicable provisions of this Ordinance. Based on those findings, the Planning Director shall decide, in writing, to approve the application as submitted, or approve the application subject to conditions, or deny the application.

If the application is denied or approved subject to conditions, the decision shall state the reasons for the denial or conditions. Any conditions of approval shall be limited to requiring specific actions and/or minor changes or additions to, or restrictions on, the proposed subdivision that are deemed reasonably necessary to ensure compliance with applicable provisions of this Ordinance. Such conditions may include time limits for completion of development or for the start or end of certain activities.

The Subdivision Administrator shall file the decision in his or her office and send a copy to the applicant, along with a written notice that the decision becomes final unless the applicant

- (i) submits to the Subdivision Administrator a written request that the application be forwarded to the Planning Board, and
- (ii) does so within seven (7) days after receiving a copy of the Planning Director's Decision.

If the applicant submits such a request within the prescribed time period, the Subdivision Administrator shall forward the application to the Planning Board for further review and a final decision, and the Planning Director's decision shall represent the staff report and recommendation for the Planning Board action on the application. Otherwise, the Planning Director's decision becomes the final decision on the application.

- (b) If Application is Accompanied by a Variance Request under Section 3-1-8 (Recommendation to Planning Board)

Following the applicant's request for a staff action on the original application, or staff review of a revised application, the Subdivision Administrator shall review staff comments, and, based on findings as to the proposed subdivision's compliance with all applicable provisions of this Ordinance, prepare a staff report noting the application's noncompliant features and recommending that the Planning Board approve the application as submitted, or approve the application subject to conditions, or deny the application.

**(5) Planning Board Review and Action**

- (a) Submittal to Board

If the applicant request that the application be forwarded to the Planning Board in accord with Subparagraph (4)(a) above, or if the application is accompanied by a variance request under Section 3-1-8, the Subdivision Administrator shall schedule the application for review by the Planning Board at the Board's next available regularly scheduled meeting. At a reasonable time before the meeting, the Subdivision Administrator shall send members of the Planning Board copies of the application and the staff report. The Subdivision Administrator shall also send the applicant a copy of the staff report.

- (b) Board Review and Action

At its meeting, the Planning Board shall review the application and staff report in accord with its Rules of Procedure. The Board shall, based on findings as to the proposed subdivision's compliance with all applicable provisions of this Ordinance, take action to approve the application as submitted, approve the application subject to conditions, or deny the application. The Board shall limit any conditions of approval to requiring specific actions and/or minor changes or additions to, or restrictions on, the proposed subdivision that it deems reasonably necessary to ensure compliance with applicable provisions of this Ordinance. Such conditions may include time limits for completion of development or for the start or end of

certain activities. If the Board denies the application, it shall identify its reasons for doing so.

(c) **Opportunity to Revise Application**

If the Board discusses the application, the applicant may, before the Board takes final action, ask the Board for permission to revise the application to address concerns raised by the Board's discussion. If the Board grants the request, the revised application shall be submitted to the Subdivision Administrator, and shall be reviewed in the same manner as an original application.

(d) **Notice of Decision**

The Subdivision Administrator shall send the applicant written notice of the Planning Board's final decision on the application, and shall file a copy of the decision in his or her office. If the application is denied, the notice shall state the Board's reasons for its decision.

(6) **Withdrawal of Application**

An applicant may withdraw an application for preliminary subdivision plan approval at any time by submitting written notice of the withdrawal to the Subdivision Administrator.

(7) **Timely Review of Applications**

The Subdivision Administrator and Planning Board shall make every reasonable effort to process, review, and decide applications for preliminary subdivision plan in a timely manner, consistent with the need to fully consider the proposed subdivision's impact with respect to applicable regulations.

(C) Reserved

(D) APPEAL OF DECISION

Any person aggrieved by the Planning Board's decision to approve or deny an application for preliminary plan approval may appeal the decision in accord with Section 3-1-9.

(E) VALIDITY OF PRELIMINARY PLAN APPROVAL

(1) **General**

Except as provided in (2) below, preliminary plan approval shall be valid for two (2) years as authorizing the submittal of applications for construction plat approval and record plat approval for the subdivision (if not phased), or first approved phases thereof (if phased), and for five (5) years as (a) authorizing the submittal of applications for construction plat approval and record plat approval for all remaining phases of a phased development, and (b) insulating development of the subdivision from any subsequent changes to this Ordinance or other County regulations incorporated by provisions of this Ordinance. Preliminary plan approval shall automatically become void if complete applications for both construction plat approval and record plat approval for the subdivision (if not phased), or first approved phases thereof (if phased), have not been submitted to the Subdivision Administrator within the shorter time period. If applications for construction plat approval and record plat approval are submitted for only part of the approved subdivision within the longer time period, preliminary plan approval for those remaining parts of the subdivision shall automatically become void and applications for construction plat approval or record plat approval for development of the remaining parts of the subdivision site may be submitted only pursuant to a new preliminary plan approval granted in accord with this Section. *[Amended 1/22/01 to substitute for 2-year validity period for submitting applications for construction and record plat approval for the entire subdivision (O-01-3) Note: the validity of preliminary plan approvals occurring before this amendment may, at the election of the subdivider, be determined in accord with either the amended validity provisions of those in effect at the time of the approval.]*

(2) **Extension of Preliminary Plan Approval Validity**

On request by the applicant or owner of the parcel proposed to be subdivided, the Subdivision Administrator may extend the date on which preliminary plan approval would otherwise expire by up to twelve (12) months on determining that:

- (a) The preliminary plan approval has not yet expired;
- (b) The applicant or owner of the parcel proposed to be subdivided has proceeded with due diligence and good faith to prepare a construction plat and record plat for the subdivision, or approved phases thereof; and
- (c) Conditions or applicable regulations have not changed so substantially as to warrant reconsideration of the proposed subdivision with respect to the public health, safety, and general welfare.

#### F. PUBLIC NOTICE

Upon approval of the preliminary plan application, it shall be the applicant's responsibility to post the subject property with a sign(s) providing public notice of preliminary plan approval as follows:

##### (1) **Provision of Signs**

The notification sign(s) shall be provided by the Subdivision Administrator to the applicant. It shall be the applicant's responsibility to obtain the sign(s) from the Subdivision Administrator and to post the sign(s) on the subject property as prescribed herein. The applicant shall submit the fee prescribed for the sign(s) by the Board of Commissioners.

##### (2) **Timing of Notice**

The signage is to be posted on the subject property within 10 days after the date of preliminary plan approval, and is to remain posted until no less than 25 days after the date of preliminary plan approval.

##### (3) **Placement of sign(s)**

Sign(s) shall be posted along each public road that is adjacent to or runs through the subject property in a manner that makes the sign clearly visible to neighboring residents and the general public. The sign shall be set back no more than 25 feet from the public road(s) so that the lettering is visible from the road. Where the subject property does not have frontage on a public road, signs shall be erected on the nearest public road with attached notation indicating generally the direction and distance to the subject property. It shall be the applicant's responsibility to ensure that the signage remains on the property and remains free of any visual obstructions from the public road(s) for the required period of time. *[Added 02/19/03 (O-03-02)]*

### **SECTION 3-3-3 CONSTRUCTION PLAT REVIEW**

#### (A) GENERAL

No development associated with the construction or installation of improvements proposed or needed to serve the subdivision (roads, utilities, stormwater management measures, erosion and sedimentation control devices, etc.) may occur except in accord with a construction plat for the improvements that has been approved by the Subdivision Administrator as being consistent with the preliminary plan approval and complying with all applicable provisions of this Ordinance.

#### (B) MODIFICATIONS FROM PRELIMINARY PLAN

The Subdivision Administrator may approve construction plats that reflect minor modifications of the approved preliminary plan on determining that the modifications continue to be consistent with the preliminary plan approval - i.e., that the modifications are necessary to comply with

conditions of approval or would not significantly change the subdivision's general function, form, intensity, character, demand on public facilities, relationship to a local road network, relationship to adjacent properties, or other characteristic from that indicated by the preliminary plan approval. Before making such a determination, the Subdivision Administrator shall review the record of the proceedings on the application for preliminary plan approval and consider whether any proposed modification would raise compliance issues in addition to those considered in approving the preliminary plan.

(C) PROCEDURES FOR REVIEWING APPLICATIONS FOR CONSTRUCTION PLAT APPROVAL

(1) **Application Submittal and Acceptance**

(a) Submittal

A person seeking final approval of development associated with a regular subdivision, or approved phase thereof, shall submit an application for construction plat approval to the Subdivision Administrator. The application shall include, with sufficient copies for necessary referrals and records, those forms, maps, plans, and other documents prescribed by the Planning Director as necessary to identify the applicant and owner(s) of the parcel proposed to be subdivided, confirm the owner's authorization for submittal of the application, indicate significant topographical features of the subdivision site and surrounding area, indicate the site's relationship to adjacent development and improvements, indicate the proposed lotting, and show how development associated with the subdivision complies with the preliminary plan approval and all applicable provisions of this Ordinance. The Subdivision Administrator may waive submittal requirements he or she certifies in writing as unnecessary in the particular case to determine compliance with applicable regulations. The applicant shall also submit the fee prescribed for the type of application by the Board of Commissioners. *[Amended 9/3/02 to substitute Planning Director for Planning Board (O-01-?)]*

(b) Acceptance of Application

The Subdivision Administrator shall review a submitted application and determine whether it complies with submittal requirements. If the application does not comply with submittal requirements, the Subdivision Administrator shall notify the applicant of the submittal deficiencies and invite the applicant to revise the application to correct the deficiencies. If or when the application complies with all submittal requirements, the Subdivision Administrator shall accept the application as complete and notify the applicant of its acceptance.

(2) **Staff Review**

(a) Initial Staff Review

After accepting an application as complete, the Subdivision Administrator shall refer it to appropriate staff for review. The review staff shall review the application, determine whether the proposed development is consistent with the approved preliminary plan and complies with all applicable regulations, identify any noncompliant features of the proposed development, and, whenever feasible, suggest modifications to correct the noncompliant features. The Subdivision Administrator shall notify the applicant of the identified noncompliant features and suggested modifications, and invite the applicant to discuss the review staff comments.

(b) Opportunity to Revise Application

Following receipt of the review staff comments and any discussions thereof with the Subdivision Administrator, the applicant shall either: (i) ask the Subdivision Administrator to take action on the application as submitted; or (ii) notify the Subdivision Administrator of an intent to revise the application to address staff

comments and submit a revised application to the Subdivision Administrator. If the Subdivision Administrator receives no response within five (5) days after notifying the applicant of the application's noncompliant features, he or she shall presume that the applicant asks that the staff take action on the application as submitted.

If the applicant submits a revised application, the Subdivision Administrator shall determine whether it continues to comply with submittal requirements. On accepting a revised application as complete, the Subdivision Administrator shall refer it to appropriate staff, who shall review it for correction of previously identified noncompliant features.

**(3) Staff Action**

Following the applicant's request for staff action on the original application, or staff review of a revised application, the Subdivision Administrator shall review staff comments, and, based on findings as to the application's consistency with the preliminary plan approval and compliance with all applicable provisions of this Ordinance, decide to approve the application as submitted, or approve the application subject to conditions, or deny the application. The Subdivision Administrator shall limit any conditions of approval to requiring specific actions and/or minor changes or additions to, or restrictions on, the proposed development that he or she deems reasonably necessary to ensure consistency with the preliminary plan approval or compliance with applicable provisions of this Ordinance. Such conditions may include time limits for completion of development or for the start or end of certain activities.

**(4) Withdrawal of Application**

An applicant may withdraw an application for construction plan approval at any time by submitting written notice of the withdrawal to the Subdivision Administrator.

**(5) Timely Review of Applications**

The Subdivision Administrator shall make every reasonable effort to process, review, and decide applications for construction plat approval in a timely manner, consistent with the need to fully consider the proposed development's impact with respect to applicable regulations.

**(D) NOTICE OF DECISION AND PERMIT ISSUANCE**

The Subdivision Administrator shall send the applicant written notice of his or her final decision on the application, and shall file a copy of the decision in his or her office. If the application is approved subject to conditions, the notice shall state the reasons for the conditions. If the application is denied, the notice shall state the reasons for the denial. If the Subdivision Administrator approves the application, with or without conditions, he or she shall issue the applicant the appropriate land use permit(s) for the approved development.

**(E) APPEAL OF DECISION**

Any person aggrieved by the Subdivision Administrator's decision to approve or deny an application for construction plat approval may appeal the decision in accord with Section 3-1-9.

**(F) VALIDITY OF CONSTRUCTION PLAT APPROVAL**

Construction plat approval shall be valid for two (2) years as authorizing the start of construction or installation of roads, utilities, stormwater management devices, erosion and sedimentation control devices, and other improvements approved as part of the construction plat approval, and as insulating the approved development from any subsequent changes to this Ordinance or other County regulations incorporated by provisions of this Ordinance. Construction plat approval shall automatically become void if the approved development has not been substantially started while the approval is still valid.

**SECTION 3-3-4 RECORD PLAT REVIEW****(A) GENERAL**

No lot proposed to be created through the regular subdivision of a parcel shall be sold or offered for sale until a record plat showing the subdivision has been approved by the Subdivision Administrator as being consistent with the preliminary plan approval and complying with all applicable provisions of this Ordinance, and has been recorded with the Wake County Register of Deeds.

**(B) MODIFICATIONS FROM PRELIMINARY PLAN**

The Subdivision Administrator may approve record plats that reflect minor modifications of the approved preliminary plan on determining that the modifications continue to be consistent with the preliminary plan approval - i.e., that the modifications are necessary to comply with conditions of approval or would not significantly change the subdivision's general function, form, intensity, character, demand on public facilities, relationship to a local road network, relationship to adjacent properties, or other characteristic from that indicated by the preliminary plan approval. Before making such a determination, the Subdivision Administrator shall review the record of the proceedings on the application for preliminary plan approval and consider whether any proposed modification would raise compliance issues in addition to those considered in approving the preliminary plan.

**(C) PROCEDURES FOR REVIEWING APPLICATIONS FOR RECORD PLAT APPROVAL****(1) Application Submittal and Acceptance****(a) Submittal**

A person seeking approval of a record plat for a regular subdivision, or approved phase thereof, shall submit an application for record plat approval to the Subdivision Administrator. The application shall include, with sufficient copies for necessary referrals and records, those forms, maps, plans, and other documents prescribed by the Planning Director as necessary to identify the applicant and owner(s) of the parcel proposed to be subdivided, confirm the owner's authorization for submittal of the application, identify and depict the boundaries and area of all proposed lots and other parcels, identify and depict the boundaries of all proposed rights-of-way and easements, effect proposed dedications and restrictions, and show how the subdivision complies with the preliminary plan approval, all applicable provisions of this Ordinance, and all applicable requirements for recording set forth in the North Carolina General Statutes. The Subdivision Administrator may waive submittal requirements he or she certifies in writing as unnecessary in the particular case to determine compliance with applicable regulations. The applicant shall also submit the fee prescribed for the type of application by the Board of Commissioners.

*[Amended 9/3/02 to substitute Planning Director for Planning Board (O-01-?)]*

**(b) Acceptance of Application**

The Subdivision Administrator shall review a submitted application and determine whether it complies with submittal requirements. If the application does not comply with submittal requirements, the Subdivision Administrator shall notify the applicant of the submittal deficiencies and invite the applicant to revise the application to correct the deficiencies. If or when the application complies with all submittal requirements, the Subdivision Administrator shall accept the application as complete and notify the applicant of its acceptance.

**(2) Staff Review****(a) Initial Staff Review**

After accepting an application as complete, the Subdivision Administrator shall refer it to appropriate staff for review. The review staff shall review the application, determine whether the record plat is consistent with the preliminary plan approval and complies with all applicable regulations, identify any noncompliant features of the plat, and, whenever feasible, suggest modifications to correct the noncompliant features. The Subdivision Administrator shall notify the applicant of the identified noncompliant features and suggested modifications, and invite the applicant to discuss the review staff comments.

(b) **Opportunity to Revise Application**

Following receipt of the review staff comments and any discussions thereof with the Subdivision Administrator, the applicant shall either: (i) ask the Subdivision Administrator to take action on the application as submitted; or (ii) notify the Subdivision Administrator of an intent to revise the application to address staff comments and submit a revised application to the Subdivision Administrator. If the Subdivision Administrator receives no response within five (5) days after notifying the applicant of the application's noncompliant features, he or she shall presume that the applicant asks that the staff take action on the application as submitted.

If the applicant submits a revised application, the Subdivision Administrator shall determine whether it continues to comply with submittal requirements. On accepting a revised application as complete, the Subdivision Administrator shall refer it to appropriate staff, who shall review it for correction of previously identified noncompliant features.

(3) **Staff Action**

Following the applicant's request for staff action on the original application, or staff review of a revised application, the Subdivision Administrator shall review staff comments, and, based on findings as to the application's consistency with the preliminary plan approval and compliance with all applicable provisions of this Ordinance, decide to approve the application as submitted or deny the application.

(4) **Withdrawal of Application**

An applicant may withdraw an application for record plat approval at any time by submitting written notice of the withdrawal to the Subdivision Administrator.

