

**PENDING AMENDMENT**  
**P11-47**

County Subdivision Ordinance  
Revision, Amendment and Update

**CURRENT MEETING INFORMATION:**

Cumberland County Board of Commissioners, December 19, 2011, 6:45 pm,  
Commissioners' Hearing Room, Room # 118 (Main Courthouse), 117 Dick  
Street, Fayetteville

**CASE HEADING:**

**P11-47.** REVISIONS, AMENDMENTS AND UPDATES TO THE CUMBERLAND  
COUNTY SUBDIVISION ORDINANCE FOR THE CUMBERLAND COUNTY  
JOINT PLANNING BOARD'S REVIEW OF THE AUGUST 18, 2008  
ORDINANCE – SEE COMPLETE TEXT AT  
<http://www.co.cumberland.nc.us/planning.aspx>.

**ADDITIONAL INFORMATION:**

The Joint Planning Board's Land Use Codes Committee has reviewed the staff recommended changes. The Codes Committee and Staff recommendations are attached and listed in "memorandum format" with the complete text of the ordinance following the memorandums.

At their October 18, 2011 Joint Planning Board meeting, the board members present voted to defer consideration of this case to their November 15, 2011 regular meeting.

On November 1, 2011 an additional change to the proposed ordinance was made. The change was made to Section 2306, Utilities.

During the November 15, 2011 regular meeting of the Joint Planning Board, the board members present unanimously voted to recommend approval of the proposed amendment that was considered at the October 18, 2011 meeting with a phrase added to Section 2306.

**CONTACT INFORMATION:**

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(The editing of this ordinance has caused the spacing and layout of the text to be off; upon final adoption and prior to being reprinted, all articles and sections will be adjusted.)

## **ARTICLE XX ADMINISTRATIVE PROVISIONS**

### **SECTION 2001. PURPOSE.**

The purpose of this ordinance is to establish regulations and procedures for the platting, recording and development of real property within Cumberland County. The Board of Commissioners of Cumberland County hereby find~~s~~ these regulations and procedures ~~are~~ necessary in order to promote the orderly development of the County; provide for the coordination and dedication of streets and thoroughfares; provide for the reservation or dedication of land for other public purposes, as set forth herein; promote the proper installation of streets, public utilities and other community facilities, promote the eventual elimination of unsafe and unsanitary conditions arising from improper land subdivision and development; ensure proper description, identification, monumentation and recording of subdivided ~~subdivision~~ properties; and generally promote the public health, safety and general welfare.

**State Statute Reference:** N.C. GEN. STAT., Chapter 153A, Planning and Regulation of Development

### **SECTION 2002. TITLE.**

This ordinance shall be known and may be cited as the “Cumberland County Subdivision and Development Ordinance.”

### **SECTION 2003. AUTHORITY AND ENACTMENT.**

The Board of Commissioners of Cumberland County, pursuant to the authority conferred by Chapter 153A, Article 18, Part 2, Section 153A-330 *et seq.* of the General Statutes of North Carolina, does hereby ordain and enact into law these articles and sections.

### **SECTION 2004. JURISDICTION.**

This ordinance shall control the subdivision and development of land, as defined herein, lying within the boundaries of Cumberland County, except to

the extent of lawful subdivision regulations by any municipality in the County as authorized by law.

#### **SECTION 2005. APPLICATION.**

All preliminary plans and final plats for the subdivision, as defined herein, of land shall conform to the requirements of this ordinance and the County Zoning Ordinance, and shall be submitted in accordance with the procedures and specifications established within the ordinances. Plans for developments, such as manufactured home parks, group developments, ~~or~~ zero lot line, townhomes~~house~~, and condominiums ~~developments (unit ownership)~~ shall be submitted in the same manner as and are subject to these provisions the same as other subdivision plats or plans.

#### **SECTION 2006. ORDINANCE ADMINISTRATOR.**

The Board of Commissioners of Cumberland County, as permitted by N.C. GEN. STAT. § 153A-330 *et seq.*, delegates to the Cumberland County Planning & Inspections Director, or the director's ~~his/her~~ designee, authority to grant preliminary development plan and final plat approval in accordance with the provisions of this ordinance, with appeal of the Cumberland County Planning & Inspections Director's final decision to be heard and decided by the Cumberland County Planning Board.

#### **SECTION 2007. PLANS/PLATS APPROVAL REQUIRED.**

After the effective date of this ordinance, or the effective date of any subsequent amendment thereto, no subdivision plat or development plan of properties ~~land~~, as defined herein, within the jurisdiction of this ordinance and the County Zoning Ordinance, shall be permitted, filed or recorded until it shall have been submitted to and approved by the Planning and Inspections Department as hereinafter provided; no permit shall be issued for the development of any land until such time as the development plan or ~~a~~ subdivision plat has been finally approved and if applicable, recorded with the County Register of Deeds or until such time as the plan has received formal approval where a final plat is not required; and no land shall be sold or transferred by reference to a subdivision plat, except those recorded prior to the effective date of this ordinance, that has not been approved and recorded in accordance with the provisions of this ordinance.

## **SECTION 2008. FEES.**

For each preliminary or development plan, final plat, ~~every group development plan~~, and any site plan as required under the County Zoning Ordinance, the owner or agent of said property shall pay a nonrefundable filing fee to "Cumberland County" in accordance with a fee schedule recommended by the Planning Board and approved by the County Commissioners.

## **ARTICLE XXI INTERPRETATIONS, CALCULATIONS AND DEFINITIONS**

The interpretation of terms, methods of measurement, and definitions contained in this article shall be observed and applied when construing and applying this ordinance, except when the context clearly indicates otherwise. Words not otherwise defined shall be construed and applied given their customary and ordinary meaning.

## **SECTION 2101. INTERPRETATIONS OF COMMON TERMS AND WORDS.**

For the purpose of interpreting certain words or terms contained within this ordinance and unless otherwise expressly stated, the following shall apply:

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

B. The word "shall" is always mandatory and not discretionary.

C. The word "may" is permissive.

D. The word "person" includes any firm, association, organization, partnership, corporation, trust or company, or any other legal entity, as well as an individual.

E. The word "lot" shall include the words "piece," "parcel," "tract" or "plot."

F. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for" and "occupied for."

G. Any reference to an “article” or “section” shall mean an article or section of this ordinance, unless otherwise specified.

#### **SECTION 2102. METHODS OF CALCULATION.**

The rules set out herein shall be used to enforce and apply this ordinance, unless such rules are inconsistent with specific criteria contained within an individual article or section. If a discrepancy arises between the following methods and any specific section elsewhere in this ordinance, the standards of the specific section shall prevail.

A. *Fractional requirements.* When any requirement of this ordinance results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit, and a fraction of less than one-half shall be disregarded. When the ~~of the~~ number of dwelling units permitted on a lot submitted for approval as a group development results in a fraction of a dwelling unit, a fraction of one-half or more shall be considered a dwelling unit, and a fraction of less than one-half shall be disregarded

B. *Computation of time.* The time within which an act is to be completed shall be computed by excluding the first day and including the last day; if the last day is a Saturday, Sunday or legal holiday recognized by the County, that day shall also be excluded.

C. *Calculation of measurement.* The spatial separations required by this ordinance shall be calculated as follows:

1. Distance is calculated by drawing a straight line from the closest point on the perimeter of the exterior wall of the site being measured to the closest point of the property line in question.

2. Separation of structures is calculated by drawing a straight line from the closest point on the perimeter of the exterior wall, structure or bay to another exterior wall, structure, bay, well, or septic, as applicable.

3. Separation of uses is calculated by drawing a straight line from the closest point of the property boundary to the nearest property boundary line, which contains the use requiring the separation.

4. Area is calculated by applying the standard mathematical formulas, applying common conversion factors as necessary.

#### **SECTION 2103. DEFINITIONS OF SPECIFIC TERMS AND WORDS.**

In further amplification and for clarity of interpretation of the context, the following definitions of word usage shall apply:

**Abutting/Contiguous:** Having property or district lines in common, i.e., two lots are abutting if they have any portion of any property line in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street, alley, railroad right-of-way, navigable stream or other water source.

**Access:** A means of approaching/entering or exiting/leaving a property. Access also includes ingress, the right to enter and egress, and the right to leave.

**Alley:** A private right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on a street and is not intended for general traffic.

**Alter:** To make any change, addition or modification in construction, occupancy or use.

**Apartment:** A room or suite of rooms intended for use as a residence by a single household or family. Such a dwelling unit may be located in an apartment house, duplex, or as an accessory use in a single home or a commercial building.

**Berm:** Any elongated earthen mound designed or constructed to separate, screen or buffer adjacent land uses.

**Board of Commissioners or Commissioners:** The Cumberland County Board of Commissioners.

**Buffer:** An opaque fence, wall, berm, hedge or other natural planting, or a combination thereof, restricting the view from adjoining streets and/or abutting properties thus providing a functional and/or visual separation of uses of property.

**Buildable Area (Buildable Envelope):** The space remaining on a lot after the minimum open space requirements (yards, setbacks, etc.) have been met.

**Building:** Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, including tents, lunch wagons, dining cars, trailers, manufactured homes and attached or unattached structures consisting of roof and supporting members, and similar structures whether stationary or movable.

**Building Footprint:** The portion of a lot's area that is enclosed by the foundation of buildings, plus any cantilevered upper floor, stoops, porches, chimneys, decks, etc.

**Building, Principal (Main):** A building in which the principal use is conducted for the lot on which it is situated.

**Building, Setbacks:** The minimum distance from all property and/or right-of-way lines to the closest projection of the exterior face of buildings, walls or other forms of construction (i.e. decks, landings, terraces, and porches, etc.).

**Building Site:** A building site shall be that property intended for conveyance to a fee simple owner after the construction thereon of a single-family residence or business, and shall be sufficient in size to contain the structure to be constructed thereon and any other proposed components of the property that are to be conveyed.