(5) **Timely Review of Applications**

The Subdivision Administrator shall make every reasonable effort to process, review, and decide applications for record plat approval in a timely manner, consistent with the need to fully consider the proposed plat's compliance with applicable regulations.

(D) **NOTICE OF DECISION**

The Subdivision Administrator shall send the applicant written notice of his or her final decision on the application, and shall file a copy of the decision in his or her office. If the application is denied, the notice shall state the reasons for the denial.

(E) **PLAT CERTIFICATIONS**

(1) **Approval**

If the Subdivision Administrator approves the application, he or she shall enter the following certification on the approved record plat:

I, \_\_\_\_\_, Subdivision Administrator and Review Officer of Wake County, certify that this plat creates a subdivision subject to and approved in accord with the Wake County Subdivision Ordinance, and that it meets all statutory requirements for recording. I also certify that copies of all



- (2) establish the subdivider's general responsibility to complete all required improvements before presenting a record plat for recordation;
- (3) establish an exception to this general responsibility when lot purchasers are notified that the subdivider is responsible for completing required improvements and that uncompleted improvements may result in the withholding of building permits and certificates of occupancy;
- (4) identify when an improvement is deemed to be complete;
- (5) establish the subdivider's responsibility to maintain all required improvements until a unit of government, public utility, homeowners' association, lot owner, or other legal entity assumes that responsibility, and to notify lot purchasers of such responsibility and that nonacceptance of public roads by NCDOT may result in the withholding of building permits; and
- (6) authorize the Subdivision Administrator to establish and use administrative procedures to ensure the timely completion and continued maintenance of required subdivision improvements.

(B) IMPROVEMENTS REQUIRED

The subdivider shall be responsible for the construction, installation, and maintenance of the following improvements in accordance with the standards in this Ordinance in addition to any applicable federal, state or municipal standards.

- (1) Roads within the subdivision and improvements to existing streets or roads required for safe and adequate access to the subdivision as may be required by this Ordinance. *[Amended 1/18/05]*
- (1.5) Road and transportation improvements deemed necessary to correct transportation level of service deficiencies or traffic safety issues resulting from the proposed development, as identified in a traffic impact analysis. *(Amended 4/13/05)*
- (2) Any water supply or sewage disposal system other than individual wells and septic tanks.
- (3) Drainage facilities and easements, and stormwater management devices.
- (4) Erosion and sedimentation control devices.
- (5) Any other improvements required as part of preliminary plat approval.

Where the subdivider files a record plat for only a portion of the subdivision for which a preliminary plat was approved, the improvements required to be constructed, installed, and maintained in accordance with that record plat shall be those of the above improvements that the Subdivision Administrator deems necessary to serve the lots shown on the record plat.

(C) COMPLETION OF IMPROVEMENTS

The Planning Director may not approve a final plat presented for recordation until all required improvements have been completed, or a performance guarantee has been provided in accordance with Section 3-3-11 Part D. An improvement will be deemed completed only after the appropriate public agency certifies that the improvement has been installed in accordance with the approved preliminary plat and construction plan. In lieu of certification from a public agency, the Planning Director is authorized to accept certification from the applicant's engineer or surveyor or other professional as authorized by the North Carolina General Statutes that the improvements have been installed in accordance with all applicable standards. *[Amended on 1-18-05 (OA 04/08)]*

(D) PERFORMANCE GUARANTEES

- (1) Purpose

Performance guarantees are required for the purpose of ensuring that developers properly install all required subdivision improvements in a timely manner, in accordance with

approved plats and construction plans.

(2) Term

The term of a performance guarantee may not exceed 2 years. The Planning Director may, for good cause and with the approval of the provider of the guarantee, grant up to 2 extensions of the term, with each such extension not to exceed one year.

(3) Form and Amount of Performance Guarantee

- (a) Performance guarantees must be in the form of a performance bond, letter of credit or cash escrow account with a local bank. The performance guarantee must be conditioned upon the performance of all work necessary to complete required subdivision improvements within the time period specified at the time of preliminary plat or construction plan approval.
- (b) The amount of the performance guarantee must equal at least 125 percent of the estimated cost of the required improvements, including project management costs that have not been installed by the time of Record Plat submittal.
- (c) The estimated cost of required improvements, including project management costs, must be itemized by improvement type and certified by the applicant's engineer. In the case of minor subdivisions, the applicant's engineer or surveyor may provide the itemized cost estimate. Cost estimate must be based on industry norms within Wake County.

(4) Draws Against Performance Guarantee

Should a developer fail to properly install the required improvements within the term of the guarantee, the guarantee will be deemed in default. In the case of default, the county is authorized to use the guarantee funds to install the required subdivision improvements or to let a contract for installation of the required improvements.

(5) Release of Performance Guarantee

- (a) Once the conditions of the performance guarantee have been completed to the satisfaction of the appropriate agencies and any required maintenance guarantee has been provided (in accordance with Section 3-4-11 F), the guarantee must be released.
- (b) All improvements must be completed and installed in accordance with Section 3-3-11. No financial guarantee may be released until all required certifications of completion have been provided.
- (c) Once the required improvements have been at least 50 percent certified, the financial guarantee may be reduced by the ratio that the certified completed improvements bear to the total improvements required, provided that only one such reduction may be permitted prior to final release of the performance guarantee.

*[Amended on 1-18-05 (OA 04/08)]*

(E) MAINTENANCE OF REQUIRED IMPROVEMENTS

The subdivider is responsible for maintenance of all required improvements, including rights-of-way, to the standards of this Ordinance until such time as a unit of government, public or private utility, homeowners' association, property owners association, lot owner, or other legal entity assumes formal, legal responsibility for maintenance of the improvements. The record plat must include the subdivider's signed and notarized acknowledgement of this responsibility. The subdivider must also provide each prospective buyer of any lot shown on the record plat with written disclosure of:

- (1) the subdivider's responsibility for maintaining required improvements and
- (2) the provisions of this ordinance prohibiting the issuance of building permits until NCDOT has formally accepted any public road improvements of the execution of a maintenance

agreement.

*[Amended 2/15/93 to add alternative of executing a maintenance agreement (O-93-2)] [Amended on 1-18-05 (OA 04/08)]*

(F) **MAINTENANCE GUARANTEES**

(1) Purpose

Maintenance guarantees are required for the purpose of ensuring that roads that are to be dedicated to the public are properly maintained, free from defects, between the time of their construction and the time of formal acceptance for maintenance by NCDOT.

(2) Timing

A maintenance guarantee must be in place before any required performance guarantee is released or before any building permits are issued for subdivisions containing public road improvements.

(3) Agreement

Required maintenance guarantees for public road facilities must stipulate that subdivider will maintain all required public road improvements, drainage improvements and sedimentation and erosion control improvements to the standards of this Ordinance until the public road improvements are added to the state-maintained road system. It must also state that the subject developer will be responsible for correcting any defects that may arise during the maintenance period and remove temporary sedimentation and erosion control measures.

(4) Form and Amount

Required maintenance guarantees must be in the form of a performance bond, letter of credit from, or cash escrow account with a local bank. The amount of the guarantee must be at least 15% of the total cost of constructing the public road improvements (excluding the costs of clearing and rough grading). The estimated cost of the required improvements must be itemized and certified by the applicant's engineer. In the case of minor subdivisions, the applicant's engineer or surveyor may provide the itemized cost estimate. Cost estimates must be based on industry norms within Wake County. The Planning Director of Planning Board may require a higher guarantee amount when deemed necessary to address higher potential correction costs due to the subdivision's size and site characteristics, but in no event may the amount exceed 25% of estimated construction costs.

(5) Term

The agreement must have a term of one year and provide an option for its annual renewal if the subdivider has arranged for County inspection of the improvements, has submitted to the County an acceptable estimate of the costs necessary to correct any deterioration or defects discovered by the inspection, and has increased the amount of the security by the amount of the estimate. The agreement must also provide that the subdivider pay an annual fee to cover the County's administrative costs.

*[Amended 2/15/93 to add references to execution of maintenance agreement (O-93-2)] [Section revised in its entirety 2/18/91 (R-91-13)] [Section revised in its entirety 1/18/05 (OA 04/08) and Deleted Section 3-3-11Part G on 1-18-05 (OA 04/08)]*

**SECTIONS 3-3-12 through 3-3-14** RESERVED *[Sections deleted 1/3/00 (O-00-1)]*

**SECTION 3-3-15 VACATION OF PLAT**

(A) The owner of a subdivision may seek to vacate the plat or part thereof at any time before the

sale of any lot by submitting an instrument of vacation and a copy of such plat for approval under this section. If a lot or lots have already been sold, all of the owners of any lots to be vacated must join the owner of the subdivision in executing the instrument of vacation and in petitioning the County to close roads offered for dedication within the subdivision.

- (B) The instrument of vacation shall be recorded like a final plat of a subdivision. When duly recorded, the instrument of vacation shall destroy the force and effect of the prior recorded plat which has been vacated and shall extinguish any offer or dedication to any grounds, improvements, roads, or alleys.

**SECTION 3-3-16** RESERVED [Section deleted 1/3/00 (O-00-1)]

**SECTION 3-3-17 HOMEOWNERS ASSOCIATIONS**

(A) **ESTABLISHMENT**

If a homeowners association or similar legal entity is to be responsible for the maintenance and control of open space, recreational facilities, or other common areas and facilities associated with a subdivision, it shall be established so that it has clear legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from subdivision residents to cover their proportionate shares of the costs associated with the maintenance of the common areas and facilities. Such association or similar legal entity shall be established before any dwelling unit or lot in the subdivision is sold or any building in the subdivision occupied.

(B) **DOCUMENTATION**

Documents providing for the establishment of a homeowners association or similar legal entity in accord with this Section shall be submitted to, and approved by, the Subdivision Administrator before any plat for the development is recorded. The Subdivision Administrator's review shall be limited to ensuring that the homeowners association or similar legal entity is established so that it has clear legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from subdivision residents to cover their proportionate shares of the costs associated with the maintenance of the common areas and facilities.

[Section added 4/15/96 (O-96-7)]

**SECTION 3-3-18 PHASING**

A subdivision may be developed in phases provided that:

- (1) Each phase contains at least six (6) lots, unless shown on a phasing plan approved as part of the preliminary subdivision plan with the express determination that the proposed phasing makes it unlikely that a subdivider would willingly abandon a final phase that contains a required extension of a road or other infrastructure;
- (2) A phasing plan showing the phases of development and the requirements of this Ordinance that will be satisfied in each phase is either approved as part of the preliminary plan or in conjunction with approvals of both the construction plat and final plat;
- (3) The number of lots and amount of any required open space in the phase and any previously approved phases is at least proportional to the portion of the subdivision site area within the phase(s); and
- (4) The degree and extent of road, water supply, sewage disposal, stormwater management, erosion and sedimentation control, and other required improvements in the phase and previously approved phases is sufficient to serve or handle all development within the phase(s). [Added 4/15/96 (O-96-7); amended 4/21/97 to substitute (1) for prerequisite that each phase contain 5 or more acres and to renumber former (1) - (3) as (2) - (4) (O-97-15)]

## CHAPTER 3-4

### REQUIRED IMPROVEMENTS AND MINIMUM DESIGN STANDARDS

#### **SECTION 3-4-.05 COMPLIANCE WITH PLANS AND OTHER APPLICABLE REGULATIONS**

- (A) It is intended that the subdivision design will be consistent with the spirit and intent of the Land Use Plan, the Transportation Plan, and the Consolidated Open Space Plan of Wake County.
- (B) Subdivisions and lots created under this ordinance must comply with all federal, state and county regulations. *[Added entire section on 5-3-05 (OA 04/14)]*

#### **SECTION 3-4-1 ALTERNATIVE SUBDIVISION DESIGNS**

Subdivisions may be designed either as lot-by-lot subdivisions, which are principally characterized by minimum lot size standards applied to each lot, or in certain zoning districts, as either Cluster subdivisions or Open Space Subdivisions, which are principally characterized by maximum lot density and minimum open space standards applied to the subdivision site, with lot design standards being of secondary importance. Lot-by-lot subdivisions must comply with the lot design standards in Section 3-4-2. Cluster and Open Space Subdivisions must comply with the design standards in Section 3-4-3. All subdivisions must comply with the design standards in Sections 3-4-4 through 3-4-13. *[Amended 4/15/96 to substitute for proviso requiring compliance with other regulations - but see Subsection 3-4-4(A) (O-96-7)] [Added Open Space Subdivisions 1/18/05 (OA-04/11)]*

#### **SECTION 3-4-2 LOT DESIGN STANDARDS FOR LOT-BY-LOT SUBDIVISIONS**

Except as otherwise provided by the flag lot standards in Section 3-4-13, each lot shall meet or exceed the minimum lot size and lot width standards shown in Table 1 for lot-by-lot subdivisions and the zoning district in which the lot is located. *[Note: Table 1 follows Section 3-4-3]* Each lot shall have at least thirty (30) feet of frontage on a public or private road meeting the standards of this Ordinance. Side lot lines extending from a road shall be approximately perpendicular or radial to the road's right-of-way boundary. *[Amended 4/15/96 to substitute for provision regarding suitability of the land - but see Subsection 3-4-4 (O-96-7)]*

#### **SECTION 3-4-3 CLUSTER SUBDIVISIONS**

##### **(A) PURPOSE**

The regulations of this section are intended to encourage subdivision design that is more efficient and provides greater protection of open space and natural resources than conventional subdivision designs. Cluster and Open Space Subdivision designs allow more compact and less costly networks of roads and utilities. They also help reduce stormwater run-off and non-point source pollutant loading rates and can be used to preserve an area's rural character. Cluster and Open Space Subdivisions are intended to *encourage the provision* of needed open space and recreational amenities for residents, while also helping to retain an area's character and preserve natural, *environmentally sensitive* and historic resources.

*[Amended 7/21/97 to refer to Land Use Plan's Urban Services Area and Urban Services Area/Water Supply Watershed instead of General Development Plan's Perimunicipal Planning Area (O-97-32)] [Amended 1/18/05 (OA-04/11)]*

##### **(B) GENERAL DESCRIPTION**

1. The cluster and open space development standards of this section require that a specified portion of each subdivision be set-aside and permanently reserved as open space. The primary difference between cluster developments and open space developments is the amount of open space that must be preserved. Cluster developments are required to set aside a modest amount of open space, while open space developments are required to set-aside a far greater amount.
2. The required open space area within cluster or open space developments can be used to

provide recreational opportunities for the subdivision's residents, to, conserve and protect significant natural resources, or to conserve productive farming and forestry areas.

*[Added 1/18/05 (OA-04/11)]*

(C) MINIMUM SUBDIVISION SITE SIZE

1. Cluster Development

The total land area within the parcel(s) making up a cluster subdivision site shall be at least ten (10) acres.

2. Open Space Development

The total minimum land area within the parcel(s) making up the open space subdivision shall be at least (25) acres. *[Amended 1/18/05 (OA-04/11)]*

(D) MAXIMUM NUMBER OF LOTS

The maximum number of lots allowed within a Cluster subdivision or Open Space Subdivision shall be equal to the site's total land area multiplied by the maximum lot density standard shown in Table 2 for the zoning district in which the subdivision site is located. *[Added Open Space Subdivision on 1/18/05 (OA -04/11)]*

If the subdivision site is located in more than one zoning district, the maximum number of lots allowed shall be individually determined and applied for each portion of the site located in a different zoning district, except that allowable lots may be transferred within the subdivision site from one zoning district to another zoning district with a higher maximum lot-per-acre standard, provided the number of lots transferred is no more than thirty (30 percent of the maximum number of lots allowed in the receiving district, as determined under the first paragraph of this Subsection.

*[Example: In a cluster subdivision or Open Space Subdivision with 10.5 acres zoned R-30 and 10.5 acres land zoned R-20, the maximum number of lots normally allowed is 15.225 in the R-30 portion (10.5 acres X 1.45 lots/acre) and 22.785 for the R-20 portion (10.5 acres X 2.17 lots/acre). Without any transfer, the site may contain a maximum of 38 lots, with no more than 15 in the R-30 portion, 22 in the R-20 portion, and 1 straddling the boundary between the districts. But up to 6.835 allowable lots (22.785 lots X 30%) may be transferred from the R-30 portion to the R-20 portion. With maximum transfer, the site may still contain a maximum of 38 lots, with 9 in the R-30 portion and 29 in the R-20 portion.]]**[Added Open Space Subdivision on 1/18/05 (OA - 04/11)]*

(E) LOT DESIGN STANDARDS FOR CLUSTER AND OPEN SPACE SUBDIVISIONS

Each lot shall be regularly shaped and meet or exceed the minimum lot size and lot width standards shown in Tables 2 and 3 for Cluster and Open Space Subdivisions and the zoning district in which the lot is located. Each lot shall have at least thirty (30) feet of frontage on a public or private road meeting the standards of this Ordinance. Side lot lines extending from a road shall be approximately perpendicular or radial to the road's right-of-way boundary.