**Cemetery:** As defined in Chapter 65, Article 9, of the General Statutes of North Carolina, any one or a combination of more than one of the following in a place used or to be used and dedicated or designed for cemetery purposes:

- A. Grave spaces or burial park for earth interment;
- B. Mausoleum; and
- C. Columbarium.

**Cemetery Grave Space:** A space of ground in a cemetery intended to be used for the interment in the ground of the remains of a deceased person.

**Certificate of Occupancy:** Official certification that a premise conforms to the provisions of this ordinance, the County Zoning Ordinance and N.C. Building Code and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use. Unless such a certificate is issued, a structure cannot be occupied, but a certificate may be issued for a portion of a structure ready for occupancy, such as separate dwelling or commercial units in a structure with multiple units.

**Common Area:** Land and any other portion of a development not individually owned or dedicated for public use, which is designed and intended for the use or enjoyment of the residents of the development.

**Condominium (Unit Ownership) Development:** A project, governed by the Unit Ownership provisions of this ordinance and regulated by the *NC Unit Ownership Act*, N. C. GEN. STAT. 47A-1, *et seq.*, consisting of multiple

individually owned units in a multi-unit structure with jointly owned undivided interest in common of the land on which the structure(s) stand and other shared areas and facilities (common area).

**Conservancy:** Any legally established incorporated entity, whether for profit or nonprofit, whose organization is dedicated to the protection of the environment and natural resources.

**County:** Cumberland County.

**Crosswalk:** A right-of-way dedicated to public use, which cuts across a right-of-way to facilitate pedestrian access to adjacent streets and properties.

**Dedication:** A gift from by the owner of property to another party without any consideration being given for the transfer. Since a transfer of property is involved, the dedication shall be accomplished by written instrument and is completed with an acceptance.

**Density:** The average number of families, persons, housing units or buildings per unit of land.

**Development:** Any land disturbing activity subject to the provisions of this ordinance resulting in new construction of a principal structure on a lot, addition to an existing principal structure that results in a fifty percent or more increase in size to the existing principal structure, or a subdivision of land.

**Driveway:** A private access way, the use of which is limited to persons residing, employed or otherwise using or visiting the parcel in which it is located.

**Dwelling:** A building or portion thereof designed, arranged or used for permanent living quarters. The term “dwelling” shall not be deemed to include a travel trailer, recreational vehicle, motel, hotel, tourist home or other structures designed for transient residence.

**Dwelling, Multiple-Family:** A residence designed for or occupied by two or more families with separate housekeeping and cooking facilities for each.

**Dwelling, Single-Family:** A detached residence designed for or occupied by one family only.

**Easement:** A right given or reserved by the owner of land for specific limited use of the owner’s land.



**Farmland Protection Area:** An area defined and adopted by the Board of Commissioners as denoted on the Land Use Plan Map for protection of the agricultural industry; the rural character; and the preservation of farmland.

**Group Development:** A group of two or more principal uses, structures, or dwelling units occupying, built on, or intended to occur on a single lot, tract, or parcel of land.

**Health Department:** The Cumberland County Public Health Department, [which includes County Environmental Health.](#)

**High Density:** Residential development having a density of 15 or more dwelling units per acre.

**High Voltage Line:** Any electrical line 25kv or greater.

**Highway Plan:** A plan, formally known as “Fayetteville Area Metropolitan Planning Organization Highway Plan,” that provides and defines a functional system of streets permitting travel from origins to destinations with directness, ease and safety. Different streets in this system are designed and called on to perform specific functions, thus minimizing the traffic and land service conflict.

**Land Area, Gross:** The square footage of an entire site included within the external boundary of the property to be developed.

**Land Area, Net:** The square footage of an entire site, excluding public and private rights-of-way, required to meet the minimum zoning district dimensional provisions as required by the County’s Zoning Ordinance, for which the property is zoned.

**Lot:** A parcel of land occupied or intended for occupancy, by a principal structure or group of principal structures together with any accessory structures, including such yards, open spaces, width, and area as are required by this ordinance and the County Zoning Ordinance, either shown on a plat of record or described by metes and bounds and recorded with the County Register of Deeds.

**Lot, Corner:** A lot abutting the intersection of two or more streets, or a lot abutting a curved street or streets, [in](#) which streets have an angle of intersection of not more than 135 degrees.

**Lot, Depth:** The depth of a lot is the average distance between the front and back lot lines excluding street rights-of-way.

**Lot, Flag:** A lot where the main body of the lot is separated from the street giving access to the property, but which has an included strip of land at least 20 feet in width connecting the lot to the street, thus providing lot access.

**Lot, Frontage:** The linear feet of property measured along the property line that abuts a public street. On a private street, the distance is measured along the right-of-way line adjoining the street.

**Lot, Interior:** A lot other than a corner or periphery lot.

**Lot Lines:** The lines bounding a lot; where a lot of record includes a public right-of-way, the lot lines are presumed not to extend into the right-of-way.

**Lot, Periphery:** A lot with one or more property line(s) comprising at least a portion of the boundary of the property to be subdivided or developed.

**Lot, Through:** A lot, other than a corner lot, having frontage on two parallel or approximately parallel streets or a corner lot having frontage on three or more streets.

**Lot Width:** The straight-line distance between the points where the building setback line intersects two side lot lines.

**Lot of Record:** A part of a subdivision or [other](#) development, a plat of which has been recorded in the office of the County Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds and, if applicable, meets all requirements of the this ordinance.

**Low Density:** [Residential development having a density of 2.2 to six dwelling units per acre.](#)

**Manufactured Home:** A structure designed to be used as a dwelling unit, which has been constructed and labeled indicating compliance with the U.S. Department of Housing and Urban Development (HUD) administered *National Manufactured Housing Construction and Safety Standards Act of 1974*, as amended.

**Manufactured Home, Class A:** A dwelling unit constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development (HUD) that were in effect at the time of construction and that satisfies the following additional criteria:

A. The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis;

B. The pitch of the roof of the manufactured home has a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction;

C. All roof structures shall provide an eave projection of no less than six inches, which may include a gutter;

D. The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint) or wood or hardboard siding, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;

E. The manufactured home is set up in accordance with the standards set by the N.C. Department of Insurance (NCDOI) and a continuous permanent masonry foundation, or permanent masonry curtain wall, un-pierced except for required ventilation and access, is installed under the manufactured home;

F. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the N. C. Department of Insurance (NCDOI), attached firmly to the primary structure and anchored securely to the ground; and

G. The moving hitch, wheels and axles, and transporting lights have been removed.

**Manufactured Home, Class B:** A dwelling unit constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development (HUD) that were in effect at the time of construction, but that does not satisfy all of the criteria necessary to qualify the dwelling unit as a Class A manufactured home.

**Manufactured Home, Class C:** Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.

**Manufactured Home Park:** Any site or tract of land with more than two spaces intended to be occupied or occupied by manufactured homes, regardless of whether a charge is made for such services. Manufactured home parks may include recreational facilities and other incidental structures necessary to support the residents of the park

**Manufactured Home Space:** A plot of land within a manufactured home park designed for the accommodation of a single manufactured home.

**Medium Density:** Residential development having a density of greater than 6 and less than 15 dwelling units per acre.

**Municipal Influence Area:** An area within the County's jurisdiction, and outside any municipalities' corporate limits, that is assigned by the County Commissioners to a specific municipality where certain development standards of that municipality's ~~development standards~~ shall be applicable. The official *Municipal Influence Area Map* for each municipality shall be filed with the appropriate Town Clerk and the Clerk to the County Board of Commissioners, and shall be maintained by the Planning and Inspections Department.

**N. C. Department of Transportation (NCDOT):** The local district office of the North Carolina Department of Transportation.

**Open Space:** The land used for recreation, natural resource protection, amenities and/or buffer areas. Open space may include, but is not limited to, un-improved walkways, recreation areas, playgrounds, wooded areas, greenways and watercourses.

**Ordinance:** This document, the Cumberland County Subdivision and Development Ordinance, including any amendments thereto and whenever the effective date of the ordinance is referred to, the reference includes the original effective date and the effective date of any amendments.

**Parks and Recreation Director:** The individual charged with overseeing the Fayetteville-Cumberland Parks and Recreation Department within a specific area; this definition also includes a designee of the Parks and Recreation Director, or where there is no Parks and Recreation Department, the official designated for the purpose by that affected jurisdiction's governing board.

**Parks and Recreation Master Plan:** The officially adopted document that is the vision of what the County's parks and recreation program and facilities could be in the future, as well as, a plan to make the initiatives written in the plan happen based upon available resources at any given time.

**Planning Board (also known as "Joint Planning Board" or "County Planning Board"):** A planning and advisory board established by the County Board of Commissioners, comprised of appointed members, who make recommendations to the Board of County Commissioners and other governing bodies on planning and land use matters. The board's official title is "Cumberland County Joint Planning Board".

**Planning and Inspections Department:** The department established by the County Board of Commissioners, responsible for and tasked with planning and land use matters for the County.

**Planning and Inspections Director:** The individual responsible for the leadership of the Cumberland County Planning and Inspections Department, and who serves as advisor to the Cumberland County Joint Planning Board.

**Planning and Inspections Staff:** The staff members assigned to the Planning and Inspections Department who, under the supervision of the Planning and Inspections Director, supports the Cumberland County Joint Planning Board and the County on planning and land use matters.

**Plat/Plan:** A preliminary or final map, usually of land which is to be or has been subdivided or [otherwise](#) developed, showing the location, boundaries, and ownership of properties; the location, bearing and length of every street and alley line, lot line and easement boundary line; and such other information as may be necessary to determine whether a proposed subdivision or [other](#) development meets all required standards of this ordinance and other applicable rules and regulations of the County.

**Premises:** A lot and the structure or structures located on it or the use or uses occurring on it.

**Principal Structure/Principal Use:** The primary building(s), purpose(s) or function(s) that a parcel or structure serves or is intended to serve.