TABLE 1 LOT DESIGN STANDARDS		
Zoning District	Lot-by-Lot Subdivisions	
	Minimum Lot Size (sq. ft.)	Minimum Lot Width <sup>1</sup> (ft.)
Research Applications	8 acres <sup>2</sup>	400
Residential-80W	80,000	150
Residential-80	80,000	150
Residential-40W	40,000	110
Residential-40	40,000	110
Residential-30	30,000	95
Residential-20	20,000	75
Residential-15	15,000	65
Residential-10	10,000	55
Residential-5	10,000	55
General Business	20,000 <sup>3</sup>	none
Heavy Commercial	none	none
Industrial-I	none	none
Industrial-II	none	none
Mobile Homes	10 acres	none
Highway	30,000 <sup>4</sup>	95 <sup>4</sup>
Airport I	none	none
Airport II	none	none
Office and Institutional	30,000	95
Special Highway	2 acres	none
Economic Development	None <sup>5</sup>	None <sup>5</sup>

1. Minimum lot width shall be met for a depth of at least 30 feet measured along lines parallel to the lot's road frontage and located interior of the minimum front yard depth applicable to the lot and in the front two-thirds (2/3) of the lot's depth. *[Amended 4/21/97 to substitute for formula width variation fronting curved roads (O-97/16)]*

2. For lots to be devoted to central uses; for lots to be devoted to auxiliary uses, see Section 1-1-36(E) of Zoning Ordinance.

3. For lots in which more than 50% of floor area is to be devoted to residential uses; none for other lots (see Section 1-1-38(I)(2) of Zoning Ordinance).

4. For lots to be devoted to general uses; for lots to be devoted to special uses, see Section 1-1-41(D)(1), (2) of Zoning Ordinance.

5. See Section 1-1-47(H)(2),(4)(14) of Zoning Ordinance. *[Added Open Space Subdivisions 1/18/05 (OA-04/11)]*

**Table 2 Lot Design Standards**

District	Cluster Development			Open Space Development		
	Maximum Density (units/acre) [1]	Minimum Lot Size		Maximum Density (units/acre)	Minimum Lot Size	
		Area (square feet) [1] [2]	Width (feet)		Area (square feet) [1] [2]	Width (feet)
R-80W	0.50	40,000	110	0.50	30,000 + 40% open space	90
R-80	0.50	40,000	110	0.50	35,000 + 30% open space	90
					32,500 + 35% open space	
					30,000 + 40% open space	
R-40W	1.00	20,000			14,000 + 40% open space	60
R-40	1.00	20,000	75	1.00	16,000 + 30% open space	60
					15,000 + 35% open space	
					14,000 + 40% open space	
R-30	1.45	12,000	60	1.45	10,000 + 30% open space	50
					9,500 + 35% open space	
					9,000 + 40% open space	
R-20	2.17	6,000	50	2.17	6,000	50
R-15	2.90	5,000	45	2.90	5,000	45
R-10	4.35	3,000	40	4.35	3,000	40
R-5	8.70	3,000	40	8.70	3,000	40
GB	2.17	6,000	50	2.17	5,000	50
HD	1.45	12,000	60	1.45	10,000 + 30% open space	50
					9,500 + 35% open space	
					9,000 + 40% open space	
O&I	1.45	12,000	60	1.45	10,000	60

For Open Space Subdivisions, which utilize community water and wastewater systems, the following minimum lot standards in Table 3 shall apply:

**Table 3 Lot Design Standards**

District(3)	Maximum Density (units/acre)(1,2,3)	Minimum Lot Area (square feet)(1,2,3)	Min Lot Width (feet)(3)
R-80 & R-80W	0.50	20,000	75
R-40 & R-40W	1.00	10,000	60
R-30, HD and O&I	1.45	6,000	50
R-20 and GB	2.17	6,000	45
R-15	2.90	5,000	45
R-10	4.35	3,000	40
R-5	8.70	3,000	40

Footnotes for Table 2 and Table 3 Lot Design Standards

- (1) More restrictive standards may apply to lots within the Swift Creek, Little River and Smith Creek Water Supply Watersheds.
- (2) Minimum lot area per dwelling unit. For example, duplex in R-80 district requires minimum lot area of 80,000 square feet in cluster development and 60,000 square feet in open space developments.
- (3) While lot sizes are significantly reduced from the normal lot-by-lot standards, the overall density cannot be increased beyond the maximum density allowed in that district. Land designated as open space is permanently dedicated for that purpose and cannot be later converted into developable lots.

[Added Tables 2, 3 and footnotes on 1/18/05 (OA-04/11)]

**(F) OPEN SPACE****(1) Required Open Space**

Land within the subdivision site that is not contained in lots, or in rights-of-way or parcels devoted to accommodating necessary roads and utilities, or in parcels reserved for future development under Subsection (F), shall be in one or more parcels dedicated or reserved as permanent open space shall either be passive or active.

Passive open spaces are priority areas with limited activity due to the sensitivity of the natural, environmental and historic resources of the site. Priority areas must be reserved as open space and are subject to Wake County requirements. These priority areas include wetlands, Riparian stream buffers as required in the Wake County's Stormwater Control, Management and Watercourse Buffer Regulations and Water-Supply watershed stream buffers with a drainage area of 25 acres or more.

Active open spaces are areas that may be utilized for either passive and/or active recreational activities, such as, by way of example, parks, ballfields, sports complex or recreation centers for the subdivision's residents or public dedication; or to, conserve and protect significant natural resources, or the conservation of productive farming and forestry uses.

*[Amended 7/21/97 to refer to Urban Services Area and Urban Services Area/Water Supply Watershed instead of Perimunicipal Planning Area (O-97-32); amended 5/20/2002 to add clarification that dedicated or reserved recreation area may count as required open space (O-02-7)] [Added "shall either be passive or active" on first paragraph and added 2<sup>nd</sup> and 3<sup>d</sup> paragraphs on 1/18/05 (OA 04/11)]*

**(a) Cluster Development**

- (1) At least 10 percent of the land area within a cluster development must be set aside and permanently preserved as open space if the development is located within an Urban Services Area or Urban Services Area/Water Supply Watershed.
- (2) Cluster developments located in a Non-Urban Area, and Non-Urban Area Water Supply Watershed must set aside and permanently preserve at least 25 percent of the subdivision's total land area as open space.
- (3) Land required to be dedicated or reserved as recreation area may count towards meeting minimum open space standards.

**(b) Open Space Development**

- (1) At least 30 percent of the land area within an open space development must be set aside and permanently preserved as open space if the development is located within an Urban Services Area or Urban Services Area/Water Supply Watershed.
- (2) Open Space developments located in a Non-Urban Area, and Non-Urban Area Water Supply Watershed must set aside and permanently preserve at least 40 percent of the subdivision's total land area as open space.
- (3) Land required to be dedicated or reserved as recreation area may count towards meeting minimum open space standards. *[Added (a) and (b) sections on 1/18/05 (OA 04/11)]*

**(2) Use, Location, and Design** *[Amended on 1/18/05 (OA 04/11)]*

- (a) Open space shall be dedicated or reserved for one or more of the following uses:
  1. Conservation of, and avoidance of development in, any readily identifiable natural hazard areas - i.e., areas that potentially pose a significant hazard to people or property (e.g., designated floodways, other perennially wet lands, and lands whose slope and/or soils make them particularly susceptible to erosion when disturbed by development activities);

2. Conservation and protection of any identified significant natural areas (e.g., rare plant communities, important wildlife habitat) or other environmentally sensitive areas where development might threaten water quality or ecosystems (e.g., watershed buffers, groundwater recharge areas);
3. Conservation and protection of any identified important historic resources (e.g., homesteads, mills, barns, archeological sites);
4. Provision of active and/or passive outdoor recreation opportunities (e.g., ballfields, playgrounds, tennis courts, swimming pools, basketball courts, golf courses, bikeways, walking trails, nature trails, and picnic areas), either for the general public or for the subdivision's residents or employees and their guests (Note: This does not preclude a membership requirement or monetary charge for use of recreation facilities such as a golf, swim, or tennis club, as long as subdivision residents or employees have an opportunity to join the club or pay to use club facilities); or
5. Retention of productive farmland or forestland for continued agricultural and/or forestry use.

*[Amended 8/19/96 to add Note to (4) (O-96-33)]*

- (b) Highest priority for the location, design, and use of open space shall be given to conserving, and avoiding development in, any natural hazard areas on the subdivision site.
- (c) Open space may contain only such buildings, structures, accessways, and parking facilities as are necessary and accessory to its principal uses (e.g., pedestrian path, recreational club house, utility lines, driveway, small parking area, barns and other farm storage and processing facilities). Open space may contain individual water supply wells or subsurface sewage disposal fields serving dwelling units on adjacent lots, or community wells, provided such structures do not conflict with the principal uses of the open space.
- (d) The location, size, character, and shape of required open space shall be appropriate to its intended use(s) - e.g., open space proposed to be used for recreation, particularly active recreation, should be located and designed so as to be conveniently and safely reached and used by those persons it is intended to serve, and open space proposed to be used for ballfields, playing fields, or other extensive active recreational facilities should be located on land that is relatively flat and dry.
- (e) Open space areas are subject to maximum impervious surface coverage limits. Impervious coverage within open space areas may not exceed applicable limits.

*[Amended 6-21-04 (O4/02)] [Amended on 1/18/05 (OA 04/11)]*

## **(G) POTENTIAL FUTURE DEVELOPMENT SITES**

### **(1) Designation Authorized in Urban Services Areas and Urban Services Areas/Water Supply Watershed**

Where a cluster subdivision site or open space development is within an Urban Services Area or Urban Services Area/Water Supply Watershed and the maximum lot density standard for the site's current zoning is less than the density called for in the Land Use Plan, the subdivision may contain one (1) or more parcels designated as reserved for potential future development. Such a parcel does not count as a lot or as part of open space or in calculating allowed density or impervious coverage. *[Amended 7/21/97 to refer to Land Use Plan and its Urban Services Area and Urban Services Area/Water Supply Watershed instead of General Development Plan and its Perimunicipal Planning Area (O-97-32)] [Amended 1/18/05 (OA 04/11)]*

**(2) Development Restrictions**

A parcel reserved for potential future development may not be developed - other than for open space uses or as a community well or septic field site serving the cluster or open space development, until the development site, or part thereof, is rezoned to a classification allowing higher densities so that the parcel's land area is no longer needed to maintain the subdivision's compliance with applicable density

**(H) MAINTENANCE**

- a. The owner of the open space shall be responsible for maintaining the open space so that it continues to effectively function for its intended use, and any dedication or conveyance of an open space parcel shall provide for such responsibility.
- b. Where the subdivision is located within a Residential-40W, Residential-80W, Water Supply II Overlay, Watershed Critical Area Overlay, Watershed Management Area Overlay, Watershed Protected Area Overlay, or Watershed Protected Area Overlay-2 District, retention of undeveloped open space in a vegetated or natural state (as required in Subsection (G)) shall be ensured by maintenance provisions filed with the Wake County Register of Deeds, either as part of recorded documentation providing for establishment of an appropriate legal entity (e.g. home owners association, land conservation organization, property owners association) that is to be responsible for maintenance and control of open space (as provided for in Section 3-3-17), or in a maintenance agreement recorded with the property deeds. *[Amended 5/19/97 to add second sentence (O-97-21); amended 7/21/97 to add reference to Watershed Protected Area Overlay-2 District (O-97-34)] [Amended 1/18/05 (OA 04/11)]*

**(I) CLUSTER and OPEN SPACE SUBDIVISIONS IN WATER SUPPLY WATERSHEDS**

When the Cluster or Open Space Subdivision is located within a Residential-40W, Residential-80W, Water Supply II Overlay, Watershed Critical Area Overlay, Watershed Management Area Overlay, Watershed Protected Area Overlay, or Watershed Protected Area Overlay-2 District, it shall be designed so that:

- (1) Lots and development sites are concentrated in upland areas and, to the maximum extent practicable, away from surface waters and drainageways, and the remainder of the site - i.e., undeveloped open space dedicated or reserved for one of the natural area conservation purposes authorized in Section 3-4-3(E)(2) - is retained in a vegetated or natural state; and;
- (2) Built-upon (impervious) areas are, to the maximum extent practicable, as approved by Wake County Environmental Services sited and designed to minimize stormwater runoff impact to the watershed's receiving waters by minimizing concentrated stormwater flow, breaking up or disconnecting large areas of impervious surface into smaller areas, maximizing the use of sheet flow through vegetated areas, and maximizing the flow length through vegetated areas. (See also Section 3-4-4(D) and Section 3-4-8((D)(14) for standards applicable to all subdivisions located in Water Supply Watersheds.)

*[Amended 5/19/97 to substitute "Lots and development sites" for "Building sites" in (1), to add to (1) requirement that the remainder of the site be retained in a vegetated or natural state, to delete (3) requiring stormwater runoff be transported by vegetated conveyances (but see Subsection 3-4-4 (D)), and to add "Section 3-3-4(D) and" to parenthetical reference (O-97-21); amended 7/21/97 to add reference to Watershed Protected Area Overlay-2 District (O-97-34)] [Amended 1/18/05 (OA 04/11)]*

**SECTION 3-4-4 GENERAL STANDARDS****(A) COMPLIANCE WITH APPLICABLE REGULATIONS**

All subdivisions and lots created under this ordinance must comply with the requirements of the Wake County Zoning Ordinance, the Erosion and Sedimentation Control Ordinance of Wake County, and other applicable State and local laws. *[Moved from former Section 3-4-1 4/15/96 (O-96-7)]*

**(B) SUITABILITY OF THE LAND**

- (1) Lands subject to flooding, excessive erosion, and slides because of soil types or groups, water courses and other drainageways, steep slopes, or other hazards shall not be platted for residential or other uses in such a way as to present a danger to life or property, or to the public health, safety, or general welfare.
- (2) If a lake is proposed to be constructed or retained within the subdivision, the lake and its dam shall be constructed or structurally upgraded to accommodate the runoff from a twenty-four (24) hour, one hundred (100) year frequency storm. Runoff computations shall use [SCS] methods or other acceptable engineering standards. Any lake with a dam at least fifteen (15) feet high, or an impoundment capacity of at least ten (10) acre feet shall obtain State agency approval in accord with Article 21, Chapter 143 of the North Carolina General Statutes.

*[Moved from former Section 3-4-2 4/15/96 (O-96-7)]*

**(C) NATURAL ASSETS**

Due consideration should be given to preserving natural features (such as trees, ponds, streams, rivers, and lakes) and historical resources that are of value to the County as a whole.

*[Moved from former Section 3-4-3 4/15/96 (O-96-7)]*

**(D) SPECIAL REQUIREMENTS FOR SUBDIVISIONS IN WATER SUPPLY WATERSHEDS**

All subdivisions located within a Residential-40W, Residential-80W, Water Supply II Overlay, Watershed Critical Area Overlay, Watershed Management Area Overlay, Watershed Protected Area Overlay, or Watershed Protected Area Overlay-2 District, shall be designed and constructed so that all development directly associated with the subdivision (e.g., roads, utilities, grading, drainage facilities) and all subsequent development (e.g., buildings, driveways, yards, on-site utilities, grading, drainage facilities) on the subdivision's lots and other parcels:

1. minimizes impervious or partially pervious surface coverage;
2. diffuses the flow of stormwater runoff, encourages sheet flow and avoids concentrated discharge of stormwater into surface waters;
3. incorporates Best Management Practices (BMPs) to minimize adverse water quality impacts;
4. transports stormwater runoff from the development by vegetated conveyances; and
5. avoids disturbance of vegetation within water supply watershed buffers, in accordance with water supply watershed buffer regulations set forth in the Zoning Ordinance. *[Amended 5/19/03 to replace paragraph D in its entirety (OA 02/020)]*

**SECTION 3-4-5 NAME OF SUBDIVISION**

The name of a subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the County or any municipality within the County. *[Amended to substitute for provision requiring compliance with County's Erosion and Sedimentation Control Ordinance - but see Subsection 3-4-4(A) (O-96-7)]*

**SECTION 3-4-6 STORMWATER DRAINAGE**

The subdivider shall provide for adequate drainage of all surface water using the existing natural drainage system. Major piping and modification of streams and other natural water courses is prohibited unless approved by Wake County Community Development Services. Points of interception

of runoff shall be frequent enough to avoid heavy concentrations in any one system and to eliminate or minimize any flooding. Points of discharge shall be within the site unless otherwise approved by the Planning Board and adjoining owners. The subdivider shall provide retention/detention devices as may be applicable.

### **SECTION 3-4-7 WATER AND SEWER SYSTEMS**

Water and sewer systems do not include individual wells and septic tanks.

#### **(A) REQUIRED CONNECTIONS TO APPROVED MUNICIPAL OR COMMUNITY WATER AND WASTEWATER SYSTEMS**

- (1) Any residential subdivision with an overall gross density of 1.45 lots or more per acre shall have available to each proposed lot a connection with a County- or State-approved public water system (as defined in G.S. 130A-313).
- (2) Any residential subdivision with an overall gross density of 2.17 lots or more per acre shall have available to each proposed lot a connection with a County- or State-approved public or community wastewater system (as defined in G.S. 130A-334).
- (3) Required Connections to Municipal Systems

The standards of this section (3-4-7(A)(3)) are intended to implement the county's Transitional Urban Development policies. They apply only within the Short-Range Urban Services Area.