**Private Water System:** Any water system that is not public and does not meet the definition for “Public Water Supply” below.

**Public Water/Sewer Systems:** Includes any municipal, county, sanitary district, community, and privately owned water and/or sewer systems as regulated and controlled by the N. C. State Utilities Commission and the Health Department.

**Public Water Supply:** A water provider that has 15 or more connections or serves more than 25 customers and is regulated by the State of North Carolina.

A. *Community water.* Serves 15 or more connections or serves more than 25 year round residents (example: rest home).

B. *Non-community water.* Serves 25 of the same individuals six or more months out of the year (example: school or day care facility).

C. *Transient non-community water.* Serves 25 or more individuals at least 60 days out of the year, not necessarily by the same individuals.

D. *Purchased water system.* Water purchased from a public water supply.

**Public Way:** Any street, alley or similar parcel of land, which is deeded, dedicated or otherwise permanently appropriated to the citizens for their use.

**Reservation:** A reservation of land does not involve any transfer of property rights; it simply constitutes an obligation to keep property free from development for a period of time for a specific purpose.

**Right-of-Way:** An area owned and maintained by the County, any municipality, the State of North Carolina, the Federal government, a public utility, a railroad or a private entity or individual for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities or railroads.

**Rural density:** Residential development having density of one or less ~~equal to or less than~~ dwelling units per acre.

**Setback:** The required distance between every structure with other structures, whether on the same or separate lots, and every structure and the lot lines of the lot on which it is located.

**Site Plan:** A scaled drawing depicting uses and structures proposed for a parcel of land as required by this ordinance. It includes such things as lot lines, streets, building sites and setbacks, means of access, parking, reserved open space, buildings footprints, major landscape features—both natural and manmade—and, depending on requirements, the locations of proposed utility lines. The specific criteria for site plans are found in County Zoning Ordinance.

**Sidewalk:** An improved pedestrian surface that is typically located adjacent to a roadway and/or is intended to facilitate pedestrian access from one point to another.

**Street:** A public or private right-of-way, which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other right-of-way.

**Street, Private:** Any road, street, or alley that is not publicly owned or and maintained and is used for access by the occupants of the development, their guests, and any representative of a governmental agency for purposes of performing a designated official function ~~the general public~~. (This definition

does not include neighborhood public roads, cart paths and ingress/egress easements.)

**Street, Public:** A right-of-way maintained by a public entity and intended for vehicular traffic. The word "street" includes, but is not limited to, "road, freeway, expressway and thoroughfare." The Highway Plan and N.C. Department of Transportation classify streets as follows:

A. *Freeways and expressways.* The primary function of freeways and expressways is to move large volumes of inter-urban, inter-county and interstate traffic. They are not intended to serve the abutting property and, therefore, should provide limited access with grade separations at all intersections. They should be at least four-lane divided facilities permitting as high an average operation speed as legal and should connect the major economic, recreation and population centers of the county with those of the state and nation.

B. *Major thoroughfares.* Primarily for the movement of heavy volumes of traffic, major thoroughfares should form connections with the industrial, commercial and population centers within the County and with the major roads in neighboring in the surrounding areas. Depending upon anticipated traffic volumes and adjacent development, they may be two-lanes, four-or-more lanes undivided, or four-or-more-lanes divided facilities with either limited or controlled access and with major intersections separated. Though their primary function is to serve traffic, they may also serve abutting property with controlled access.

C. *Minor thoroughfares (collectors):* The main function of the minor thoroughfares is to collect traffic from the local roads and carry it to the major thoroughfares. They should be designed to serve a limited area with no access control or grade separation.

D. *Local street.* A local service street designed primarily for access to abutting properties.

E. *Cul-de-sac or hammerhead.* A local street permanently terminated by a turn-around.

F. *Marginal access street (service road).* A local street that parallels and is immediately adjacent to a major thoroughfare, freeway or expressway, and which provides access to abutting property and protection from through traffic.

**Structure:** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in a permanent manner.

**Subdivision:** For the purpose of this ordinance, "subdivision" shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) on or after August 22, 1984 and shall include all divisions of land involving the dedication of a new street or a change in existing streets; however, the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:

A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as shown in its subdivision regulations.

B. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.

C. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

D. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the [County Subdivision and Development Ordinance](#).  
~~municipality, as shown in its subdivision regulations.~~

E. The platting of individual grave spaces within a cemetery.

However, plats in categories "A" and "D" above shall have the Planning Board's stamp "No Approval Required" before filing in the County Register of Deeds' office inasmuch as a determination must be made as to whether or not the resultant lots are equal to or exceed the standards set forth in this ordinance.

**Suburban Density:** Residential development having a density of less than ~~2.2~~ [five](#) and ~~greater~~ [more](#) than ~~one~~ [two](#) dwelling units per acre.

**Town[home](#)house Development:** A project, governed by the *Unit Ownership* provisions of this ordinance, consisting of attached units in conjunction with a separate lot or lots of common ownership, regardless of whether it is designed for residence, office, the operation of any industry or business, or for any other type of independent use, and wherein each unit has at least one vertical wall extending from ground to roof dividing it from adjoining units, and each unit is separately owned, with the owner of such unit having title to the land on which it sits.



~~**Urban Density:** Residential development having a density of five or more dwelling units per acre.~~

**Voluntary Agricultural District:** A North Carolina program in which an owner of farmland may on their ~~own~~ initiative apply to participate in and is designed to preserve and protect farmland from non-farm development, recognizing the importance of agriculture to the economic and social well being of the State.

**Yard, Front:** An area of which the width is measured the entire length of the front property line between the side property lines; and the depth is measured as the distance between the street right-of-way or property line and the required front setback line.

**Yard, Rear:** An area of which the width is measured the entire length of the rear property line between the side property lines; and the depth is measured as the distance between the property line and the required rear setback line.

**Yard, Side:** An area extending from the required front setback to the required rear setback, or to the front or rear property lines where no front or rear setback is required by the provisions of this ordinance, the minimum and average dimensions of which are determined by the standards of property development of the zoning district in which such lot is located.

**Zero Lot Line Development:** A development including, but not limited to, residential lots, patio houses, townhomes ~~houses~~ and non-residential structures ~~businesses~~ including one or more structures comprising at least two single-family residences or non-residential structures ~~businesses~~, whether attached or detached, intended for separate ownership.

## ARTICLE XXII PRELIMINARY SUBDIVISION AND DEVELOPMENT PLAN APPROVAL

### SECTION 2201. PRE-APPLICATION.

Whenever a subdivision or other development is proposed to be made and before any improvements shall be made, the developer shall cause a preliminary plan to be prepared. The preliminary plan shall comply fully with this ordinance and with the health, zoning and other applicable regulations in effect at the time the plan is submitted for preliminary approval. Before filing a preliminary plan for review, the developer is encouraged to submit a pre-

application sketch plan to the Planning & Inspections Department, hereinafter: Department, for comments and suggestions.

## **SECTION 2202. PRELIMINARY PLAN SUBMISSION.**

A. The preliminary plan in such form as required by Section 2203 and in such number of copies deemed sufficient by the Planning & Inspections Director, hereinafter "Director," shall be submitted, with the appropriate completed application, to the Department .

B. The Department shall distribute the preliminary plans to the various affected land-use related agencies as determined by the Director, and shall review the preliminary plan to determine its compliance with the provisions of this ordinance and other officially adopted regulations, plans and policies. The Department may negotiate for such other changes as may be found desirable.

C. After such review and negotiations, the Department may approve the plan and state the conditions of such approval, if any, or shall disapprove the plan and state its reasons therefore. Except where extenuating circumstances exist and where additional information is required for review of the plan, the Department shall issue a ~~its~~ final ruling within 12 working days from date of submittal of the preliminary plan.

D. In addition to approving waivers, the Planning Board shall decide all conditions of approval where the Director and developer cannot reach agreement - see Section 2601.

## **SECTION 2203. PRELIMINARY PLAN AND SUPPORTING DATA.**

The preliminary plan shall be drawn to scale of not less than 200 feet to the inch nor more than 20 feet to the inch. It should be superimposed on a topographic map with contour lines shown at one- or two-foot intervals. In addition, the preliminary plan shall include the following:

A. *Title data.* Subdivision or ~~D~~development name, the names and addresses of the owner(s) or the designer of the plan, the scale, date and north point.

B. *Vicinity sketch.* A key map or vicinity sketch showing the subject property's general location in relation to an area of the County.

C. *Existing data.* Location of existing and platted property; total acreage of proposed development; existing structures, culverts, bridges,

watercourses, railroads, political boundary lines, zoning district lines, parks, location of easements and name of easement holder; right(s)-of-way name and width, whether public or private, on and adjoining the land proposed for development; and the names of adjoining property owners.

D. *Data relating to proposed subdivision or other development.* The names, locations and dimensions of proposed streets, alleys, crosswalks, lots, easements, building setback lines, *Special Flood Hazard areas*, parks, playgrounds and other open spaces.

E. *Data relating to surrounding area.* Where the preliminary plan submitted includes only a part of the developer's tract, an overall sketch showing the prospective future street system, proposed public open spaces and other features for the development of the entire tract shall accompany the preliminary plan.

F. *Utility plans.* The preliminary plan shall contain a statement as to the type of intended water and sewer service. Where public water and/or sewer is not to be provided, the preliminary plan shall contain a statement as to the proposed method of water supply and/or sewage disposal.

G. *Street cross sections.* When required by this ordinance, typical cross sections of proposed streets shall be drawn, showing width and proposed construction of roadways at a scale of not less than 30 feet to the inch.

H. *Other improvements.* At the discretion of the Director, where other improvements are required or are to be provided in the development, appropriate plans shall accompany or shall be incorporated into the preliminary plan.

#### **SECTION 2204. EFFECT OF PRELIMINARY PLAN APPROVAL.**

Where preliminary plan approval is granted, the developer may then proceed to construct improvements in accordance with the requirements of this ordinance, the County Zoning Ordinance and other applicable regulations, and, if required, to submit the final plat for approval for recordation. Where approval is granted, the preliminary plan shall be approved or conditionally approved initially for a period of time not to exceed two calendar years. Extensions may be approved for subsequent two calendar year time periods provided that a request for extension is made prior to the expiration of the approval and provided that substantial progress is made or is being made toward the completion of the development.

## **SECTION 2205. CONTRACTS TO SELL OR LEASE REFERENCING APPROVED PRELIMINARY PLAN.**

The terms of this ordinance shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plan for which a final plat has not yet been properly approved provided that the provisions of N. C. GEN. STAT. § 153A-334 are complied with.

## **ARTICLE XXIII ~~DEVELOPMENT~~ IMPROVEMENT AND DESIGN STANDARDS**

### **SECTION 2301. GENERAL.**

A. *Conformity.* All proposed subdivisions or developments, ~~whether a subdivision, special development, or other development~~ regulated by the provisions of this ordinance or the County Zoning Ordinance, shall comply with the provisions of this ordinance, the County Zoning Ordinance, and other applicable local, State and Federal regulations.

B. *Reasonable relationship.* Any proposed subdivision or other development subject to the provisions of this ordinance shall also be so planned as to facilitate the most advantageous development of the entire community and shall bear a reasonable relationship to existing or amended plans and written adopted policies of the Planning Board and the Board of Commissioners.

C. *Recorded plat.* A final plat shall be prepared, approved, and recorded pursuant to the provisions of this ordinance and the County Zoning Ordinance, prior to any subdivision of land and prior to commencement of the placement of any structure or construction on or conveyance of any portion of any subdivision lot.

### **SECTION 2302. AREA-SPECIFIC STANDARDS.**

A. *Municipal Influence Areas.* The Board of Commissioners ~~by interlocal agreement~~ may approve and establish a *Municipal Influence Area* (MIA) for a municipality. All subdivisions or developments with four or more proposed lots/units derived from the same parent tract as of the date of this ordinance and located within a municipality's MIA shall be designed and constructed ~~developed~~ in accordance with the subdivision design standards officially adopted by the municipality and explicitly listed in this ordinance, except as provided in any interlocal agreement adopted by the affected governing

bodies. The subdivision design ~~development~~ standards for each municipality are attached to this ordinance as “Exhibit 5” and entitled *MIA Subdivision Design ~~Development~~ Standards*. The official MIA map – see Exhibit 4 – shall be maintained by the Planning and Inspections Department and kept on file with the office of the Clerk to the County Board of Commissioners.

B. *Sewer Service Area*. The Board of Commissioners may approve and establish a *Sewer Service Area* (SSA). The SSA sets forth an area within which subdivisions and ~~developments~~ should be served by sanitary sewer and shall otherwise be developed according to the provisions of any officially adopted interlocal agreement. Any proposed subdivision or other development inside the boundary of the SSA shall comply with the pertinent provisions governing extension of sanitary sewer and other subdivision and development criteria specifically addressed within any officially adopted interlocal agreement.

C. *Fort Bragg Special Interest Area*. Because of the location of known habitat and forage areas of the protected Red-Cockaded Woodpecker on the properties in and around the military reservations, the community, including the military, has a special interest in any subdivision or other development that occurs on the privately owned properties in close proximity to the military bases. The official *Fort Bragg Special Interest Area* map, hereby adopted as part of this ordinance, shall be maintained by the Planning and Inspections Department and kept on file with the Clerk to the County Board of Commissioners – see Exhibit 6. Upon receipt for submission of any subdivision or other development subject to review under this ordinance and located within the *Fort Bragg Special Interest Area*, the Planning and Inspections Staff shall forward a copy of the preliminary plan to the military planner assigned to the affected military base and to the local office of the U.S. Fish and Wildlife Service, in addition to the other agencies involved in the review process. The military planner and the Fish and Wildlife representative will then assist the developer in identifying areas where trees should be maintained. While the owner is not obligated, the intent is to encourage clustering of developments in accordance with the special subdivision and development provisions of this ordinance or the County Zoning Ordinance, thus protecting the endangered woodpecker.

D. *School sites*. Where the Land Use Plan identifies ~~specifies~~ an area with a specific location and size of a school site that has been approved jointly by the Board of Commissioners and the County Board of Education as a proposed school site and the proposed school site lies wholly or partially within an area being proposed for subdivision or other development, the land area for the school site shall be reserved if the Board of Education wishes the site to be reserved. The Planning and Inspections Department shall immediately notify the Board of Education upon the submission of a preliminary plan for review and approval under the provisions of this

ordinance or the County Zoning Ordinance. If the Board of Education wishes the site to be reserved, the preliminary plan may not be approved without the reservation of the specific area for the school site. The Board of Education must acquire the site within 18 months after the date the site is reserved; if the site has not been acquired by the Board of Education within the 18 month period, the developer may treat the land as freed of the reservation.

**State statute reference:** N. C. GEN. STAT. § 153A-331

E. *Public park and recreation sites.* Where the Fayetteville-Cumberland Parks and Recreation Master Plan or other officially adopted parks plan identifies ~~specifies~~ an area with a specific location and size of a site that has been approved jointly by the County Board of Commissioners and the Fayetteville-Cumberland Parks and Recreation Department as a proposed public park or recreation site; hereinafter, *park site*; and the proposed park site lies wholly or partially within an area being proposed for subdivision or other development, the land area for the park site shall be reserved if the Fayetteville-Cumberland Parks and Recreation Department wishes the site to be reserved. The Planning and Inspections Department shall immediately notify the Fayetteville-Cumberland Parks and Recreation Department upon the receipt for submission of a preliminary plan for review and approval under the provisions of this ordinance or the County Zoning Ordinance. If the Fayetteville-Cumberland Parks and Recreation Department wishes the site to be reserved, the preliminary plan may not be approved without the reservation of the specific area for the park site. The Fayetteville-Cumberland Parks and Recreation Department must acquire the site within 18 months after the date the site is reserved; if the site has not been acquired by the Fayetteville-Cumberland Parks and Recreation Department within the 18 month period, the developer may treat the land as freed of the reservation.

**State statute reference:** N. C. GEN. STAT. § 153A-331

F. *Planned public rights-of-way.* Where any portion of a proposed subdivision or other development lies within the proposed right-of-way of any public street or road that is included in an officially adopted *Highway Plan* of the County, or in the event the proposed development is located within any municipality's *Municipal Influence Area*, within any municipality's officially adopted street/highway plans, the right-of-way shall be dedicated or reserved in the location and at the width as adopted in the official plan; provided that no dedication wider than 80 feet shall be required, and provided that reservation of right-of-way ~~no dedication~~ shall be required where right of direct access from abutting property is denied. If the subdivision or other development is such that a ~~final~~ plat is required to be recorded prior to any development on the site, the dedication and reservation shall be accomplished on the final plat, with the bearings and distances of the required dedication and reservation lines shown; otherwise, a reservation of the property shall be shown on the preliminary plan prior to the plan receiving preliminary approval. Any right-of-way required to be dedicated or reserved shall not be included in



the calculation of land area for district dimensional requirements for the zoning district in which the proposed subdivision or other development is located.

**State statute reference:** N. C. GEN. STAT. § 153A-331

G. *Voluntary Agricultural District.* The *Voluntary Agricultural District* (VAD) is intended to promote agricultural and environmental values and the general welfare of the County and, more specifically, increase identity and pride in the agricultural community and its way of life, encourage the economic health of agriculture, and increase protection from non-farm development and other negative impacts on properly managed farms. Approved applications for placement of property within the VAD shall be kept on file at the Planning and Inspections Department and notice of a proposed subdivision, development or other change in any property lines for property located within the VAD shall be made to the Cooperative Extension Office immediately upon its submission for approval for recordation.

**State statute reference:** N. C. GEN. STAT. § 106-744

### **SECTION 2303. MINIMUM LOT STANDARDS.**

A. *Compliance with County Zoning Ordinance.* Any subdivision, individual lot or other development created subject to the terms of this ordinance is subject to and shall comply with all applicable provisions of the County Zoning Ordinance.

B. *On-site water and sewer systems.* Lots not served by public water and/or sewer systems shall be large enough and of such physical character to meet County Environmental Health's Department minimum standards for on-site water and/or sewer systems.

C. *Street frontage.* Except as otherwise provided for in Section 2401, every lot shall abut a public street, or private street approved under the terms of this ordinance, for at least 20 feet; such frontage (abutting) to be continuous from the property line to building setback line.

D. *Access to certain classified streets.* Direct access shall not be allowed for any single-family residential lot located along any street as defined or classified by the Highway Plan or locally adopted Collector/Feeder Street Plan as major or minor thoroughfare, arterial, collector or feeder street, where feasible and sufficient land depth exists allowing for the proposed lots to be served internally.

E. *Easements.*

1. *Utility.* To provide for existing or future service poles, underground electric and communication lines, public utilities, conduits, drainage facilities, water and sewer lines, an easement not less than ten feet wide, five feet on each side of the common rear lot line or in other locations where necessary, shall be provided. No building or other permanent obstruction, not including fences, shall be erected on any such easement.

2. *Drainage.* Where property to be subdivided is traversed by a watercourse, drainage way, canal or stream, there shall be provided a drainable easement for channel improvement which conforms substantially with the center line of such watercourse, drainage way, canal or stream. Such drainage easement shall be a minimum of 20 feet wide (not necessarily centered) but in no case shall it be required to exceed 20 feet from the top of the bank (natural stream channel) on either side of the watercourse, drainage way, canal or stream. In the event that the subdivision [or other development](#) includes a man-made lake, such drainage easement shall conform to the original stream or watercourse where known or a note added to the plat to read as follows: "In the event that the lake(s) shown on this plat is drained or otherwise lowered to the natural stream level, a public drainage easement for the purpose of channel improvement is hereby dedicated at a minimum width of 20 feet but not to exceed 20 feet from the top of the bank on either side of the natural stream course."