- (a) Subdivisions are required to connect to municipal water and or municipal wastewater systems if any part of the proposed subdivision is located within the following distance of an existing municipal water or wastewater system: 50 feet per dwelling unit, provided that the maximum required connection (main extension) distance is 2,500 feet. This connection distance calculation shall apply to each type of system (i.e.—water or wastewater) independently. *[Amended 4-07-05 to add "or municipal", change distance is "5,000" feet to "2,500", and add "This connection distance ..." sentence (OA-04-12)]*
- (b) If the proposed subdivision is for nonresidential development, the distance threshold for required connections will be determined by projected water demand or projected wastewater generation. Nonresidential subdivisions are required to connect to municipal water or municipal wastewater systems if the subdivision is located within the following distance of existing municipal water or wastewater systems: 50 feet per each 350 gallons of water demand or wastewater generation, provided that the maximum required connection (main extension) distance is 2,500 feet. This connection distance calculation shall apply to each type of system (i.e.—water or wastewater) independently. *[Amended 4-07-05 to add "or municipal", change distance is "5,000" feet to "2,500", and add "This connection distance ..." sentence (OA-04-12)]*
- (c) For the purposes of this section, the number of dwelling units in a proposed subdivision is the maximum number of residential dwelling units allowed for all proposed lots under the zoning classification in existence at the time of subdivision preliminary plan approval. *[Amended 4-7-05; changed "each" to "all" & "plat" to "preliminary plan" (OA-04-12)]*
- (d) (d) In determining the number of dwelling units proposed in a phased development, the number of residential dwelling units is the total number of proposed residential units for the entire subdivision, not just a single phase. *[Amended 4-7-05; changed each "relates to" to "is" (OA-04-12)]*
- (e) Water and wastewater facilities within the Short-Range Urban Services Area must be designed and installed in accordance with applicable standards (i.e., the standards of the municipality within whose urban services area the subject subdivision is located). If no municipal standards exist, water and sewer systems

must be designed and constructed in accordance with those standards established in Section 3-4-7 (C) (2) and Section 3-4-7 (C) (3) respectively. *[Amended 4-7-05; removed "municipal" from applicable standards; changed "growth" area to "urban services" area and added "water and sewer systems must ..." (OA-04-12)]*

- (f) The Planning Director or Planning Board are authorized to waive the requirements for connection to municipal water and wastewater systems if they determine that all reasonable efforts have been made to secure permission to connect to a municipal system but such permission has been denied by the municipality or that physical (e.g., topography or intervening development patterns) or legal conditions make such connections infeasible. When such waivers are approved, the Planning Director or Planning Board are authorized to require that subdivisions install another form of approved community water and wastewater system. *[Amended 4-7-05; added "or legal" and changed Planning Director "and" Planning Board to "or" OA-04-12)]*

*[Added Section 1/20/98 (O-98-3)]*

(B) **[PUBLIC SYSTEMS]**

If a water or sewer system is to be installed in a subdivision in the County's jurisdiction, but the system is to be assumed and maintained by a municipality immediately upon completion of installation, a complete set of construction plans must be provided for the proposed system. The plans shall be prepared by a registered engineer and shall meet the utility requirements of the municipality and the Division of Health Services, North Carolina Department of Human Resources and/or the Division of Environmental Management of the N.C. Department of Natural Resources and Community Department. The plans shall be approved by the Subdivision Administrator after being submitted to the engineer of the municipality for review and recommendation. Installation of the system in accordance with the approved plan shall be certified to the Subdivision Administrator and the municipality by the registered engineer retained by the developer or owner. The engineer shall provide As-Built-Plans and location maps for all valves and hydrant locations.

(C) **[COMMUNITY SYSTEMS]**

- (1) Sewage treatment ponds utilized as the primary means of wastewater treatment and the irrigation of wastewater that does not meet the standards set forth for reuse water in 15A NCAC 02H .0219(k) of the North Carolina Administrative Code are prohibited because of the potential public health threat posed by direct human contact.
- (2) If a water or sewer system is to be owned and operated by a public utility company or a franchised utility, the plans must be prepared by a professional engineer licensed in North Carolina and approved as follows:
- (a) Water or sewer systems in all subdivisions shall be approved by the North Carolina Department of Environment and Natural Resources, Division of Water Quality, and/or the Wake County Department of Environmental Health or their successor agencies, whichever has jurisdiction. If required for application review by GS 143-215.1 (c) of the North Carolina General Statutes, the Planning Director shall indicate whether the proposed facility is consistent with this ordinance. Installation of the system in accordance with the approved plan shall be certified to the Planning Director by the registered engineer retained by the developer or owner. *[Amended 4/15/96 to delete reference to COSD developments (O-96-7)]*
  - (b) Wake County community water systems shall meet the following minimums over and above State requirements.
    1. All water mains shall be six (6) inches in diameter or larger except for the last four hundred (400) feet of a cul-de-sac, in which case the water main shall be four (4) inches in diameter or larger.

2. Lines shall be made of NSF approved 160-pound or 200-pound PVC, C900 AWWA plastic pipe or ductile iron.
3. All mains shall have at least thirty-six (36) inches of cover over them. [Amended 1/17/89 to add 4" pipe diameter standard for last 400' of a cul-de-sac (R-89-15)]
4. All water main valves shall be cast iron bronze fitted AWWA C500-71 or equal and shall have a cast iron valve box extending to the surface. All services shall be at least ¾-inch if a single service or 1-inch if a double service. Service lines shall be type K copper, cts polyethylene, or equal made specifically for this service. All services shall be connected to the main by a corporation cock threaded into the pipe if ductile or cast iron or by saddle if other pipe is used. Each service shall have a curb stop, meter and meter box.
5. All fittings shall be cast or ductile iron; no glued fittings or pipe will be allowed on mains or services.

[Amended 6/21/04 (O4/02)]

- (3) Sewage systems must be approved by the North Carolina Department of Environment and Natural Resources, Division of Environmental Health or Division of Water Quality, and/or the Wake County Department of Environmental Services, or their successor agencies. Community sewage systems that utilize irrigation must treat wastewater to reuse water standards as specified in 15A NCAC 02H .0219 (k) of the North Carolina Administrative Code. Application of reuse water is prohibited within riparian buffers defined and limited in 15A NCAC 2B .0233 of the North Carolina Administrative Code.
- (4) Community water and wastewater systems must be owned and operated by an approved public utility, including a franchised utility, or an incorporated owners association with an approved management entity. When required by 15A NCAC 18A .1937 (h) of the North Carolina Administrative Code, a tri-party agreement between the developer, owners association and Wake County Department of Environmental Services must be properly executed and filed with the Wake County Register of Deeds.
- (5) The developer must arrange a long-term maintenance agreement, which ensures that a utility management firm will be retained under contract in perpetuity. The owner of the utility must also provide an irrevocable, perpetual bond. Maintenance agreements and bonds are subject to review and approval of the Wake County Department of Environmental Services, or its successor agency, and the Wake County Attorney's Office. [Amended 6-21-04]

#### (D) FIRE HYDRANTS

When fire hydrants are installed they shall meet the following standards.

- (1) All hydrants shall be American Water Works Association approved.
- (2) No fire hydrant shall be installed on less than a 6-inch main.
- (3) Hydrants shall have two 2½-inch and one 4½-inch connection with threads of the type used by the Fire Department serving the area where installed.
- (4) When fire hydrants are installed or scheduled for painting maintenance they shall be painted and marked according to National Fire Protection Association (NFPA) standards, 1983 edition of NFPA 291 recommended practices, as revised; except that
  - (a) All hydrants not usable for direct connection to a fire truck and on any hydropneumatic tank system shall be painted chrome yellow; and
  - (b) A government entity which is in the process of implementing a painting maintenance program which differs from the NFPA recommended color scheme may complete

that prescribed painting program.

*[Amended 8/17/87 to substitute for paint color requirements itemized by category and to separate design standards (R-87-77)]*

**(E) ON-SITE SEWAGE DISPOSAL SYSTEMS**

If sewage disposal for one or more lots is proposed to be provided by an on-site sewage disposal system, each such lot, before the record plat creating it is approved, shall have been either:

- (a) certified by a licensed soil scientist as meeting the minimum lot requirements or alternative requirements for installation of sewage treatment and disposal systems set forth in Sections V and VI of the Regulations Governing Sewage Treatment and Disposal Systems in Wake County adopted by the Wake County Board of Human Services, as amended from time to time; or
- (b) issued an Improvement Permit in accord with the Regulations Governing Sewage Treatment and Disposal Systems in Wake County adopted by the Wake County Board of Human Services, as amended from time to time;

provided, however, that (b) may be used to satisfy this requirement for no more than three (3) lots that are less than ten (10) acres in area.

*[Amended 1/20/98 to substitute for requirement to provide Health Department certification that each lot has adequate land area and suitable soil conditions to accommodate proposed on-site water supply and sewage disposal systems (O-98-2)]*

*[Subsections (A) - (D) renumbered as (B) - (E) 1/20/98 (O-98-3)]*

**SECTION 3-4-8 ROADS**

**(A) GENERAL**

Each lot shall front on and have ingress from, and egress to, an existing or proposed public or private road meeting the standards of this Section. Each road within, abutting, or adjacent to a proposed subdivision shall be designated as either public or private. The arrangement, character, extent, width, grade, and location of all roads shall be in keeping with existing and proposed transportation patterns, topographical and other natural features, public convenience and safety, and proposed uses of lands to be served by such roads. *[Amended 8/21/89 to substitute "within, abutting, or adjacent to a proposed subdivision" for "shown on a plat" in second sentence (R-89-86); amended 5/20/96 to add first sentence (O-96-9)]*

**(B) PUBLIC ROADS**

Designation of any road on the plat as public shall be conclusively presumed to be an offer of dedication to the public. Public roads shall be designed in accordance with the Minimum Construction Standards for Subdivisions established by the North Carolina Department of Transportation, Division of Highways, as revised from time to time. Where Wake County Ordinances are more restrictive, the most restrictive requirement shall apply. These ordinances include, but are not limited to, the Wake County Zoning Ordinance, Subdivision Ordinance, Erosion & Sedimentation Control Ordinance, and Administrative and Technical Ordinances. *[Amended 8/21/89 to add third and fourth sentences (R-89-86)]*

**(C) PRIVATE ROADS**

A private road is to be designated on the plat as either existing, new, or extended, described as follows:

**(0.5) Intent and Designation**

**(a) Intent**

The private road standards of this Section establish private road design and construction standards that vary based on the number of lots such roads will serve. These standards that intended to ensure public safety and the long-term durability of

private roads, while keeping public improvement costs as low as possible for the smallest of subdivisions.

(b) Designation

Private Roads must be designated on subdivision plats as either “existing,” “new,” or “extended,” in accordance with the standards of this Section. No lot shall be platted within any private road easement.

*[Added entire (.5) section 1/18/05 (OA-04/07)]*

**(1) Existing Private Roads**

Private access easements or roads, the existence of which as of September 21, 1989 can be established by documentary evidence, aerial photograph, or judicial decree, are existing private roads. All other private roads are either new private roads or extensions of existing private roads. Where no new private road or extensions of an existing private road is proposed in a subdivision, then that portion of the existing private road which serves as frontage for lots in the subdivision must meet or exceed applicable private road standards.

*[Added 8/21/89 (R-89-86)] [Added applicable on 1/18/05 (OA-04/07)]*

**(2) New or Extended Private Roads**

New or extended private roads that serve as frontage for lots must meet or exceed private road standards. *[Deleted first line and w/in proposed subdivision on 1/18/05 (OA-04/07)]*

- (a) Potential for additional traffic. Where an extension of an existing private road is proposed, thereby increasing the potential for additional traffic, the Planning Director or Planning Board are authorized to require the connecting private road be upgraded to comply with the private road standards of this Section.

*[Added 8/21/89 (R-89-86); amended 8/16/93 to substitute first sentence for one limiting new private roads to nonthrough roads and roads other than those extending to adjacent property (O-93-12)] [Amended on 1/18/05 (OA-04/07)]*

**(3) Class A and Class B Private Roads**

Two types of private roads are allowed, depending upon the number of lots to be served.

- (a) “Class A” private roads are allowed only when the proposed private road will provide or have the potential to provide access to an area with an ultimate development potential of 7 or more lots.
- (b) “Class B” private roads are allowed only when the proposed road will provide, or have the potential to provide, access to an area with an ultimate development of 6 or fewer lots. No extension of a “Class B” private road will be allowed if such extension will provide, or have the potential to provide, access to an area with an ultimate development potential of more than 6 lots. Extensions of such roads that will result in the provision of access to more than 6 lots may be allowed if only the entire length of the road is brought up to applicable “Class A” private or public road standards (depending upon the number of lots to be served).
- (c) For the purpose of determining “ultimate development potential,” the Planning Director or Planning Board must consider the number of lots within the subject subdivision that will have access to the proposed road and to the likelihood that the proposed road will, or could, be extended to adjoining property.
- (d) No subdivision plat that shows lots served by private roads may be recorded unless the record plat contains the following notation; “further subdivision of any lot shown on this plat may be prohibited unless the private road is improved in accordance with all applicable standards.”

- (e) Within the Short-Range Urban Service Area, the Planning Director, or the Planning Board, are authorized to require that all roads be designed and constructed in accordance with applicable municipal standards.

*[Revised in its entirety 8/18/86 (R-86-64RR); moved from Subsection 3-4-8I and renumbered 8/21/89 (R-89-86)] [Revised again in its entirety on 1/18/05 (OA-04/07)]*

(4) Design and Construction Standards

The Following design and construction standards apply to Class A and Class B private roads.

<b>Private Roads</b>	<b>Class A</b>	<b>Class B</b>
<u>Eligibility/Applicability</u>	<u>Ultimate development potential of 7 or more lots (6 or fewer lots may elect to use Class B standards)</u>	<u>Ultimate development potential of 6 or fewer lots</u>
<b>Minimum Easement Width (feet)</b>		
<u>Curb and Gutter Section [1]</u>	<u>40</u>	<u>40</u>
<u>Shoulder Section</u>	<u>45</u>	<u>45</u>
<u>Utility Easements</u>	<u>In easement</u>	<u>In Easement</u>
<b>Minimum Road Width (feet)</b>		
<u>Curb and Gutter Section</u>	<u>26</u>	<u>18</u>
<u>Shoulder Section</u>	<u>18</u>	<u>16</u>
<b>Road Construction</b>		
<u>Base Course</u>	<u>8" ABC</u>	<u>Crusher-run or NCDOT-approved ABC stone compacted to a minimum of 8 inches or base + pavement surface per NCDOT manual</u>
<u>Pavement Surface</u>	<u>2" I-2 (or as otherwise approved by NCDOT)</u>	
<u>Minimum Shoulder Width (ft)</u>	<u>4-6</u>	<u>4</u>
<u>Maximum Cut &amp; Fill Slopes</u>	<u>1.5:1; must be seeded or otherwise stabilized</u>	<u>1.5:1; must be seeded or otherwise stabilized</u>
<u>Design Speed</u>	<u>20 mph</u>	<u>None</u>
<u>Minimum Sight Distance on Vertical Curves (ft)</u>	<u>110</u>	<u>110</u>
<b>Maximum Rate of Vertical Curvature (for minimum sight distance)</b>		
<u>Crest</u>	<u>10</u>	<u>10</u>
<u>Sag</u>	<u>10</u>	<u>10</u>
<b>Min. Centerline Radius (feet)</b>	<u>90</u>	<u>90</u>
<b>Maximum Grade</b>	<u>18%</u>	<u>15% for gravel or stone; 18% if paved</u>
<b>Drainage Design</b>	<u>10-25-year</u>	<u>25-year</u>
<u>Culvert Diameter (interior)</u>	<u>25Y</u> <u>Cross = 18"; Drive =15"</u>	<u>15 inches</u>
<b>Cul-de-sacs</b>		
<u>Turnaround Types</u>	<u>Bulb-end design, T-type or Loop Road</u>	<u>Bulb-end design, T-type or Loop Road</u>
<b>Minimum ROW Radius (feet)</b>		
<u>Curb &amp; Gutter Section</u>	<u>45</u>	<u>45</u>
<u>Shoulder Section</u>	<u>50</u>	<u>50</u>
<b>Minimum Pavement Radius</b>		
<u>Curb &amp; Gutter Section</u>	<u>37</u>	<u>35</u>
<u>Shoulder Section</u>	<u>35</u>	<u>35</u>

<u>Maximum Length (feet)</u>	<u>2,500</u>	<u>2,500</u>
<b>Intersections</b>		
<u>Minimum Spacing (feet)</u>	<u>135</u>	<u>135</u>
<u>Min. Sight Distance (feet)</u>	<u>10/70 (110 from VC crest)</u>	<u>10/70</u>
<u>Minimum Angle (degrees)</u>	<u>60-90</u>	<u>60-90</u>
<u>Minimum Radius (feet)</u>	<u>25</u>	<u>25</u>
<u>Certification of Compliance</u>	<u>Registered P.E.</u>	<u>Surveyor or registered P.E</u>

[1] Curb and gutter are limited in water supply watersheds.

*[Added entire section 1/18/05 (OA-04/07)]*

(5) Disclosure

The Record Plat for a subdivision containing private roads must include the following disclosure statement.