F. *Lots intended for commercial and industrial uses.* Commercial and industrial lots may be arranged in convenient units of width and to a depth that is appropriate to the development contemplated, provided that the minimum requirements for lots, blocks and zoning are met.

G. *Lots subject to flooding.* Improvements of any lot, street or common area shall not be commenced in a subdivision or other development, or section thereof, subject to this ordinance or the County Zoning Ordinance, unless the developer, builder, landowner or other appropriate permittee has complied with the provisions of the County Flood Damage Prevention Ordinance. The preliminary plans and final plats of subdivisions or other developments, or sections thereof, in which there are areas of special flood hazard, shall have a line or lines drawn thereon delineating the boundaries of such areas within the subdivision or other development. Each such boundary line shall be the same as the boundary line(s) of the *Special Flood Hazard Area*, as defined in the County Flood Damage Prevention Ordinance, and as shown on the official flood maps of Cumberland County, the Flood Insurance Rate Map (FIRM). Any interpretation by the County Engineer may be appealed pursuant to the County Flood Damage Prevention Ordinance.

The preliminary plans and final plats of a subdivision or other development, or section thereof, subject to the provisions of this section, shall



be annotated with the following notice when the plan/plat is a depiction of property that is located within the *Special Flood Hazard Area*:

“Notice: Any improvement within the *Special Flood Hazard Area*, or any subsequent revision thereof, is subject to the provisions of the Cumberland County Flood Damage Prevention Ordinance and may be limited or precluded thereby.”

## **SECTION 2304. STREETS.**

A. *General criteria.* All subdivision lots or any lot proposed to be developed shall abut a street designated as either public or private and all public or private streets shall be built to the standards of this ordinance, other applicable standards of the County, and the North Carolina Department of Transportation (NCDOT). Public streets shall be designed in accordance with the standards of this ordinance, the NCDOT, or, if the development is located within a municipality's *Municipal Influence Area*, to that municipality's standard (see Exhibit 5.4, MIA Development Standards). Public streets shall be constructed in such a manner to be eligible for acceptance into the State highway system and shall be put on such system. Private streets shall be developed in accordance with the terms of this ordinance and other applicable Federal, State, and local regulations. The following provisions apply to all streets, whether public or private:

1. *Relation of proposed streets to adjoining street system.* The proposed street system shall extend existing or proposed streets at the same or greater width, but in no case less than the required minimum width, provided that no extension wider than 80 feet shall be required.

2. *Through traffic.* Minor residential streets shall be laid out so as to discourage through traffic.

3. *Access to adjacent property.* The proposed street system shall be designed to provide for the dedication of access to and not to impose undue hardship upon adjacent property adjoining the proposed subdivision or other development. Reserve strips adjoining street right-of-way for the purpose of preventing access to adjacent property shall not be permitted.

4. *Access to parks, schools, etc.* Streets shall be designed or walkways dedicated to assure convenient access to adjacent parks, playgrounds, schools, and other public places. Dedicated walkways shall not be less than ten feet in width.

5. *Circulation requirements.* The minimum circulation requirements for all development shall be the standards outlined in the *NC Department of*

*Transportation Policy on Street and Driveway Access to North Carolina Highways.*

6. *Marginal access streets.* When a tract of land to be subdivided or developed adjoins a limited access highway, the developer ~~subdivider~~ may be required to provide a marginal access street parallel to the highway or reserve frontage on an interior street for the lots being proposed that are adjacent to the highway.

7. *Street names.* Proposed street names shall not duplicate nor closely approximate phonetically the name of any street anywhere within Cumberland County. Where proposed streets are extensions of existing streets, the existing street names shall be used except where a new name can reasonably be used to avoid further street name duplication.

8. *Street signs.* All streets within a development shall be marked with a street name sign of a design specification and location in accordance with the *Cumberland County Street Sign Specifications Manual*, and approved by the Planning & Inspections Department.

9. *Half streets.* Whenever an existing half street is adjacent to a tract of land to be subdivided or otherwise developed, the other half of the street shall be dedicated or shown as an easement for conditional future dedication within the new subdivision or other development. New half streets are prohibited except when essential to the reasonable progression ~~development~~ of the subdivision or other development in conformity with the other requirements of these regulations and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided or otherwise developed.

10. *Street design.*

a. *Right-of-way.* Proposed street right-of-way shall be of sufficient width to meet the requirements of the specifications of the NCDOT.

b. *Median strips.* Where a subdivider elects to construct a street divided with a median strip, the right-of-way width shall not be less than 70 feet, and no median strip shall be less than ten feet wide.

c. *Corner radii.* Property lines at street intersections shall be rounded with a radius of 25 feet.

d. *Intersecting streets.* Streets shall be laid out so as to intersect as nearly as possible at right angles.

e. *Street offsets.* Where there is an offset in the alignment of a street across an intersection, the offset of the center lines shall not be less than 125 feet.

f. *Block lengths.* Block lengths generally shall not be longer than 1,800 feet; provided that where a longer block will result in less traffic through residential developments from adjoining businesses or areas, the Planning and Inspections Director may approve block lengths in excess of 1,800 feet.

g. *Public, Class "A" and "B" private ~~S~~street ending.* All streets not stubbed to adjacent properties for future development shall be ended with either a cul-de-sac or a hammerhead ("t-type") turnaround. Streets ~~ending ended~~ with a cul-de-sac or hammerhead shall not be longer than 1,400 feet. Cul-de-sac shall be designed at the closed end with a circular turnaround having an outside roadway diameter of at least 70 feet and a right-of-way line diameter of at least 100 feet. Hammerheads shall be designed at the closed end with a "t-type" turnaround having a minimum outside dimension of 50 feet by 100 feet and a roadway dimension of 20 feet by 70 feet ~~and a~~ ~~A~~ 15 foot radius is required at the intersecting lines of the "t-type" ending. ~~Alternative Other~~ types of turnarounds as approved by the NCDOT may be approved if the design provides for adequate maneuvering of emergency and other public use vehicles.

h. *Alleys.* A reservation or easement for an alley to the rear of proposed lots may be approved provided that the developer can produce satisfactory evidence at the time of the preliminary plan submission to show that the alleys will be functional and be designed in such a manner as to allow for public services to be accomplished. When serving four or less residences, any alley proposed shall provide a minimum width of 12 feet. When serving five or more residences and/or non-residential uses, any alley proposed shall provide a minimum alley width of 20 feet. The Planning and Inspections Staff shall review development plans that include alleys for vehicular safety. Alleys shall be approved and maintained the same as common areas within a development and require the County Attorney's approval of owners' association documents and covenants with respect to maintenance and liability of any alley.

## B. *Public streets.*

1. *Construction.* All public streets shall be constructed according to the standards and specifications of the NCDOT and this ordinance.

2. *NCDOT Approval and Acceptance.* All public streets shall be certified by the NCDOT as being acceptable for future maintenance by the State, provided that other conditions for acceptance and maintenance are met. Until such time that the NCDOT accepts the public street for

maintenance, the developer and subsequent purchasers shall be responsible for maintenance and for securing final acceptance by the NCDOT.

It shall be the responsibility of the developer to formally notify the NCDOT's District Engineer and initiate the process of transferring the responsibility of road maintenance. If application to the District Engineer has not been formally submitted and any deficiencies noted by the NCDOT resolved by the time the County has issued building permits for 80% 75% of the lots shown on the preliminary plan as submitted and conditionally approved ~~platted portion of the development~~, the County shall not issue any additional ~~more~~ building permits until the District Engineer formally notifies the Planning and Inspections Department of the NCDOT's receipt of such application and their satisfaction of any noted deficiencies impeding the NCDOT's acceptance of the streets.

If all roads within the subdivision or other development have not been applied for the NCDOT's consideration for addition to the State system by the time at which building permits have been issued for 80% 75% of the lots of the conditionally approved preliminary plan ~~platted portion of the development~~, the developer may post a surety performance bond or an equivalent security as authorized in Section 2502. Should this alternative be used, the method of payment chosen shall be equal to 1.25 times the cost of installing all remaining required improvements according to the standards required by the NCDOT. Within 30 days after the Planning and Inspections Department receives formal notice of pending acceptance of the roads by the NCDOT, the County shall release any unused portion of the securities posted through this procedure.

For purposes of this ordinance, "road maintenance" shall mean that the public streets are kept in a good state of repair and that the streets are able to be used for their intended purpose without any impediments. The developer and future purchasers shall not install or allow to be installed any items within the right-of-way which will have to be removed prior to the acceptance of the roads by the NCDOT. Such items include but are not limited to fences, masonry mailbox supports, shrubbery, and driveway markers.

3. *Gradient, curves and alignment.* Street gradient, reverse curves and horizontal alignment shall be in accordance with the standards and specifications of the NCDOT.

4. *Curbs and gutters.* Unless otherwise regulated by this ordinance, curb and gutter is required as follows:

a. Subdivisions or other developments with a proposed density of five or more units per acre, concrete curb and gutter is required;

b. [Subdivisions or other](#) developments with a proposed density of more than two but less than five units per acre, concrete or asphalt rolled curb and gutter is required;

c. [Subdivisions or other](#) developments with a proposed density of two units or less per acre, curb and gutter requirements, if any, must meet NCDOT standards.

All curbs and gutters installed shall meet the NCDOT approved standards and specifications and any rolled concrete curb and gutter, if required by this ordinance, shall not be less than 24 inches.

C. *Private streets.* Private streets will be permitted to serve as access within [subdivisions or other](#) developments; however, dedication of public streets and other rights-of-way or easements may be required if such are indicated on the official plans as adopted by the County Board of Commissioners, a governing body of a municipality in Cumberland County or the Planning Board. Public streets and/or other rights-of-way or easements or public access over private streets will be required where the Planning Board, the NCDOT, or public utility agency determines that such are necessary in order to promote the continuity of existing streets or utility systems or otherwise protect and promote the public health, safety and welfare.

1. *NCDOT specifications.* Unless otherwise approved, the developer shall reserve enough area along all private streets to meet NCDOT specifications for right-of-way width requirements on secondary roads. Such area as is required to be reserved may not be used toward lot area requirements or be included in any required yard space.

2. *Access to government agency.* In any [subdivision or other](#) development where private streets are provided, the developer shall prepare for Planning and Inspections Department approval and record in the County Register of Deeds, a plat of such development indicating all private streets. It shall be indicated on such plat that any governmental agency or personnel or equipment thereof shall be granted perpetual access over all such private streets to accomplish or fulfill any service or function for which the agency is responsible and that any agency or organization designated by a governmental agency to perform a designated function shall also retain access the same as any governmental agency. It shall be indicated on such plat that any agency exercising its access rights shall have the same rights and only such liabilities as it would have on any public lands, rights-of-way or easements.

3. *Upgrading street classification.* If a division of the same or adjacent lands previously approved under this section occurs which could change the

status of the street to A, ~~or~~ B or public street classifications, then the entire street must be upgraded to the applicable higher standard. The individual desiring to create the additional divisions of land shall be responsible for the upgrading of the streets to the higher classification after giving notice to and receiving agreement from the affected property owners.

4. *Minimum design specifications.* The following specifications shall be the minimum accepted for private streets and must be completed, or guaranteed to be completed in accordance with Section 2502, prior to submission for final plat approval. In all subdivisions or other developments, minimum asphalt paving and/or base construction is required at least to the minimum standards of the NCDOT for residential streets.

a. *Class "A" private street specifications:*

(1) All street construction, surfacing and drainage standards shall meet or exceed the NCDOT's design specifications for residential streets;

(2) No area of any lot shall be included in the ~~rights~~-of-way easement;

(3) Street(s) shall be maintained by an established owners' association, as approved by the County Attorney and supported by recorded legal documentation addressing a street maintenance agreement;

(4) There is ~~No~~ limit to the number of lots to be served by this street classification;

(5) Clearing and grubbing shall be completed five feet of each edge of the surfaced travel way; and

(6) When curb and gutter sections are omitted, 45 foot right-of-way must be provided.

b. *Class "B" private street specifications:*

(1) All street construction and drainage standards shall meet or exceed the design specifications of the NCDOT for residential streets with a rural cross-section and with the appropriate amount of either "crusher and run" or gravel as certified by a professional engineer and shall provide a minimum of a 45 foot right-of-way;

(2) Street(s) shall be maintained by an established owners' association, as approved by the County Attorney and supported by recorded legal documentation addressing a street maintenance agreement ~~Property~~



~~lines shall be included in the street easement or if to be held in common and an owners' association is established and made responsible for maintenance, the property lines must not be in the right-of-way;~~

(3) All such private streets shall connect to a state maintained road or an approved Class A private street;

(4) Clearing and grubbing shall be completed five feet of each edge of the travel way;

(5) May serve a maximum of eight ~~seven~~ lots; and

(6) Group developments as approved under the terms of this ordinance shall be limited to a maximum of two units per lot.

*c. Class "C" private street specifications:*

(1) A minimum passable travel way 20 feet wide shall be provided within a 30 foot easement;

(2) An adequate drainage system shall be constructed in accordance with the storm drainage plan submitted to and approved by the County Engineer;

(3) All such private streets must directly connect to a paved state maintained road or a Class "A" private street;

(4) May serve a maximum of four lots;

(5) Group developments as approved under the terms of this ordinance shall be limited to a maximum of two units per lot;

(6) Property lines shall be included in the street easement;

(7) Clearing and grubbing will be completed five feet of each edge of the travel way;

(8) Repealed; and ~~The County Engineer shall approve the storm drainage plans only to the extent that the plans are deemed adequate to maintain the private street as originally constructed. Since there are no maintenance requirements for such private streets for any government agency, there shall be no liability on the County, County Engineer or other County employee after such review and this shall be so stated on the final plat~~

(9) Private streets approved under this classification shall be terminated with either a cul-de-sac or hammerhead (t-type) of sufficient size to afford emergency and other public vehicles adequate maneuvering area for turning around.

5. ~~*Repealed. Maintenance.* Upon determination by the Planning and Inspections Director that such private streets as approved are not in a proper state of maintenance, the Director may, in addition to other remedies, prevent re-occupancy of any structure to which such streets provide access until such streets are in a proper state of maintenance as determined by the Director.~~

6. *Flag lots.* For Class “B” and “C” private streets, flag lots into the street right-of-way to the public street shall ~~still~~ count as a lot being served for access purposes by such private street.

7. ~~*Private street Class “A” and “B” certification of construction.*~~ Upon completion of construction of any Class “A” and “B” private streets and the related facilities including drainage ways, the developer shall provide for an inspection of all such facilities by a registered surveyor or engineer, who shall provide in writing a statement that all private streets and related facilities are constructed in accordance with the provisions of this ordinance and that all such facilities are adequate to serve the development. Such statement shall be affixed with the engineer’s or surveyor’s seal and submitted to the Planning and Inspections Department ~~and approved~~ prior to the recording of the final plat or release of any construction guarantees as required under Section 2502. Upon receipt of the certification of construction and after the initial approval for recording of the final plat, the County has no enforcement responsibility as related to maintenance and encroachments within the right-of-way of any private street.

8. *Private street deed disclosure.* Every deed created for a lot served by a private street within the jurisdiction of this ordinance and to be filed with the County Register of Deeds shall include the following disclosure: “It is hereby acknowledged that a *Subdivision Streets Disclosure Statement* has been executed in accordance with N. C. GEN. STAT. § 136-102.6.”

## **SECTION 2305. SIDEWALKS.**

A. Sidewalks shall be required to be constructed ~~in the following instances:~~

~~1. *Urban density.* When a residential development is proposing lots or units at a density of five or more lots/units per acre, sidewalks are required on one side of all streets and along any abutting minor thoroughfare or higher classification street;~~



~~2. Suburban density. When a residential development is proposing lots or units at a density that is less than five lots/units per acre but greater than two lots/units per acre, sidewalks are not required internally within the development; however, sidewalks shall be constructed along any abutting minor thoroughfare or higher classification street;~~

3. ~~W~~When any subdivision or other development proposed is adjacent to an existing public school or public park property, the developer shall construct and dedicate to the affected public agency a walkway (sidewalk) not less than ten feet in width in such a location as to facilitate direct convenient access to the adjacent school or park. ~~;~~ ~~and~~

~~4. When a non-residential development is proposed along a minor thoroughfare or higher classification street, sidewalks are required along the affected thoroughfare or higher classification street;~~

B. ~~Any~~ All required sidewalks ~~s~~ shall be constructed with concrete or other approved surface material and shall comply with the provisions of the *Americans with Disabilities Act* standards. The required sidewalks ~~s~~ shall be constructed with a minimum width of 36 inches, a minimum of four inches thickness for areas subject to pedestrian traffic, a minimum of seven inches thickness for areas subject to vehicular traffic, joints spaced every three feet, and a minimum 3,000 PSI compressive strength.

## **SECTION 2306. UTILITIES.**

A. *Water and sewer.* Where water and/or sewer systems are to be installed as part of the development improvements, such systems shall be designed and installed in accordance with the standards and specifications of the County Health Department and/or the provider responsible for the approval of such systems.

### *1. Public water and sewer systems.*

a. *Generally.* Where the installation of public water and/or sewer systems is prerequisite to approval of lot sizes and standards, such systems shall be installed and certified prior to final plat approval or assured to be installed in accordance with the provisions of Section 2502.

b. *Connection to public water and sanitary sewer required.* When not predicated upon a prior mandatory annexation policy and where any portion of a subdivision or other development submitted for approval under the terms of this ordinance or the County Zoning Ordinance proposes two to ten lots or units is within 300 feet of public water or sewer, the public utilities

shall be extended and connected. Where any portion of ~~eleven~~ ten to twenty lots or units is within 500 feet of public water or sewer, the public utilities shall be extended and connected. For more than twenty lots or units proposed within the Sewer Service Area and/or and where density is greater than two lots or units per acre, the extension of and connection to public water and sewer service is required. Sanitary sewer service outside of the Sewer Service Area requires approval in accordance with the terms of any interlocal agreement officially adopted by the Board of Commissioners.

c. *Exception to public water and sewer extension/connection.* The Planning and Inspections Director ~~Board~~ shall ~~exempt~~ may make exceptions ~~to the above requirements for~~ connection to a public water and/or sewer system when any of the following conditions warrant:

(1) Public sanitary sewer is within a different drainage basis or sub-basin;

(2) The public utility is located beyond the jurisdiction of the Planning Board, and the public utility provider will not agree to extend service;

(3) Crossings of Rockfish Creek, Lower Little River, South River, Cape Fear River, controlled access highways such as Interstate 95, Business 95 and the Fayetteville Outer Loop;

(4) Extensions exceeding 2,000 feet from existing public services; or

(5) Property is located outside of the County's or a municipal governments' approved utilities ~~master~~ plan.

2. *On-site water and sewer systems.* When proposing lots or units to be served by on-site private water and/or sewer systems, the lot shall be of sufficient size to accommodate the utilities and providing for adequate building area. When either or both of such systems are proposed to be used, every plat must have a certification or disclosure as required by in Section 2504. Every deed created for a lot or unit to be served by an on-site water and/or sewer system within the jurisdiction of this ordinance and to be filed with the County Register of Deeds shall include the following disclosure: "Public water and/or sewer services are not available, as of the date of the recording of this deed. On-site sewer disposal systems must be approved by the Health Department."