<p><u>This disclosure is given in accordance with North Carolina General Statutes 136-102.6.</u></p> <p><u>This statement is to advise that one or more of the roads serving this subdivision are designated as private roads, not public roads. All owners of property within the subdivision have easements with one another to travel over and across such roads. The responsibility for maintenance of such private roads falls solely upon the property owners within the subdivision. No representation is made that the private roads within this subdivision meet the minimum requirements necessary to allow such roads to be included in the state secondary road system or that the North Carolina Department of Transportation will eventually assume maintenance of such roads. Moreover, if such private roads are not adequately constructed and maintained, emergency service providers and public service vehicles may be unable to provide adequate service to the residents of the subdivision.</u></p> <hr style="border: 0.5px solid black;"/> <p><u>Subdivider: _____ Date: _____</u></p> <p><u>(See NCGS 136-102.6(f) for subdivision street disclosure statement.</u></p>
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*[Added entire section 1/18/05 (OA-04/07)]*

(6) Maintenance; Property Owners Associations

- (a) A property owners association is required to own and maintain all private roads.
- (b) The subdivider must submit to the Planning Director proposed agreements or covenants ensuring continued use and maintenance of any existing, platted or proposed private roads by property owners served by such roads. These agreements will require that the proposed roads be adequately maintained to provide safe passage for public service and emergency vehicles, will specify how responsibility for road maintenance will be apportioned among the landowners served, and will provide enforcement rights for the maintenance agreement. The adequacy of such agreements must be demonstrated to the reasonable satisfaction of the Planning Director.

*[Added entire section 1/18/05 (OA-04/07)]*

**(D) GENERAL ROAD STANDARDS**

Any road, whether public or private, shall meet the following standards:

**(1) Road Layout**

The proposed road layout within a subdivision shall be coordinated with the existing and proposed road network within the surrounding area (as established on adopted thoroughfare plans and the road layout within existing and approved subdivisions in the general area), including the extension and interconnection of roads between adjacent properties where appropriate to the development of a local road network. A network of extended and interconnected local roads is intended to provide each parcel in the general area the safe, convenient, and efficient means of access that will ensure the orderly development of the parcel and the area, provide a wholesome community environment, ensure the effective and efficient provision of emergency and other public services, and help to avoid degradation of existing roads and highways. *[Amended 8/16/93 to add references to adopted Thoroughfare Plans and existing and approved subdivisions in the area, to link road extension requirement to where appropriate to a local road network (rather than whenever possible), and to add description of intent for local road networks (O-93-12)]*

**(2) Required Road Extensions to Adjoining Property**

A proposed road shall be extended to an adjacent property, or a connecting road shall be provided to the adjacent property, wherever such extension or connection is deemed desirable to the development of a local road network serving the general area.

- (a) If it is determined that the required road extension or connection should serve as part of a through road within a local road network, or as part of a non-through road that would provide access to an area with a development potential of more than twelve (12) dwelling units, it shall be:
1. designed and constructed as a public road to the adjacent property; and
  2. located so as to best ensure the safe, convenient, and efficient movement of traffic within a local road network as well as the orderly development of adjacent properties.
- (b) If the road to be extended or connected to an adjacent property cannot serve as part of a through road within a local road network because physiographical characteristics (for example, rivers, lakes, ponds, steep slopes, or flood hazard areas) or other intervening man-made characteristics (for example, railroads, freeways, parks, or existing development) make it impractical to extend the road beyond the adjacent property, and it would provide access to an area with a development potential of twelve (12) dwelling units or less, the subdivider shall grant an easement for the road to the benefit of the adjacent property. The easement shall:
1. give the current and future owner(s) of the adjacent property the right to construct the road as either a public or private road and to dedicate the easement as a public road right-of-way if the road is constructed as a public road; and
  2. have a right-of-way width, and include adjacent construction easements, necessary to allow the construction of a public road meeting the standards of the subdivision ordinance.

*[Substantially revised 1/17/89 (R-89-14); revised in its entirety 8/16/93 (O-93-12)] [Note: The Board of Commissioners adopted the following guidelines for applying road extension requirements on 3/20/89 (R-89-6):*

***Board of Commissioners' Guidelines for Requiring "Stub Roads" to Adjoining Properties***

- (1) *Stub roads to adjacent properties shall be required in order to allow for orderly development of the road network. Therefore:*
- (a) *The orderly development of the road network necessitates that at least two means of access will be*

- provided to the subdivision and to all lots within the subdivision except where properties are accessed by a cul-de-sac conforming with Section 3-4-8(D)(9)(a) of the Subdivision Ordinance.*
- (b) *All adjacent properties must be considered when determining appropriate locations for stub roads. No more than one stub road shall be required for the sole purpose of providing access to a single landlocked parcel, but more than one may be required for the purpose of good traffic flow.*
- (2) *Stub roads to adjacent properties shall be required except when the Planning Board or Subdivision Administrator, as appropriate, determines that:*
- (a) *Physical barriers or environmentally sensitive area should not be crossed (for example, railroads, watercourses, steep topography, or flood areas).*
  - (b) *The stub road would connect properties where the zoning or land uses are incompatible, and the connection would create traffic detrimental to residential land uses.*
  - (c) *There is a large discrepancy in the size of the adjacent parcel (A smaller parcel being subdivided may not have to provide a stub to a much larger parcel, if other, more desirable, interconnections are available to the large parcel.).*
  - (d) *The stub road would eventually provide a direct connection between thoroughfares which would encourage through traffic at levels inappropriate for the type of road provided (For instance, it might be appropriate to provide such a connection with a collector road rather than with a local access road.).*
  - (e) *The stub road would connect to property for which development rights have been sold for a public purpose and access to the property is not desirable for orderly development of the road network.*
- (3) *Stub roads should be designed, constructed, and maintained according to applicable standards of the North Carolina Department of Transportation for the following reasons:*
- (a) *To circumvent dispute regarding responsibility for maintenance and who has the right to use the road.*
  - (b) *To allow neighboring subdivisions to build adjoining public roads.*
  - (c) *To avoid legal issues of requiring a dedicated strip to be paved at a later date than subdivision approval.*
  - (d) *The existence of a road, which may be extended, is known to buyers and subsequent owners of neighboring properties.]*

## **(2.1) Stub Roads**

The following standards apply to all stub roads:

- (a) A temporary turnaround (either a standard bulb cul-de-sac or T-turnaround) must be provided at the end of any stub road in excess of 400 feet in length that is planned for extension into future sections of the subdivision or onto adjacent property. Temporary turnarounds must comply with the following:
  - i. The turnaround must be constructed in a temporary easement, located either on-site or off-site;
  - ii. The developer of the adjacent property making a road connection to the existing stub road shall be responsible for the removal of the turnaround and for the restoration of the area at the time that the road connection is made;
  - iii. The turnaround must comply with the cul-de-sac or T-turnaround dimensional standards of this chapter; and
  - iv. The turnaround must be surfaced in accordance with that standards that apply to "Class B" private roads.
- (b) Additionally, any plat containing a stub road shall include the following note:
 

*"The road system shown on this plat includes one or more stub roads that are intended to be connected to the adjacent property at such time that the property is developed. The interconnection of neighborhoods with a road network ensures the efficient flow and dispersal of traffic and provides for additional points of ingress and egress for emergency vehicles." [Added Section 2.1 on 4/6/05 (OA 04/13)]*
- (3) **Reserve Strips and Non-Access Reservations**

Reserve strips or non-access reservations that control access to roads, waterways, parks or the like, and other reserved strips shall be permitted only if their purpose, location, dimensions and manner of control is approved by the Planning Board, Planning Director or

Subdivision Administrator, as appropriate.

(4) **Access to Major Thoroughfares**

- (a) It is the intent of this regulation to limit access onto a major thoroughfare (as defined in Section 3-5-3 of the Wake County Subdivision Ordinance) where appropriate, in order to maintain the traffic capacity and encourage smooth traffic flow. *[Added 12/1/86 (R-86-167RR)]*
- (b) In situations where strict compliance with this provision is impossible or impractical due to topographic conditions, configuration of the parcel to be subdivided, or other condition beyond the control of the subdivider, other approaches may be permitted or the property owner may be exempted from the requirements of Sections 3-4-8(D)(4)(c) and (d), below. *[Added 12/1/86 (R-86-167RR)]*
- (c) Where a tract of land to be subdivided borders on an existing major thoroughfare, from a subdivision or individual lot directly onto a major thoroughfare may be regulated by requiring:
1. That rear or side yards abut the major thoroughfare, and the front or side yards abut an existing parallel local road; or
  2. That a parallel local road be created and that roads internal to the subdivision access the local road at a right angle. The rear or side yards of terminal lots must abut the major thoroughfare; or
  3. That a marginal access or service road be constructed, parallel to and separated by a grass strip from, the major thoroughfare. The access road may have access to the major thoroughfare at suitable points and shall serve as the principal access road to the subdivision. No direct access from the lots onto the major thoroughfare will be allowed; or
  4. That another access design, such as joint driveways, be used to achieve the intent of this regulation.

*[Amended 8/18/86 to substitute requirement that Planning Board and Subdivision Administrator prohibit direct access between major thoroughfares and individual lots by requiring lots to front on a parallel local road, with alternatives of allowing lots to front on cul-de-sac or loop load roads or frontage road where strict compliance with prohibition is impossible, for elective authorization to require those three means of avoiding direct access (R-86-64RR); amended 12/1/86 to move to Subparagraph (c) and reinstate elective authorization to require alternative means of avoiding direct access between lots and major thoroughfares, adding a fourth alternative of joint driveways (R-86-167RR)]*

- (d) Where a tract of land to be subdivided borders on an existing or proposed major thoroughfare, access from a subdivision or individual lot directly onto a major thoroughfare may be regulated by requiring:
1. That another access design, such as joint driveways, be used to achieve the intent of this regulation.

*[Added 12/1/86 (R-86-167RR)]*

- (e) The following criteria shall be considered when the proposed design for such subdivisions or individual lots is reviewed:
1. The major thoroughfare's road classification.
  2. Traffic counts as related to capacity.
  3. Level of congestion.
  4. Ultimate cross-sectional design of the major thoroughfare. *[Amended 7/20/92 to delete obsolete references to applicable Thoroughfare Plans (O-92-17)]*
  5. The sight distance of approaching traffic from the point where any proposed access intersects the major thoroughfare.

*[Added 12/1/86 (R-86-167RR)]*

**(5) Road Names**

- (a) A road name shall be assigned to any road, whether public or private, which provides vehicular access to two (2) or more parcels.
- (b) Any proposed road which is in alignment with an existing road shall be given the same name.
- (c) In assigning new names, duplication of existing names shall be avoided, and in no case shall the proposed name be so phonetically similar to any existing name irrespective of the use of a designation as street, road, drive, place, court, etc. that it does or might create confusion in identification.
- (d) Road names shall be subject to the approval of the Community Development Services Department. *[Amended 9/15/86 to separate standards, adding (a), adding "that it does not cause confusions in identification" to (b), substituting Community Development Services Department approval for Planning Department approval, and deleting requirement for road signage (R-86-147)]*

**(6) [Road Layout; Access to Places of Public Assembly]**

All roads except local access roads shall be so laid out that their use by through traffic will be discouraged. Roads shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, and other places of public assembly.

**(7) [Intersection Design]**

Corners and intersections shall be designed as follows:

- (a) All roads shall intersect as nearly as possible at right angles, and no road shall intersect with another at an angle of less than sixty (60) degrees. Other arrangements may be approved only if they will reduce traffic hazards and provide smooth traffic flow at an intersection.
- (b) When a center line offset (jog) occurs at an intersection, the distance between the center lines of the intersecting roads shall not be less than one hundred thirty-five (135) feet.
- (c) An intersection shall not include more than four (4) road approaches.
- (d) The edge of pavement at intersections shall be rounded with the following radii minimum: *(Amended OA 04/06 10-4-2004)*

Private roads with private roads: Twenty (20) feet

All other intersections: Twenty-five (25) feet

**(8) [Half Roads]**

The dedication of half roads at the perimeter of a new subdivision shall be prohibited. Where there exists a half road in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision.

**(9) Cul-de-Sac Roads**

- (a) Cul-de-sacs shall not exceed 2500 feet in length, which is the North Carolina Department of Transportation's limit. A cul-de-sac's length is measured from the center point of its turnaround, along the centerline of its right-of-way and that of any intervening roads, to the centerline of the right-of-way of the nearest through road. The cul-de-sac length limit may be increased by up to thirty-five (35) percent if the following findings are made: *(Amended OA 04/05 10-04-2004)*

1. It is impracticable to provide the area proposed to be served by the cul-de-sac a current or potential second means of access that would avoid the cul-de-sac or allow the cul-de-sac to meet the cul-de-sac length limit because:

- a. The area is so separated from other parts of the subdivision by floodplains, wetlands, or steep slopes whose extent or degree makes it impracticable to provide the area a second means of access that would avoid the cul-de-sac or allow the cul-de-sac to meet the cul-de-sac length limit (e.g., by providing a loop road into the area of the cul-de-sac, or extending the cul-de-sac to connect to another road in the subdivision), and
  - b. Other properties adjoining the area have already been subdivided or developed in a manner that precludes connecting the cul-de-sac to a surrounding existing or potential road system, or the area is so separated from adjoining properties providing potential access by floodplains, wetlands, or steep slopes whose extent or degree makes it impracticable to extend or connect the cul-de-sac to the adjoining properties; and
2. Use of cluster or Open Space subdivision provisions would not reasonably allow both compliance with the above cul-de-sac length limit and realization of at least eighty (80) percent of the maximum lot density allowed by the site's zoning and physical characteristics; and *[Added "Open space Subdivisions" 1/18/05 (OA 04/11)]*
  3. The degree of increase in allowable cul-de-sac length is the minimum necessary to allow the above findings.

The subdivider bears the burden of submitting sufficient evidence to reasonably support each of the above findings.

*[Moved from Paragraph (9) 4/6/87 (R-87-31); amended 1/17/89 to substitute 1,000-foot limit for "length required to serve 45 lots" and to add measurement provisions (R-89-14); amended 11/6/00 to substitute the 10 times lot width or 900 feet limit and to add provisions allowing a 35% increase (O-00-33)]*

- (b) Permanent cul-de-sac roads shall be provided at the closed end with a circular turnaround having a minimum driving surface radius of thirty-five (35) feet and minimum right-of-way radius of fifty (50) feet. At the point where the road widens into the cul-de-sac, the driving surface shall have a minimum turn radius of thirty-five (35) feet, and the right-of-way shall have a minimum radius of twenty-five (25) feet. *[Amended 4/6/87 to use turnaround radius rather than diameter and add minimum turn radius (R-87-31)]*
- (c) Road design alternatives to Subparagraph (b) above may be approved when the subdivider establishes the following facts:
  1. The property has characteristics such as unsuitable soils, steep slopes, or unusual parcel configuration which cause site design difficulties beyond the control of the property owner; and
  2. Requiring compliance with the standards of Section 3-4-8(D)(9)(b), above would cause practical difficulties or unnecessary hardship for the property owner; and
  3. The cul-de-sac in question is not more than two-tenths (0.2) mile in length; and
  4. The alternative cul-de-sac turnaround is designed according to one of the following design standards:
    - a. "T" terminus meeting the following minimum standards:
      - (i) Driving surface width equal to that of cul-de-sac's main road surface.
      - (ii) Driving surface of each wing of "T": Twenty (20) feet plus one-half ( $\frac{1}{2}$ ) road pavement width, measured from center of right-of-way.
      - (iii) Driving surface turning radius: Twenty (20) feet.

- (iv) Right-of-way width surrounding "T" equal to that of cul-de-sac's main right-of-way.
- b. One way loop road meeting the following standards:
  - (i) Driving surface width: Fifteen (15) feet.
  - (ii) Right-of-way width: Thirty (30) feet.

*[Added 4/6/87 (R-87-31)]*

**(10) [Direct Access to Adjoining Major Thoroughfare]**

Where a subdivision is proposed adjacent to a major thoroughfare, lots may be required to have no direct access to such roads if alternative access from a road of lower classification is possible.

**(11) [Separation of Access Points Along Adjoining Major Thoroughfare]**

Where a subdivision is proposed adjacent to a major thoroughfare and access is proposed onto the major thoroughfare by driveways and/or intersecting roads, said driveways and/or intersecting roads may be required to be separated according to North Carolina Department of Transportation or Wake County standards, whichever permits the freer and safer flow of traffic.

**(12) [Turn Lanes on Adjoining Major Thoroughfare]**

Where a subdivision is proposed adjacent to a major thoroughfare and access is proposed onto the major thoroughfare, left-turn storage or right-turn deceleration lanes may be required on the major thoroughfare or intersection according to North Carolina Department of Transportation or Wake County standards, whichever permits the freer and safer flow of traffic.

**(13) Major Thoroughfare Right-of-Way Dedication or Reservation**

**(a) Dedication of Right-of-Way Abutting Existing Major Thoroughfares**

If (i) a subdivision site abuts an existing major thoroughfare with a right-of way width less than that recommended in the Wake County Thoroughfare Plan, and (ii) development in the proposed subdivision is expected to add a significant amount of traffic onto that major thoroughfare, then the subdivision shall include dedication of any additional right-of-way along the site's frontage on the major thoroughfare that is needed to widen the right-of way to thirty-five (35) feet from the centerline of the roadway.