B. *Fire hydrants.* Fire hydrants are required when a subdivision or other development with four or more proposed lots/units derived from the same parent tract as of the date of this ordinance and when subject to the provisions of this ordinance or the County Zoning Ordinance is to be served

by [extension of](#) a public water system where the provider is capable of supplying sufficient water pressure to operate the hydrants. The following are the minimum standards for hydrant installation:

1. Fire hydrants shall be located no more than 1,000 feet apart and at a maximum of 500 feet from any lot or unit;
2. Each fire hydrant shall have the minimum main supply line as required by the provider to adequately provide the appropriate amount of pressure to the hydrant;
3. Fire hydrants shall be maintained by the entity supplying water thereto; and
4. Standard hydrant design (National Standard Thread, 4½-inch steamer, (2) 2½-inch discharge connections, etc.) and proper maintenance shall be utilized.

C. *Underground utilities required.* All [subdivisions and other developments](#) shall have utilities placed underground where practical. High voltage electrical lines as defined are exempt from this requirement.

D. *Stormwater.* New [subdivisions and other developments](#) that will disturb one acre or more of land or is part of a larger plan that will disturb at least an acre of land is subject to the Post-Construction Stormwater Management Permitting Program administered by the Division of Water Quality, N. C. Department of Environment and Natural Resources (NCDENR).

## **SECTION 2307. OTHER REQUIREMENTS.**

A. *Required drainage.* Drainage systems shall be installed by the developer in accordance with the NC Carolina Department of Transportation (NCDOT) standards and specifications and in accordance with the NC Department of Environmental and Natural Resources' (NCDENR) *Manual on Best Management Practices* (BMP).

B. *Monuments.* Monuments of a permanent material shall be installed in accordance with the N. C. GEN. STAT. § 39-32.1 *et seq.*, and at such points as may be consistent with good surveying/engineering practices.

C. *Removal of rubbish.* All cut or fallen trees, stumps or rubbish shall be completely removed from the [subdivision or](#) development site.

D. *Watercourse protection.* During the construction, preparation, arrangement, and installation of improvements and facilities in [subdivisions or](#)

[other](#) developments located at or along a watercourse, the developer shall maintain the watercourse in an unobstructed state and shall remove from the channel and banks of the watercourse all debris, logs, timber, junk and other accumulations of nature that would, in time of flood, clog or dam the passage of waters in their downstream course; provided that installation of appropriately sized stormwater drains, culverts, bridges, levee systems or closure structures in a levee system shall not be constructed as obstructions in the stream.

## **SECTION 2308. PARKS, RECREATION AND OPEN SPACE.**

Every [newly proposed](#) residential dwelling [lot or](#) unit shall provide a portion of land for the purpose of providing park, recreation and open space areas. For purposes of this section, the terms “recreation area” includes park, recreation and/or open space areas.

Whenever this section provides for the exercise of discretion by the Planning & Inspections Director, the Parks and Recreation Director, or an affected jurisdiction, such discretion shall be exercised consistent with the facts, policies and objectives set forth in the officially adopted Parks and Recreation Master Plan as it affects from time to time.

Any portion of a [subdivision or other](#) development that lies within an area designated in the officially adopted Parks and Recreation Master Plan or other officially adopted open space/greenway plan (not exceeding the amount required to be dedicated) shall be included as part of the area set aside to satisfy the recreation area requirements of this section. This area shall be dedicated to public use.

A. *Amount of land.* The amount of park, recreation or open space area shall be 800 square feet per dwelling [lot or unit](#). The affected governing body must approve water bodies offered to a public entity for meeting these requirements. The recreation area may include a combination of land above the SFHA, land in the SFHA, water bodies within the development. Land area offered that contains five acres or more and is consistent with the adopted Parks and Recreation Master Plan must be accepted by the affected jurisdiction.

Recreation areas shall be of such dimensions as to be functionally useable and maintainable. [Subdivisions or other](#) ~~D~~developments that would require less than 25,000 square feet of recreation area may pay a fee in lieu of and be exempt from providing on-site recreation area when the Parks and Recreation Director determines that:

1. The onsite recreation area cannot be combined with such areas serving adjacent property to form a functionally usable and maintainable area; or

2. The recreation needs of the [subdivision or other](#) development can be adequately met by existing or planned public recreation areas. In determining the size of a [subdivision or other](#) development for purposes of this section, the Planning and Inspections Staff shall consider the entire project developed on a single tract or contiguous multiple tracts under common ownership, regardless of whether the [subdivision or other](#) development is constructed in phases or sections. The developer of any [subdivision or other](#) development that is exempt from providing on-site recreation area shall pay a fee to the affected jurisdiction in lieu thereof to be used to acquire recreation areas for any park type listed in the Parks and Recreation Master Plan to benefit the residents of the general area.

B. *Standards for recreation areas.* All recreation areas shall meet the standards established in the Parks and Recreation Master Plan unless waived by the Planning Board with a recommendation from the Planning & Inspections Director. These standards are as follows:

1. *Unity.* The dedicated land shall be a single parcel of land, whether or not the [subdivision or other](#) development is developed in phases or sections, except if the Planning & Inspections Director determines with a recommendation from the Parks and Recreation Director, that multiple parcels would better serve the residents of the [subdivision or other](#) development and the public.

2. *Usability.* A maximum of one-half of the recreation area may be water. When one-half of the area offered is water, the remaining land must be useable land for a park. The usability of recreation area shall be determined by the Planning & Inspections Director, with a recommendation from the Parks and Recreation Director. The governing body of the affected jurisdiction shall make the final decision.

3. *Shape.* The area not water or wetland shall be of such shape to be usable for recreation facilities, including, but not limited to, tennis courts, swimming pools, clubhouses, athletic fields, basketball courts, swings, slides, play apparatus, open play areas or picnicking, etc.

4. *Location.* The offered land shall be located to reasonably serve the recreation area needs of the residents within the [subdivision or](#) development. The Planning & Inspections Director, with a recommendation from the Parks and Recreation Director, may require that the recreation area be located on the periphery of the [subdivision or](#) development in order to allow its enlargement by combining the recreation area with that of adjacent

subdivisions or other developments; when adjacent property is publicly owned; or when there are officially adopted plans that identify the area as future recreation area to be acquired by the affected jurisdiction. The affected jurisdiction's Parks and Recreation Director, with final approval from its governing body, may negotiate the location of the land or fee when it is deemed in the best interest of the immediate residents and that jurisdiction's long-range parks and recreation plan. This may include exchanging larger, more economical tracts of land offsite from the subdivision or other development for the tract within the subdivision or development. This shall only be allowed when there is sufficient park and recreation area to meet the needs of the affected subdivision or development's residents.

5. *Access.* All dwelling units in the subdivision or development shall have free, easy and convenient ingress and egress to and from recreation area within the subdivision or development via streets or public walkways or trails, with one access being a minimum width of 20 feet. Typically, ~~R~~recreation area should shall be accessible from a public street. Rights-of-way for this access shall be shown on the preliminary plan. Recreation areas that do not have frontage on a public street but are adjacent to an existing public recreation area that has such access shall be exempt from this requirement.

6. *Landscaping.* Recreation areas shall have a sufficient natural or manmade buffer or screen to minimize negative impacts on adjacent residents.

7. *Additional minimum standards for public dedication of land.* In addition, all land area dedicated to the public must meet the following:

(a) Must not be a former site of or contain any remains of hazardous materials; and

(b) If the recreation area is to contain a developed facility, the facility and the recreation area must be approved by the affected governing body.

*C. Procedures for the dedication of recreation areas.*

1. *Designation of land to be dedicated.* The developer, on its submitted residential preliminary plan, shall indicate at that time its intent to dedicate land for public use, convey land to an owners' association or pay a fee in lieu thereof. The developer shall also designate on its preliminary plan the area or areas to be dedicated for recreation. If the developer intends to convey the recreation area to an owners' association, the area(s) to be designated shall also be labeled as "common area" on the preliminary plan and final plat.

2. *Review of land to be dedicated.* The Planning and Inspections Staff shall submit a copy of the preliminary plan to the affected jurisdiction's Parks and Recreation Director. The Parks and Recreation Director shall submit recommendations concerning the land to be dedicated or conveyed, to the Planning and Inspections Staff within five working days after receipt of a preliminary plan proposing less than 50 lots or units. Where the preliminary plan proposes 50 or more lots or units, the response time for the Parks and Recreation Director is to be ten working days.

3. *Ownership.* The developer shall designate the entity owning land to be used for recreation area subject to approval from the Planning Board. Such entities may include, but shall not be limited to, the following:

(a) The County of Cumberland for use by the Fayetteville-Cumberland Parks and Recreation Department, subject to approval and acceptance by the County Board of Commissioners;

(b) Any municipality having jurisdiction over the tract, whether within its boundary or not, subject to acceptance by the governing body of the municipality;

(c) Other public jurisdictions or agencies, or nonprofit organizations, subject to agreement of the governing body; and

(d) Owners', condominium or cooperative associations or organizations.

4. *Required conditions of owners' associations.* Owners' associations or comparable legal entities that own and maintain recreation areas shall be established so that:

(a) The association or comparable entity is established prior to any lot or unit in the development being sold or any building being occupied. All legal documents regarding the association, such as incorporation documents, by-laws, and covenants shall be approved by the County Attorney prior to final plat approval of any portion of a development approved under this section;

(b) Membership must be mandatory for each lot or unit owner and successors in interest;

(c) The association shall be responsible for providing liability insurance, if any, and maintenance of the common areas;



(d) Any sums levied by the association that remain unpaid shall become a lien on the applicable lot or unit owner's property;

(e) If all or any portion of the common area held by the association is disposed of or if the association is dissolved, the recreation areas shall be first offered to the affected public jurisdiction or to any entity described in "Ownership" (sub-section 3) above; and

(f) The right to use the recreation area shall be an easement appurtenant in favor of each lot or unit owner, and their respective invitees, of the subdivision or development in good standing with the owners' association.

5. *Maintenance of areas.* The entity described in "Ownership" (sub-section 3) above shall be responsible for the continuing upkeep and proper maintenance of the recreation area.