**(b) Proposed New Thoroughfares**

**1. Incorporation of Thoroughfare**

If (i) the Wake County Thoroughfare Plan proposes a new major thoroughfare across part of a subdivision site, and (ii) an alignment for the thoroughfare has been determined to a reasonable degree of certainty (for example, as a centerline alignment on a functional design plan), and (iii) the thoroughfare could appropriately serve to provide direct access to the subdivision (for example, it would not be a freeway or other restricted-access road), then the subdivision shall incorporate the major thoroughfare into its internal road layout by having one of the subdivision roads run along the proposed thoroughfare alignment. Such road, however, need only be constructed to NCDOT standards for a residential collector road.

**2. Reservation of Future Right-of-Way**

If (i) the Wake County Thoroughfare Plan proposes a new major thoroughfare - other than one defined in provision 1 - across part of a subdivision site, and (ii) an alignment for the thoroughfare has been determined to a reasonable

degree of certainty (for example, as a centerline alignment on a functional design plan), and (iii) the County's development regulations reasonably allow the subdivider to both realize the maximum lot density allowed by the site's zoning and physical characteristics and avoid developing that part of the site needed as future right-of-way for the proposed thoroughfare, then the subdivision shall include reservation of the thoroughfare's future right-of-way - that is, it shall not include lots or other development within the land area needed as the thoroughfare's future right-of-way.

Land area needed as future right-of-way shall be determined from NCDOT plans where available, or otherwise by applying half the right-of-way width recommended in the Wake County Thoroughfare Plan along each side of the thoroughfare's proposed centerline alignment.

### 3. Applicability

If neither provision 1 or provision 2 applies to a proposed subdivision across which a major thoroughfare is proposed, then no incorporation of the major thoroughfare or reservation of future right-of-way for the major thoroughfare is required.

The Planning Board or Subdivision Administrator, as appropriate, may not delay approval of a particular subdivision plan for failure to comply with provision 2 for more than three (3) years after the date the application for plan approval has been accepted by the Subdivision Administrator as complete.

#### (c) Record Plat Notice of Future Right-of-Way

If the Wake County Thoroughfare Plan recommends the widening of an existing major thoroughfare abutting a subdivision site, or proposes a new major thoroughfare across part of a subdivision site, the record plat for the subdivision shall include notice of such. If the land area needed for the planned widening or new thoroughfare can be ascertained with a reasonable degree of certainty, the record plat shall delineate it and label it as future right-of-way.

*[Substantially revised 5/18/87 (R-87-17d); revised in its entirety 7/22/96 (O-96-22)]*

#### (14) **[Road Design in Water Supply Watersheds]**

In Residential-40 Watershed, Residential-80 Watershed, Water Supply II Overlay, Watershed Critical Area Overlay, Watershed Management Area Overlay, Watershed Protected Area Overlay, and Watershed Protected Area Overlay-2 Districts:

- (a) All proposed roads shall follow topographical contours of the site as closely as possible.
- (b) Curb and gutter shall be prohibited except at the entrance(s) to a subdivision. This shall be limited to the standard curve radius and the first twenty-five feet beyond where the curve radius ends. Curbing along entrance medians shall be limited to the same distance (linear depth) as the entrance curbing.

*[Amended 10/21/02 to allow limited curb and gutter (O-02-6)]*

- (c) New roads shall be designed and constructed to divert stormwater runoff away from directly draining into surface water supply waters to the extent possible, and shall utilize watershed Best Management Practices to minimize water quality impacts.
- (d) Where road or driveway crossings of water supply watershed buffers are proposed or anticipated to provide vehicular access to lots, culverts for such crossings shall be designed for the 25-year storm event and engineer-certified as such before final plat approval. If driveway locations are not specified on the final subdivision plan, culvert design must be submitted to and approved by Wake County Environmental Services before permit issuance.

*[Added 8/18/86 (R-86-64RR); amended 12/20/93 to add (c) (0-93-24); amended 7/21/97 to add reference to Watershed Protected Area Overlay-2 District (O-97-34); amended 5/19/03 to add paragraph D (OA 02/02)]*

(15) **[Roads Must Meet Standards]**

Any extension of an existing road or any creation of a new road must meet or exceed the standards of this Ordinance.

**SECTION 3-4-9    OVERSIZED LOTS**

Whenever a subdivision includes one or more lots of such size that they may eventually be resubdivided into smaller lots, the applicant may be required to dedicate easements for future roads and extension of adjacent roads to provide access to his subdivision and to landlocked parcels.

**SECTION 3-4-10    DESIGN STANDARDS FOR EASEMENTS**

(A) **[UTILITIES]**

Easements for underground or above-ground utilities shall be provided where necessary along rear or side lot lines, but need not be centered on such lines. Such easements shall be sufficiently wide to provide for the installation of utilities and access for maintenance, and shall be at least ten (10) feet in width.

(B) **[STREAMS OR DRAINAGEWAYS]**

Easements for streams or drainageways shall be located generally along rear or side lot lines, except that easements for drainage of surface waters from four lots or less may cross lots at such other points will not pose a hazard to persons or property. Utilities will be permitted to drainage easements only upon the approval of the Planning Board, Planning Director, or Subdivision Administrator, as appropriate.

(C) **[BUFFER STRIPS]**

A buffer strip of ten (10) feet to fifty (50) feet in width may be required adjacent to a major thoroughfare or to a commercial or industrial development. This buffer strip shall be in addition to the normally required lot dimension, shall be part of the platted lot, and shall be reserved for the planting of trees and shrubs by the owners.

**SECTION 3-4-11    MONUMENTS**

Unless otherwise specified by this ordinance, the standards of practice for land surveying as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, under provisions of N.C.G.S. Chapter 89C shall apply.

**SECTION 3-4-12    CONSTRUCTION PROCEDURES**

(A) No construction or installation of improvements shall commence in a proposed subdivision until the construction plat has been approved, and all plans and specifications have been approved by the appropriate authorities.

(B) No building or other permit shall be issued for erection of a structure on any lot not of record at the time of adoption of this ordinance or created in compliance with this ordinance until all requirements of applicable State and local laws have been met.

**SECTION 3-4-13    FLAG LOTS**

(A) **INTENT**

It is the intent of this Section 3-4-13 to discourage and restrict the creation of flag lots (as defined in Section 3-5-3) in a subdivision.

(B) **EXCEPTION**

A flag lot may be permitted only if necessary to allow a property owner reasonable use and benefit from his land or to alleviate situations which would otherwise cause extreme hardship. (Refer to Chapter Three of the Wake County Design Manual for illustrations of the following exceptions.) Flag lots may be allowed:

- (1) where necessary to eliminate access onto major thoroughfares, as defined in Section 3-5-3 of this Ordinance; or
- (2) to reasonably utilize irregularly shaped land; or
- (3) to reasonably utilize land with difficult topography; or
- (4) where necessary to provide suitable land area and soil for location and operation of utilities.

Evidence shall be submitted certifying that at least one of the above exceptions exists. If no exception is found to exist, no flag lot may be allowed. Appeal of the decision of the Planning Board or the Subdivision Administrator shall be in accordance with Section 3-1-9 of this Ordinance.

(C) MEASUREMENT OF MINIMUM LOT WIDTH

Minimum lot width for a flag lot shall be measured along a line parallel to the lot's road frontage and located no more than three hundred (300) feet from the road frontage in Residential-80W and Residential-80W zoning districts, two hundred fifty (250) feet from the road frontage in Residential-40W and Residential-40W zoning districts, and two hundred (200) feet from the lot frontage in all other zoning districts. *[Added 4/15/96 to relocate standards from Zoning Ordinance) (O-96-7)]*

*[Section added 9/21/87 (R-87-89)]*

**SECTION 3-4-14 CONTRIBUTION TO NEIGHBORHOOD RECREATION AREA**

(A) PURPOSE

Residential development generates demands for recreation space and facilities, just as it generates demands for roads, utilities, and other community facilities. Whereas the County bears the responsibility for meeting most of the demand for regional recreation space and facilities, residential developments should themselves contribute something to providing at least the neighborhood recreation space their residents need. This Section is intended to ensure that each subdivision at least contributes toward providing recreation area that can be developed and used to meet the neighborhood recreational needs expected to be generated by the subdivision's future residents.

(B) CONTRIBUTION REQUIRED; AMOUNT AND FORM

A subdivision shall contribute to providing recreation area to meet the neighborhood recreational needs of its future residents. The minimum amount of recreation area deemed sufficient to meet the neighborhood recreational needs of a subdivision's residents, and thus required to meet this contribution requirement, shall be one thirty-fifth (1/35) acre of land per lot. A subdivider may meet this contribution requirement by (1) dedicating the required acreage of land for public recreational use, (2) reserving the required acreage of land for recreational use by subdivision residents, (3) paying the County funds equal to the value of the required acreage (to be used to acquire land for public recreational use), or (4) a combination of dedication, reservation, and payment - provided, however, that the form of contribution used shall be in accord with the requirements and limitations in Subsection (C) below. A potential subdivider is encouraged to use the pre-application conference with County staff to discuss and decide the appropriate form(s) of contribution to be used.

(C) FORMS OF CONTRIBUTION - WHERE REQUIRED OR ALLOWED

(1) **Dedication of Land**

Where the subdivision site contains land that could be used to establish, expand, or extend a public park, greenway, or other recreation area identified in an adopted County or municipal plan, the subdivision shall include dedication of such land for public recreational use, at least to the extent necessary to meet the minimum recreation area contribution requirement set forth in Subsection (B). Subdividers are encouraged to use Cluster or Open Space Subdivision regulations to dedicate any additional land on the site planned for public recreational use. Dedication of off-site land planned as public recreation area may also be used to meet the minimum contribution requirement, provided such land is located so as to be conveniently accessible to subdivision residents and has not been reserved to meet the recreation area contribution requirement for another subdivision. *[Added "Open Space" 1/18/05 (OA 04/11)]*

**(2) Reservation of Land**

To the extent that the minimum recreation area contribution requirement set forth in Subsection (B) will not be met through dedication of land in accord with Paragraph (1) above, a subdivision may meet the requirement, in whole or in part, by reserving land within the subdivision site for recreational use by subdivision residents - but only if, and to the extent that, the County determines that doing so would contribute more to meeting the neighborhood recreational needs of subdivision residents than the County's use of funds paid in accord with Paragraph (3) below. Such determination shall be based on the following factors:

- (a) What types of recreation facilities subdivision residents will need, considered in the context of what public recreation areas and facilities exist or are planned in the vicinity;
- (b) Whether there is a planned or existing public recreation area in the vicinity that could be established, expanded, or extended so as to provide a site for the types of recreation facilities needed by subdivision residents;
- (c) How conveniently accessible any such planned or existing public recreation areas are to the subdivision;
- (d) Whether the proposed reserved recreation area would be suitable (in size, shape, and physical characteristics) as a site for the types of recreation facilities needed by subdivision residents; and
- (e) The extent to which the subdivision proposes to improve the proposed reserved recreation area with the types of recreation facilities needed by subdivision residents.

**(3) Payment of Funds to County**

To the extent that the minimum recreation area contribution requirement set forth in Subsection (B) will not be met through required dedication of land per Paragraph (1) above, a subdivision may meet the requirement, in whole or in part, by paying funds to the County for its use in acquiring public recreation area that can meet the neighborhood recreational needs of subdivision residents. The amount of the payment shall be equal to the value of the portion of required acreage (as set forth in Subsection (B)) that is proposed to be contributed via a payment, based on the average per-acre assessed land value of the parcel being subdivided (from the County tax rolls). The subdivider shall make the payment before approval of a record plat for the subdivision, provided, however, that payments may be phased in accord with the approved phasing of the subdivision.

**(D) OWNERSHIP AND MAINTENANCE OF DEDICATED OR RESERVED RECREATION AREA**

- (1) Land required to be dedicated as recreation area shall be conveyed to the County or other public agency or nonprofit organization that is organized for, capable of, and willing to accept responsibility for managing the recreation area to serve the neighborhood recreational needs of residents of the subdivision and other developments in the

immediate area. Land required to be reserved as recreation area shall be conveyed to such organizations as listed above, or to a homeowners association, property owners association, or similar legal entity meeting the provisions of Section 3-3-17, or to any agency, organization, person, or other legal entity that is organized for, capable of, and willing to accept responsibility for managing the recreation area to serve the neighborhood recreational needs of residents of the subdivision - provided such conveyance is restricted to ensure continued recreational use and maintenance.

- (2) The owner of the recreation area shall be responsible for maintaining the recreation area so that it continues to effectively function to serve neighborhood recreational needs of residents of the subdivision and other developments in the immediate area, and any dedication or conveyance of an open space parcel shall provide for such responsibility. Where the recreation area is located within a Residential-40W, Residential-80W, Water Supply II Overlay, Watershed Critical Area Overlay, Watershed Management Area Overlay, Watershed Protected Area Overlay, or Watershed Protected Area Overlay-2 District, any undeveloped part of it shall be retained in a vegetated or natural state, and such retention shall be ensured by maintenance provisions filed with the Wake County Register of Deeds, either as part of recorded documentation providing for establishment of a homeowners association or similar legal entity that is to be responsible for maintenance and control of open space (as provided for in Section 3-3-17), or in a maintenance agreement recorded with the property deeds.
- (3) Each dedicated or reserved recreation area parcel shall be shown on all subdivision plans and on a record plat recorded with the Wake County Register of Deeds, with a notation of its area and its use to serve neighborhood recreational needs.

(E) **COUNTY USE OF RECREATION AREA FUNDS**

The County shall ensure that any funds a subdivision pays the County to meet the recreation area contribution requirement will be used only to acquire land for the establishment, expansion, or extension of public parks, greenways, or other recreation areas that will serve the neighborhood recreational needs of residents of the subdivision. It shall do so by assigning funds paid by a subdivision to an account that may be used only to acquire neighborhood recreation area in a defined geographic area that includes the subdivision and an area conveniently accessible to subdivision residents - that is, an area defined such that any subdividable parcel within it would generally be no more than approximately three (3) miles from any other parcel within it that could be developed as a public recreation area.

The County may transfer funds paid by one or more subdivisions to a municipality or make arrangements for the joint County/municipal expenditure of the funds where the County determines that such transfer or arrangements would better ensure the funds will be used to acquire public recreation area that will serve the neighborhood recreational needs of subdivision residents, as specified in the paragraph above.

*[Section added 5/20/2002 (O-7-02)- effective 7/19/2002 except as to development pursuant to an application for preliminary plan, construction plat, record plat, or minor subdivision approval that was approved before 7/19/2002 or that was accepted as complete before 3/18/2002 and was still pending on 7/19/2002]*

**SECTION 3-4-15 (Tree and Vegetation Protection)**

(A) **GENERAL INTENT**

The regulations of this section are intended to preserve trees and other significant vegetation along the outer perimeter of development sites at least until such time as a site plan or other development plan is approved for the subject site. Such regulations will help to ensure that trees and vegetation along the perimeter of a site are not removed or disturbed prior to consideration of an actual plan for development of the site. By doing so, the regulations will preserve and enhance the visual character of the County, control surface water runoff, and moderate

temperatures. Tree and vegetation protection prior to development will also help conserve water because of increased absorption ability of retained plants.

(B) APPLICABILITY; EFFECT

- (1) The tree and vegetation protection standards of this section apply to the outer perimeter of parcels proposed to be graded, disturbed or subdivided; an area know as the “tree and vegetation protection zone.” The boundaries of the tree and vegetation protection zone extend the following distances from the outer perimeter of a parent parcel:
  - (a) 50 feet from all public road rights-of way; and
  - (b) 25 feet from all other property lines.
- (2) The standards of this section generally require that the tree and vegetation protection zone remain undisturbed and that trees and vegetation within the zone be preserved, except that the Planning Director or Planning Board may permit land disturbance and tree and vegetation removal within the protection zone when deemed necessary to allow for reasonable use and development of the property.
- (3) The tree and vegetation protection zone is required only on the outer perimeter of lands included in the initial approved preliminary plan of a parent tract of land. Subsequent subdivisions of lots within the parent tract are not required to provide a tree and vegetation protection zone.

(C) EXEMPTIONS

The following activities are exempt from the tree and vegetation protection standards of this section:

- (1) the removal of dead or naturally fallen or severely damaged trees or vegetation, or the removal, by an approved method, of trees or vegetation that are a threat to public health, safety or welfare
- (2) the removal, by hand, of diseased or insect-infested trees or vegetation that pose a risk to adjoining trees as determined by the North Carolina Division of Forest Resources or by a certified arborist (International Society of Arboriculture);
- (3) the selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways, intersections, or within sight triangles;
- (4) the removal of trees on tracts of 2 acres or less in area located within a single-family residential zoning district. Land within public rights-of-way is excluded from the area calculation;
- (5) the removal of trees as part of normal forestry activities on property taxed under the present-use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registers pursuant to NCGS Chapter 89B. However, for such properties, the County may deny a building permit or refuse to approve a site plan or subdivision plan for a period of 3 years following completion of the harvest if all or substantially all of the trees that should have been protected within the tree and vegetation protection zone were removed from the tract of land for which the permit or plan is sought. The County may deny a permit or refuse to approve a site plan or subdivision plan for a period of 2 years if the owner replants the protection zone within 120 days or harvest with plant material that is consistent with buffer areas required under the County buffer area standards;
- (6) the removal of trees or vegetation for the purpose of sale by commercial garden centers, greenhouses, or nurseries; and
- (7) the removal of damaged or dead trees or vegetation during or after emergencies or inclement weather such as wind storms, ice storms, fire or other disasters.

(D) MAXIMUM SIZE OF TREE AND VEGETATION PROTECTION ZONE

The total area of a tree and vegetation protection zone is not required to exceed 20% of the total area of the parcel, excluding any land area located within public road rights-of-way and any required conservation easements. (Note: Conservation easements located within tree and vegetation protection zones will be credited toward compliance with the tree and vegetation protection standards of this section)

(E) DELINEATION OF TREE AND VEGETATION PROTECTION ZONE

Subdivision plans must indicate the limits of the tree and vegetation protection zone. Tree surveys of individual trees are not required, but whenever protected trees are proposed for removal, such plans must indicate the location and size of all protected trees within the tree and vegetation protection zone that are proposed for removal (and replacement).

(F) ENCROACHMENTS WITHIN THE TREE AND VEGETATION PROTECTION ZONE

- (1) It is the intent of this section to permit reasonable predevelopment activity on lands that are subject to the tree and vegetation protection standards of this section. It is recognized that encroachment into the tree and vegetation protection zone may be necessary to allow for reasonable use and development of the subject parcel. The Planning Director or Planning Board may approve encroachments it deems necessary to permit reasonable use and development. Examples of encroachments that may be permitted include utilities, driveways, sidewalks, entrances and entrance features, supplemental landscaping, as well as access routes for construction vehicles or equipment where no alternative means of access exists on the site. Septic fields must be allowed to encroach into the tree and vegetation protection zone if a qualified soil scientist determines that such location is the only feasible and safe alternative.
- (2) At the time of consideration of a site plan or other authorized development plan for the subject site, review and decision-making bodies are authorized to approve land disturbance, development activity and tree and vegetation removal in accordance with applicable zoning and site development regulations.
- (3) When encroachment is deemed necessary by the Planning Director or Planning Board, any protected trees that are removed or die within 1 year after the encroachment must be replaced in accordance with subsection (G) of this section. In addition, when encroachment must occur, care must be taken to remove and/or disturb the minimum amount of trees and vegetation, possible. Any proposed encroachment within tree and vegetation protection zones must be indicated on preliminary subdivision plans, in accordance with subsection (E).

(G) REPLACEMENT OF PROTECTED TREES

No protected tree may be removed from tree and vegetation protection zones unless the applicant or developer replaces such trees within the tree and vegetation protection zone at a rate of 1 inch of replacement tree (DBH) per 2 inches of removed tree (DBH). For example, if a 24 inch tree is removed, the following options exist for replacement: 1, 12-inch tree; 2, 6-inch trees; 4, 3-inch trees or 6, 2-inch trees.

- (1) The minimum size (DBH) of a replacement tree is 2 inches.
- (2) The Planning Board or Planning Director may allow replacement trees to be placed outside the tree and vegetation protection zone when adequate area does not exist within the tree and vegetation protection zone, or when placement in other areas of the site, or protection of other significant trees adjacent to the perimeter of the site, would better meet the intent of this section.
- (3) It is the intent of this section to preserve protected trees and other vegetation and understory plant material that surrounds protected trees. It is recognized that clearing or disturbance of vegetation in and adjacent to protection zones can significantly impact protected trees within close proximity. Therefore, while there is no replacement

requirement for the clearing of vegetation surrounding protected trees, clearing of any vegetation in these areas is strongly discouraged.

(H) **TREE PROTECTION DURING CONSTRUCTION**

(1) Owner's Responsibility

During development of the property, the owner is responsible for the erection and maintenance of any and all barriers necessary to ensure protection of protected trees and vegetation from damage during construction

(2) Protective Fencing

a. Where Required

All protected trees that are to be preserved must be surrounded by a clearly visible fence before grading begins. Required fencing must extend as far as practical from a protected tree; preferably at least 1 foot from the tree for each inch of DBH. Protective fencing is not required to extend beyond the tree's dripline.

b. Types of Fencing

All fencing required by this section must be a minimum 4 feet in height and of durable construction. Orange polyethylene laminar fencing is acceptable. Passive forms of tree and vegetation protection may be utilized to delineate tree and vegetation protection zones that are not located near areas of land disturbance. These must be surrounded by fencing, continuous rope, or durable taping that is a minimum of 4 inches wide.

c. Signs

Signs must be installed on the protective fence so that they are visible on all sides of the fenced area that is to be protected. At least one sign must be placed on each side with signs spaced no more than 150 linear feet apart. The size of each sign must be a minimum of 2 feet by 2 feet and must contain the following language: "KEEP OUT, TREE AND VEGETATION PROTECTION ZONE," both in English and Spanish.

d. When Required

The location and a detail of the proposed protective fencing or other means of demarcation must be clearly shown on subdivision plans. No construction, grading, equipment or material storage, or any other activity is allowed within the tree and vegetation protection zone, unless approved by the Planning Director or Planning Board in accordance with subsection (F). *[Added entire section 1-16-05 (OA 04/10)]*

**SECTION 3-4-17 (PEDESTRIAN, BICYCLE AND TRAIL IMPROVEMENTS)**

(A) Purpose

The regulations of this section are intended to implement county planning objectives by promoting pedestrian and bicycle mobility, as well as recreational opportunities for county residents. Different requirements and standards apply in Short-Range Urban Services Areas, Long-Range Urban Services Areas and Non-Urban Areas in recognition of the different physical and built environments that exist throughout Wake County.

(B) Short-Range Urban Services Area

(1) Pedestrian Improvements

(a) When Required

Within the Short-Range Urban Services Area, pedestrian improvements must be provided within the right-of-way of collector and thoroughfare roads whenever:

1. such improvements are shown on or otherwise required by the Wake County Transportation Plan;
2. the subject subdivision is located within 1.5 miles of an existing or proposed school; *[Amended 2-15-05 to add existing (OA-04-09)]*
3. the subject subdivision is located within one mile of an activity center designated on the Land Use Plan; *[Amended 2-15-05 to add designated on the Land Use Plan (OA-04-09)]*
4. the subject subdivision is located within one-half mile of an existing or proposed park, library or other public facility that can be reasonably expected to generate pedestrian traffic; or *[Amended 2-15-05 to add existing (OA-04-09)]*
5. the subject subdivision is adjacent to another subdivision or development with pedestrian routes that could be readily connected to similar improvements within the subject subdivision.

(b) Design Standards

Within the Short-Range Urban Services Area, pedestrian improvements must be designed and constructed in accordance with applicable municipal standards (i.e., the standards of the municipality within whose growth area the subject subdivision is located). If no municipal standards exist, the design, location and construction of pedestrian improvements must comply with applicable county policies and plans for pedestrian improvements, including those of the Wake County Transportation Plan and the Consolidated Open Space Plan. In all cases, required pedestrian improvements within state road rights-of-way must at least meet NCDOT guidelines and standards.

(2) Bicycle Improvements

(a) When Required

Within the Short-Range Urban Services area, bicycle improvements—in the form of wide outside travel lanes or dedicated bike lanes within the right-of-way of collector and thoroughfare roads—must be provided whenever such improvements are shown on or otherwise required by the Wake County Transportation Plan.

(b) Design Standards

Within the Short-Range Urban Services Area, required bicycle improvements must be located on the main road surface of collector and thoroughfare roads (as wide outside travel lanes or approved bike lanes) and designed and constructed in accordance with applicable municipal standards (i.e., the standards of the municipality within whose growth area the subject subdivision is located). If no municipal standards exist, the design, location and construction of required bicycle improvements must comply with applicable county policies and plans for bicycle improvements, including those of the Wake County Transportation Plan and the Consolidated Open Space Plan. . In all cases, required bicycle improvements within state road rights-of-way must at least meet NCDOT guidelines and standards.

(3) Off-Road Trail Improvements

(a) When Required

Within the Short-Range Urban Services Area, off-road trail improvements must be provided whenever:

1. such improvements are shown on or otherwise required by the Wake County Transportation Plan and/or the Consolidated Open Space Plan;

2. the subject subdivision has access to or is adjacent to existing or designated greenway corridors, in which case, access to such corridors must be incorporated into the overall subdivision design; or
3. the subject subdivision is adjacent to another subdivision or development that includes off-road trail improvements that could be readily connected to similar improvements within the subject subdivision.

(b) Design Standards

1. Within the Short-Range Urban Services Area, off-road trail improvements must be designed and constructed in accordance with applicable municipal standards (i.e., the standards of the municipality within whose growth area the subject subdivision is located).
2. If no municipal standards exist, the design, location and construction of off-road trail improvements must comply with applicable county policies and plans for off-road trails, including those of the Consolidated Open Space Plan, the Wake County Transportation Plan and NCDOT guidelines and standards, as applicable.
3. Off-road trails should incorporate safe and efficient connections to pedestrian and bicycle improvements located within road rights-of-way, but shall not be used as service roads. *[Amended 2-15-05 to add but shall not be used as service roads (OA-04-09)]*
4. Off-road trails must be designed to maximize the safety of users and the security of adjoining properties with respect to location and visibility.

(c) Credit Toward Land Dedication Requirements

All of the land area included within the right-of-way of off-road trails will be credited toward meeting the recreation area land dedication requirements of Section 3-4-14.

(C) Long-Range Urban Services Area

(1) Pedestrian Improvements

(a) When Improvements May Be Required

Within the Long-Range Urban Services Area, the Planning Director or Planning Board are authorized to require that developers provide pedestrian improvements within the right-of-way of collector and thoroughfare roads whenever:

1. such improvements are shown on or otherwise required by the Wake County Transportation Plan;
2. the subject subdivision is located within 1.5 miles of an existing or proposed school; *[Amended 2-15-05 to add existing (OA-04-09)]*
3. the subject subdivision is located within one mile of an activity center designated on the Land Use Plan; *[Amended 2-15-05 to add designated on the Land Use Plan (OA-04-09)]*
4. the subject subdivision is located within one-half mile of an existing or proposed park, library or other public facility that can be reasonably expected to generate pedestrian traffic; or *[Amended 2-15-05 to add existing (OA-04-09)]*
5. the subject subdivision is adjacent to another subdivision or development with pedestrian routes that could be readily connected to similar improvements within the subject subdivision.

## (b) When Improvements May Not Be Required

1. Within the Long-Range Urban Services Area, pedestrian improvements within the right-of-way of collector and thoroughfare roads may not be required if the Planning Director or Planning Board determine that the provision of such improvements will not provide needed linkages or connections to existing or planned pedestrian improvements.
2. The Planning Director or Planning Board may not require any combination of pedestrian, bicycle or off-road trail improvements that would constitute more than 10% of the allowable impervious coverage of the subject subdivision, calculated on the basis of the impervious surface area allowed without provision of stormwater management devices.
3. Pedestrian improvements within the right-of-way of collector and thoroughfare roads may not be required in combination with off-road trail improvements.

## (c) Design Standards

Within the Long-Range Urban Services Area, the design, location and construction of pedestrian improvements must comply with applicable county policies and plans for pedestrian improvements, including those of the Wake County Transportation Plan and the Consolidated Open Space Plan. In all cases, required pedestrian improvements within state road rights-of-way must at least meet NCDOT guidelines and standards.

## (2) Bicycle Improvements

## (a) When Improvements May Be Required

Within the Long-Range Urban Services Area, the Planning Director or Planning Board are authorized to require that developers provide bicycle improvements within the right-of-way of collector and thoroughfare roads whenever such improvements are shown on or otherwise required by the Wake County Transportation Plan.

## (b) When Improvements May Not Be Required

1. Within the Long-Range Urban Services Area, bicycle improvements within the right-of-way of collector or thoroughfare roads may not be required if the Planning Director or Planning Board determine that the provision of such improvements will not provide needed linkages or connections to existing or planned bicycle improvements.
2. The Planning Director or Planning Board may not require any combination of pedestrian, bicycle or off-road trail improvements that would constitute more than 10% of the allowable impervious coverage of the subject subdivision, calculated on the basis of the impervious surface area allowed without provision of stormwater management devices..

## (c) Design Standards

Within the Long-Range Urban Services Area, required bicycle improvements must be located on the main road surface of collector and thoroughfare roads (as wide outside travel lanes or other approved bike lanes) and designed and constructed in accordance with all applicable design standards and policies for bicycle routes, including those of the Wake County Transportation Plan. In all cases, required bicycle improvements within state road rights-of-way must at least meet NCDOT standards and guidelines.

## (3) Off-Road Trail Improvements

## (a) When Improvements May Be Required

Within the Long-Range Urban Services Area, the Planning Director or Planning Board are authorized to require that developers provide off-road trail improvements whenever:

1. such improvements are shown on or otherwise required by the Wake County Transportation Plan and/or the Consolidated Open Space Plan;
2. the subject subdivision has access to or is adjacent to existing or designated greenway corridors, in which case, access to such corridors must be incorporated into the overall subdivision design; or
3. the subject subdivision is adjacent to another subdivision or development that includes off-road trail improvements that could be readily connected to similar improvements within the subject subdivision.

## (b) When Improvements May Not Be Required

1. Within the Long-Range Urban Services Area, off-road trail improvements may not be required if the Planning Director or Planning Board determines that the provision of such improvements will not provide needed linkages or connections to existing or planned trail improvements.
2. The Planning Director or Planning Board may not require any combination of pedestrian, bicycle or off-road trail improvements that would constitute more than 10% of the allowable impervious coverage for the subject subdivision, calculated on the basis of the impervious surface area allowed without provision of stormwater management devices.
3. Off-road trail improvements may not be required in combination with pedestrian improvements within the right-of-way of collector and thoroughfare roads.

## (c) Design Standards

1. Within the Long-Range Urban Services Area, the design, location, and construction of required off-road trail improvements must comply with applicable county policies and plans for off-road trails, including those of the Consolidated Open Space Plan, the Wake County Transportation Plan and NCDOT guidelines and standards, as applicable.
2. Off-road trails should incorporate safe and efficient connections to pedestrian and bicycle improvements located within road rights-of-way, but shall not be used as service roads. *[Amended 2-15-05 to add but shall not be used as service roads (OA-04-09)]*
3. Off-road trails must be designed to maximize the safety of users and the security of adjoining properties with respect to location and visibility.

## (d) Credit Toward Land Dedication Requirements

All of the land area included within the right-of-way of off-road trails will be credited toward meeting the recreation area land dedication requirements of Section 3-4-14.

## (D) Non-Urban Areas

## (1) Pedestrian Improvements Not Required

Pedestrian improvements within the right-of-way of collector and thoroughfare roads are not required within Non-Urban Areas.

(2) Bicycle Improvements

(a) When Improvements May Be Required

Within the Non-Urban Area, the Planning Director or Planning Board are authorized to require that developers provide bicycle improvements within the right-of-way of collector and thoroughfare roads whenever such improvements are shown on or otherwise required by the Wake County Transportation Plan.

(b) When Improvements May Not Be Required

Within the Non-Urban Area, the Planning Director or Planning Board may not require any combination of pedestrian, bicycle or off-road trail improvements that would constitute more than 10% of the allowable impervious coverage for the subject subdivision, calculated on the basis of the impervious surface area allowed without provision of stormwater management devices..

(c) Design Standards

Within the Non-Urban Area, required bicycle improvements must be located on the main road surface of collector and thoroughfare roads (as wide outside travel lanes or approved bike lanes) and designed and constructed in accordance with applicable county policies and plans for bicycle improvements, including those of the Wake County Transportation Plan and the Consolidated Open Space Plan. In all cases, required bicycle improvements within state road rights-of-way must at least meet NCDOT guidelines and standards.

(3) Off-Road Trail Improvements

(a) When Improvements May Be Required

Within the Non-Urban Area, the Planning Director or Planning Board are authorized to require that developers provide off-road trail improvements whenever:

1. such improvements are shown on or otherwise required by the Wake County Transportation Plan and/or the Consolidated Open Space Plan;
2. the subject subdivision has access to or is adjacent to existing or designated greenway corridors, in which case, access to such corridors must be incorporated into the overall subdivision design; or
3. the subject subdivision is adjacent to another subdivision or development that includes off-road trail improvements that could be readily connected to similar improvements within the subject subdivision.

(b) When Improvements May Not Be Required

1. Within the Non-Urban Area, off-road trail improvements may not be required if the Planning Director or Planning Board determine that the provision of such improvements will not provide needed linkages or connections to existing or planned trail improvements.
2. The Planning Director or Planning Board may not require any combination of pedestrian, bicycle or off-road trail improvements that would constitute more than 10% of the allowable impervious coverage for the subject subdivision, calculated on the basis of the impervious surface area allowed without provision of stormwater management devices.

(c) Design Standards

1. Within the Non-Urban Area, the design, location, and construction of required off-road trail improvements must comply with applicable county policies and plans for off-road trails, including those of the Consolidated Open Space Plan,

the Wake County Transportation Plan and NCDOT guidelines and standards, as applicable.

2. Off-road trails should incorporate safe and efficient connections to pedestrian and bicycle improvements located within road rights-of-way, but shall not be used as service roads. *[Amended 2-15-05 to add but shall not be used as service roads (OA-04-09)]*
  3. Off-road trails must be designed to maximize the safety of users and the security of adjoining properties with respect to location and visibility.
- (d) Credit Toward Land Dedication Requirements

All of the land area included within the right-of-way of off-road trails will be credited toward meeting the recreation area land dedication requirements of Section 3-4-14.

## CHAPTER 3-5 DEFINITIONS

### **SECTION 3-5-1 MEANING OF WORDS GENERALLY**

Words and terms used in this ordinance shall be given their commonly accepted meaning unless specifically defined in this ordinance or unless they are used in context so as to indicate otherwise.

### **SECTION 3-5-2 MEANING OF COMMON WORDS**

- (A) All words used in the present tense include future tense.
- (B) All words used in the plural include the singular, and all words used in the singular include the plural.
- (C) All words used in the masculine gender include the feminine gender.
- (D) The words "shall" or "will" are mandatory, and the word "may" is permissive.
- (E) The word "building" includes the word "structure".
- (F) The word "lot" includes the words "plot", "parcel", and "tract".
- (G) The word "person" includes a "firm", "association", "organization", "partnership", "trust", "company", or "corporation" as well as an "individual".

### **SECTION 3-5-3 MEANING OF SPECIFIC WORDS AND TERMS**

The following listed specific words and terms are defined as follows:

**Adjoining**: One property adjoins another is immediately adjacent to or abutting it.

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

**Applicant**: Any person who submits to the Wake County Subdivision Administrator subdivision plans for the purpose of obtaining approval thereof under this ordinance.

*[Definition of "collector road" deleted 7/20/92 (O-92-17)]*

**Connecting access roads**: Roads which provide access from a subdivision to a public road. *[Added 8/21/89 (R-89-86)]*

**County Commissioners, County Commission**: The Wake County Board of Commissioners.

**Construction plat**: A plan with supporting data for a proposed subdivision, developed for the purpose of establishing the layout and provision of roads and utilities.

**DBH – Diameter at Breast Height**: The diameter of a tree trunk measured 4.5 feet above the ground beneath the tree.

**Drainageway**: Any stream, watercourse, channel, ditch or similar physiographic feature draining water from the land. *[Added 10/21/85 (R-85-207)]*

**Drainageway buffer**: An area adjacent to a drainageway that shall remain undisturbed except as may be necessary to accommodate:

- (1) Roads, provided they cross at a horizontal angle of at least sixty (60) degrees.
- (2) Utilities and their easements.
- (3) Greenways, pedestrian paths, and their easements. *[Amended 12/16/85 to delete reference to these as special uses approved by the Board of Adjustment in R-80W and R-40W Districts and as general uses in all other districts (R-85-255)]*

Drainageway buffers shall be measured perpendicular to the flow of the drainageway banks, except

when no drainageway banks exist, in which case, the centerline of the drainage swale shall be used.

*[Added 10/21/85 (R-85-207); amended 12/20/93 to substitute "An area adjacent to a drainageway" for "A recorded easement" and to delete sentence encouraging homeowners to help maintain drainageway buffers to maximize stream protection (O-93-24)]*

**Easement:** Any right of the public, a corporation, or person(s) to use land owned by another for specified purposes.

**Final plat:** A map of land subdivisions prepared in a form suitable for record filing with necessary affidavits, dedications, and acceptances appended showing complete public areas and other information required by this ordinance.

**Flag lot:** An irregularly shaped lot in which the buildable portion of the lot is connected by an arm of the lot to its road frontage and in which the lot's road frontage width is less than the minimum lot width standards (as specified in the Wake County Zoning Ordinance) for the zoning district in which the lot is located. *[Added 9/21/87 (R-87-89); Note: Lot width standards relocated to Section 3-4-13 of Subdivision Ordinance 4/15/96 (O-96-7)]*

**Frontage width:** The distance along a straight line connecting the two points which are farthest apart on the lot's road right-of-way frontage. Frontage width shall be measured on the road to which the lot has access. *[Added 9/21/87 (R-87-89)]*

**Greenway:** A linear park network left in its natural state except for the introduction of trails used by pedestrians and bicyclists. *[Added 10/21/85 (R-85-207)]*

**Health Department:** The Wake County Health Department

**Local access roads:** Routes that principally provide access to residential properties within subdivisions.

**Local collector roads:** Routes that collect traffic from residential subdivisions and distribute that traffic to major thoroughfares. Local collectors are roads not designated on a thoroughfare plan, but which serve the function of a residential collector. *[Amended 7/20/92 to substitute "a thoroughfare plan" for "the Thoroughfare Plan as major thoroughfares"(O-92-17)]*

**Lot:** A portion of a subdivision or any other parcel of land intended as a unit for building development, or for transfer of ownership, or both. The term "lot" does not include parcels wholly dedicated or reserved as right-of-way or open space in accord with the provisions of this Ordinance, or parcels wholly dedicated as reserved for potential future development in accord with Section 3-4-3(D) of this Ordinance. *[Amended 4/15/96 to add last sentence (O-96-7)]*

**Lot width:** The distance between side lot lines, generally measured for a 30-foot-wide depth along the lines parallel to the lot's road frontage and located interior of the minimum front yard depth applicable to the lot and in the front two-thirds (2/3) of the lot's depth. *[Added 4/21/97 (O-97-16)]*

*[Definition of "major collector road" deleted 7/20/92 (O-92-17)]*

**Major thoroughfare:** A road designated as a freeway, major thoroughfare, or minor thoroughfare on one or more of the thoroughfare plans, as amended, that cover any part of Wake County and have been adopted by the North Carolina Board of Transportation. *[Amended 7/20/92 to delete specific classifications and reference to Wake County Thoroughfare Plan (O-92-17)]*

*[Definition of "minor collector road" deleted 7/20/92 (O-92-17)]*

**Official plans:** Any plans officially adopted by the County Commissioners of Wake County as a guide for the development of the County consisting of maps, charts, and texts.

**Person:** Includes the words owner, agent of an owner, firm, association, partnership, trust, company, and corporation, as well as an individual.

**Planning Board:** The Wake County Planning Board

**Planning Director:** The administrative head of the Wake County Planning Department.

**Plat:** A map or plan of a tract or parcel of land which is to be, or which has been subdivided, and includes the terms map, plan, plot, replat, or replot.

**Preliminary plan:** A map with supporting data for a proposed subdivision, developed for the purpose of showing the general layout of lots and roads.

*[Definition of "principal arterial" deleted 7/20/92 (O-92-17)]*

**Protected Tree:** Any deciduous tree with a trunk that is 24 inches or greater in diameter (measured 4.5 feet above the ground).

**Public sewer system:** Any sewer system whether operated publicly or privately unless the sewer source is located on a lot and serves only that lot in accordance with NCGS 130-166-64 and NCAC 10D Sec. .0702.

**Public water system:** Any water system whether operated publicly or privately unless the water source is located on a lot and serves only that lot in accordance with NCGS 130-166-64 and NCAC 10D, Sec. .0702.

**Register of Deeds:** The Wake County Register of Deeds.

**Reverse frontage lot:** A continuous lot which is accessible from only the minor of two roads upon which it fronts.

**Road:** A way for vehicular traffic whether designated as a street, highway, thoroughfare, parkway, freeway, road, avenue, boulevard, lane, place, court, easement, etc. and whether designated public or private. *[Amended 8/18/86 to add "roadway easement"(R-86-64RR)]*

**Sewage treatment pond:** A sewage treatment pond is an earthen basin, provided with either a natural material or synthetic liner, that is used as the primary means of treatment of domestic wastewater through sedimentation and aerobic and anaerobic biological processes. *[Added 6/21/04 (OA 04/02)]*

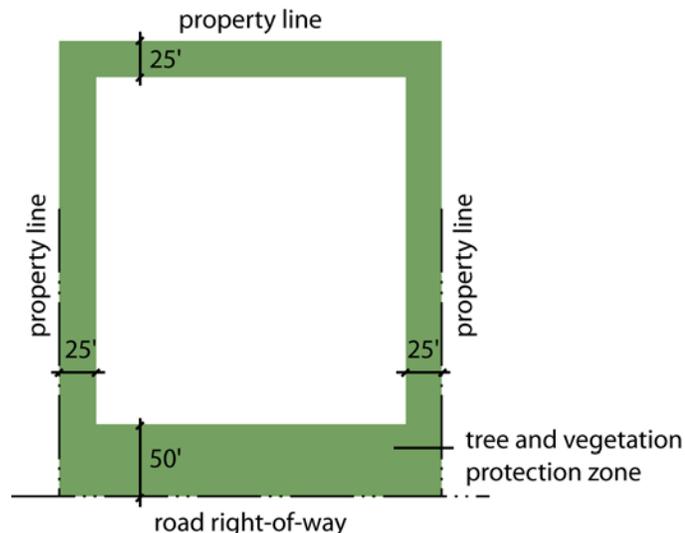
**Stream:** Any drainageway draining twenty-five (25) or more acres of land. *[Added 10/21/85 (R-85-207)]*

**Subdivider:** Any person who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision Administrator:** The official of Wake County charged with the enforcement of this ordinance, and includes his duly authorized agent or delegate.

**Tree and Vegetation Protection Zone:** An area in which the tree and vegetation protection standards of Section 3-4-15 apply. Such area extends the following distances from the outer perimeter of a site:

- (A) 50 feet from all public road rights-of-way lines; and
- (B) 25 feet from all other property lines.



**Upper watershed drainageway:** A watercourse, channel, ditch or similar physiographic feature draining less than twenty-five (25) acres. *[Added 10/21/95 (R-85-207)]*

**Watershed Best Management Practice (BMP):** A recognized method, activity, device, maintenance

procedure, or other management practice used singularly or in combination to minimize the amount of nonpoint source pollution entering surface waters. *[Added 12/20/93 (O-93-24)]*

Watershed buffer: An undisturbed area of natural vegetation adjacent to a drainageway, watercourse, or water impoundment within a watershed through which stormwater runoff is intended to flow in a diffuse manner so that it does not become channelized and infiltration of runoff and filtering of pollutants can take place. *[Added 12/20/93 (O-93-24)]*

Zoning Ordinance or Zoning Code: The Wake County Zoning Ordinance.

## CHRONOLOGICAL SUMMARY OF SUBDIVISION ORDINANCE AMENDMENTS SINCE 1985 CODIFICATION

Adoption Date	Resolution/ Ordinance Number	Effective Date	Amended Provisions	File Number
8/5/85	R-85-140	8/5/85	Readoption and codification of entire Ordinance	
10/21/85	R-85-207	10/21/85	3-5-3	
12/16/85	R-85-255	12/16/95	3-5-3	
4/21/86	R-86-66	4/21/86	3-2-1(C),(C.1)	
8/18/86	R-86-64RR	8/30/86	3-1-6(B)(5) 3-1-6(C)(1),(3) 3-2-1 3-3-7(B)(4) 3-3-12(A)(9) 3-4-8(C) 3-4-8(D)(4),(14) 3-5-3	
9/15/86	R-86-147	10/13/86	3-3-10(D) 3-3-12(A)(16),(17) 3-3-13 3-4-8(D)(5)	
12/1/86	R-86-167RR	12/8/86	3-4-8(D)(4)	
4/6/87	R-87-31	4/22/87	3-4-8(D)(9)	
4/21/87	R-87-44B	5/21/87	3-1-6(C)(3) 3-4-8(C)(8) 3-4-8(D)(15)	
5/18/87	R-87-17d	6/17/87	3-4-8(D)(13)	
8/17/87	R-87-77	9/16/87	3-4-7(C)	
9/21/87	R-87-89	10/21/87	3-4-13 3-5-3	
1/17/89	R-89-14	3/17/89	3-4-8(D)(2),(9)(a)	
1/17/89	R-89-15	2/17/89	3-4-7(B)(2)	OA 89/8
8/21/89	R-89-86	9/21/89	3-3-11 3-4-8(A),(B)(C) 3-5-3	OA 89/10
11/20/89	R-89-111B	12/20/89	3-4-8(C)(3)(g)	OA 90/6
2/18/91	R-91-13	5/1/91	3-3-11 3-3-12(A)(13)	OA 90/2
7/20/92	O-92-17	8/20/92	3-3-5 3-4-8(D)(4),(13)(a) 3-5-3	OA 92/11, OA 92/12
2/15/93	O-93-2	5/15/93	3-3-11(E),(F)	OA 93/4
8/16/93	O-93-12	9/15/93	3-4-8(C)(2),(3)(a),(3)(b) 3-4-8(D)(1),(2)	OA 93/7

<b>Adoption Date</b>	<b>Resolution/ Ordinance Number</b>	<b>Effective Date</b>	<b>Amended Provisions</b>	<b>File Number</b>
12/20/93	O-93-24	1/1/94	3-1-8 3-3-4(10) 3-3-7(14) 3-3-12(18) 3-4-8(D)(14) 3-5-3	OA 94/2
4/15/96	O-96-7 (pt.)	5/15/96* <i>*[Some amendments in the Ordinance became effective 5/15/96; others became effective 8/15/96]</i>	3-4-7(B)(1)	OA 96/9
4/15/96	O-96-7 (pt.)	8/15/96* <i>*[Some amendments in the Ordinance became effective 5/15/96; others became effective 8/15/96]</i>	3-3-4(B)(11),(12) 3-3-7(B)(11),(15),(16) 3-3-12(A)(10),(19),(20) 3-3-17 3-3-18 3-4-1 3-4-2 3-4(Table 1) 3-4-3 3-4-4 3-4-13 3-5-3	OA 96/9
5/20/96	O-96-9	5/20/96	3-4-8(A)	OA 96/7
7/22/96	O-96-22	8/16/96	3-4-8(D)(13)	OA 96/10
8/19/96	O-96-33	8/19/96	3-4-3(E)(2)(a),(3)	OA 96/22
8/19/96	O-96-34	8/19/96	3-4(Table 1)	OA 96/20
4/21/97	O-97-15	4/21/97	3-3-4(B)(13) 3-3-18	OA 97/6
4/21/97	O-97-16	4/21/97	3-4(Table 1) 3-5-3	OA 97/9
5/19/97	O-97-21	5/19/97	3-1-8 3-1-12 3-4(Table 1) 3-4-3(E)(4) 3-4-3(G) 3-4-4(D)	OA 97/5
7/21/97	O-97-32	7/21/97	3-4-3(A),(E)(1),(F)(1)	OA 97/17
7/21/97	O-97-34	7/21/97	3-4-3(E)(4),(G) 3-4-4(D) 3-4-8(D)(14)	OA 97/16
10/20/97	O-97-48	10/20/97	3-2-1(D),(E) 3-3-13(C)-(E)	OA 97/18

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10/20/97	O-97-47	11/1/97	3-1-6(B) 3-2-1(B) 3-3-13(B)	OA 98/1
1/20/98	O-98-2	2/20/98	3-4-7(D)	OA 98/2
1/20/98	O-98-3	2/20/98	3-4-7(A)-(E)	OA 98/3
1/3/2000	O-00-1	2/3/2000	3-1-11 3-1-13 3-2-1 through 3-2-4 3-3-1 through 3-3-10 3-3-12 through 3-3-14 3-3-16	OA 00/1
11/6/00	O-00-33	11/6/00	3-4-8(D)(9)(a)	OA 00/8
12/4/00	O-00-40	12/4/00	3-1-6(B)(6)	OA 00/11
1/22/01	O-01-3	1/22/01	3-3-2(E)(1)	OA 00/13
5/20/02	O-02-7	7/19/02	3-2-2(B)(1) 3-2-2(D)(2) 3-3-2(B)(2) 3-3-4(E)(2) 3-4-3(E)(1) 3-4-14	OA 01/5
9/3/02	O-02-?	9/3/02	3-2-2(B)(2)(a) 3-3-2(B)(2)(a) 3-3-3(C)(1)(a) 3-3-4(C)(1)(a)	OA 02/4
10/21/02	O-02-6	10/21/02	3-4-8(D)(14)(b)	
5/19/03	O-02-2	5/19/03	3-4-4 (Repealed) 3-4-8(D)(14) 3-1-6(B)	
4/06/05		04/06/05	3-4-7 (A) (3) added	OA 04/12

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10/21/02		12/1/02	3-3-1 3-3-2(A) 3-3-2(B)(3)(b) 3-3-2(B)(4) 3-3-2(B)(5)(a) 3-3-2(B)(5)(d) 3-3-2(C) 3-3-3(B) 3-3-4(B) 3-3-18 3-4-8(C)(3)(a) 3-4-8(D)(2) 3-4-8(D)(3) 3-4-8(D)(4)(b) 3-4-8(D)(4)(c) 3-4-8(D)(4)(d) 3-4-8(D)(4)(e) 3-4-8(D)(9)(c) 3-4-8(D)(10) 3-4-8(D)(11) 3-4-8(D)(12) 3-4-10(B) 3-4-10(C) 3-4-13(B) 3-4-14(C)(2)	OA 02/?