6. *Provisions for payment in lieu of dedication.* When the Planning & Inspections Director determines that the recreation area needs of a development can be met by existing or proposed public community, regional or other park type classified in the Parks and Recreation Master Plan the Planning and Inspections Director with a recommendation from the affected jurisdiction's Parks and Recreation Director may allow the developer to pay a fee to the affected jurisdiction in lieu of dedication. The Planning and Inspections Director may also allow, with a recommendation from the affected jurisdiction's Parks and Recreation Director, a combination dedication/conveyance and partial payment in lieu of dedication when the Director ~~he or she~~ determines that it would be in the best interest of the residents of the subdivision or development and the public. The affected jurisdiction's governing body shall make the final decision.

(a) *Procedure.* The developer shall indicate on its preliminary plan application its request to make a payment in lieu of dedication. Upon receipt of the preliminary plan, the Planning and Inspections Director shall submit a copy of the preliminary plan to the affected jurisdiction's Parks and Recreation Director. The Parks and Recreation Director shall submit a recommendation to the Planning and Inspections Staff within five working days after receipt of a preliminary plan proposing less than 50 lots or units. Where the preliminary plan contains 50 or more lots or units, the response time for the Parks and Recreation Director is to be ten working days.

(b) *Amount of payment.* The fee in lieu of dedication shall be based on the required acreage in square feet) times the raw land value as assessed for property tax purposes. If the developer disagrees with the Planning and Inspections Director's findings, the developer may appeal to the Planning Board for final disposition.



(c) *Use of payments in lieu of dedication.* All monies received as fees in lieu of dedication shall be used only for the acquisition ~~or development~~ of the closest un-purchased recreation area for any park type as recommended in the officially adopted Parks and Recreation Master Plan that will serve the residents of the [subdivision or](#) development.

(d) *Required payment in lieu of dedication.* If land offered as required recreation area is inconsistent with the long-range plans for recreation space serving the needs of residents of the [subdivision or](#) development and the general area, as reflected in the officially adopted Parks and Recreation Master Plan or policies, the Planning and Inspections Director, with a recommendation from the affected Parks and Recreation Director, may require payment in lieu of dedication or conveyance. The Planning and Inspections Director may also require a fee in lieu of dedication or conveyance when the area offered is less than one-half acre in size, with the recommendation of the affected jurisdiction's Parks and Recreation Director. [Where the preliminary plan does not indicate designated park, recreation or open space areas, the presumption shall be that the developer intends to pay a fee in lieu of dedication.](#)

(e) *Time of payment.* A payment in lieu of dedication must be made with or prior to submission for final plat approval. If the [subdivision or](#) development is constructed in phases or sections, a payment relating to each phase or section must be made with or prior to submission for final plat approval for each phase or section.

## **ARTICLE XXIV SPECIAL DEVELOPMENTS**

### **SECTION 2401. GROUP DEVELOPMENTS.**

The site plan for group developments shall show the locations and sites of buildings, streets, drives, alleys, parking, recreation areas, signs, loading berths, yards and other open spaces, and shall be in accordance with the following specifications:

A. *Lot area.* The plot area per dwelling unit, excluding the area of publicly dedicated rights-of-way within the development, shall be as permitted by the County Zoning Ordinance.

B. *Yard setbacks.* Each building on the periphery of a group development shall observe the minimum yard setback requirements for the district in which

the development occurs. The judgment of the Planning Board as to what constitutes the front, rear and side yards of each building in the group development shall be final.

C. *Building separation.* Buildings within group developments under single ownership shall be separated by a minimum distance of 20 feet plus ten feet for each story above two stories. In no case shall any part of a principal residential building be located closer than 20 feet to any part of another principal building.

D. *Street access.* The property to be developed must have a boundary line or lines contiguous with and giving direct vehicular access to and from one or more public streets, or private streets with public access approved in accordance with Section 2304. Group developments in the form of apartment complexes or unit ownership ~~(i.e., condominium or townhouse)~~ developments with owners' associations legally obligated to maintain vehicular access and circulation drives shall not be subject to the private street standards specified in Section 2304.

E. *Dedication/Reservation of right-of-way.* Where official plans show future streets or thoroughfares or where reasonable access to adjoining property is required, the development will be designed so as to provide right-of-way for such future streets or thoroughfares and to give access to such properties by means of a public street dedication, if the development is such that requires a final plat to be prepared and recorded, or where no final plat is required, the land area within the right-of-way shall be reserved. No portion of the land area contained within the reserved or dedicated right-of-way may be used to satisfy calculation for density or other dimensional requirements.

F. *Off-street parking.* Off-street parking shall be provided in accordance with applicable zoning regulations. At least three-fourths of the required parking spaces shall be located on the development in off-street parking lots, no part of which shall be located closer than five feet to any existing or proposed street right-of-way line in accordance with the adopted Highway Plan or locally adopted Collector/ Feeder Street Plan. Each space shall be not less than nine feet by 20 feet in area. Compact car spaces may be utilized within a development in accordance with the provisions of the County Zoning Ordinance. Isles adjacent to the compact car spaces shall be standard width, and all compact car spaces shall be clearly marked. One-fourth of the required parking spaces may be in parking bays on minor public streets which are entirely within the development, provided that no space shall be in the turn-around portion of culs-de-sac. Bays shall not be longer than 80 feet along such street lines and each bay shall be separated from any other bay by a distance of not less than one-half the combined width of both bays. No more than one-third of the total frontage of any such street shall be

devoted to parking bays. Each off-street parking space for any residential building shall be located within 200 feet of said building.

G. *Swimming pools.* Swimming pools which are constructed within a multi-family development shall be located not less than 50 feet from any boundary of the project, including a public street. All swimming pools shall comply with the provisions of the County Zoning Ordinance.

H. *Recreation/Open space areas.* In residential group developments designated recreation/open space areas and facilities shall be provided on-site in accordance with the provisions of Section 2308 unless the developer can show, and the [Planning and Inspections Director agrees after consulting with the](#) Parks and Recreation Director **agrees**, that the surrounding community has adequate public recreation area available. In the event that adequate public recreation is existing within the surrounding community, the developer shall pay a fee in lieu of providing on-site recreation as allowed in Section 2308. Areas within the required yard setbacks can be counted as part of the required recreation area provided they are developed, which would include tennis and basketball courts, jogging trails, etc. These facilities shall not consist of over ten percent of the required recreation/open space area. On-site amenities outside the setback area such as indoor recreation centers and clubhouses may be counted to satisfy the provisions of this sub-section. Recreation/open space areas dedicated to the public sector shall be subject to all the requirements in Section 2308.

I. *Screening.* All dumpster and utility areas shall be located on concrete slabs and at a minimum, fenced around three fenced sides. Chain link fencing may be utilized, but it must be accompanied with vegetative plantings so planted to effectively screen the dumpster and utility areas

J. All applicable provisions of the County Zoning Ordinance, to include buffers, signage, etc. is to be complied with and evidenced on the site plan.

## **SECTION 2402. ZERO LOT LINE DEVELOPMENTS.**

Zero lot line developments shall comply with all the requirements of group developments when not specified herein and for the purposes of determining compliance with this ordinance and the County Zoning Ordinance, such development plan shall be considered a group development. Zero lot line developments shall be exempt from the minimum lot size provisions of Section 1104 of the County Zoning Ordinance provided that the overall average density of the zoning district in which the development is located is not exceeded. In addition to the provisions for Section 2401 above, the following shall be complied with:

A. *Site plans.* Site plans for zero lot line developments shall show the locations of buildings and/or building sites, streets, drives, alleys, walks, parking, on-site recreation areas (if proposed), yards, the boundary of the development, maintenance easements and all common area.

B. *Building sites.* A building site shall be that property intended for conveyance to a fee simple owner after the construction thereon and shall be sufficient in size to contain the structure proposed and any other proposed components of the property that are to be conveyed. Each building site shall abut and have direct access to a public street, private street or private drive, as permissible by this ordinance.

C. *Building yards.* Building sites, buildings, and accessory buildings thereon, are exempt from all zoning district dimensional requirements of the County Zoning Ordinance for lot width, front yard, side yard, rear yard, and building area except:

1. Buildings have direct access to a public street must meet the front yard and/or corner lot provisions of the applicable zoning district.

2. Buildings on the periphery of the development plan must meet all setback requirements of the zoning district in which the development is located. The judgment of the Planning Board as to what constitutes front, rear and side yard of each building on the periphery shall be final.

3. A minimum of ten foot separation between structures shall be provided for buildings on separate lots within developments that are creating individual "for sale" lots and seeking approval under this section.

D. *Density.* The total number of residential building sites created shall not exceed the density standard for such developments as stated in the district dimensional requirements for the zoning district in which the development is located, excluding public right-of-way and that public right-of-way which is dedicated and/or reserved.

E. *Owners association.* Establishment of an owners' association shall be mandatory when any portion of the development is to be held in common.

F. *Common areas.* All areas of the site plan, other than individual "for sale" lots/units and public rights-of-way shall be shown and designated as "common area", the fee simple title to which shall be conveyed by the developer to the owners' association. ~~Any~~ All common area ~~and~~ shall not be further subdivided, developed or conveyed by the owners association, except where approved under the provisions of this ordinance and the County Zoning Ordinance. This stipulation shall be so stated in the declarations and noted on the final plat.

G. *Declaration of covenants and restrictions.* The developer shall file prior to submission for final plat approval of any portion of a development, a declaration of covenants and restrictions governing the common areas, the owners' association and the building sites, if required. The declaration of covenants and restrictions shall be approved by the County Attorney prior to recording of such documents, and prior to final plat approval for any portion or phase of the development. The restrictions shall contain, but not be limited to, provisions for the following as necessary:

1. The owners' association shall be organized and in legal existence prior to the sale of any lot or unit within the development.

2. Membership in the owners' association shall be mandatory for each original purchaser and each successive purchaser of a lot or unit

3. The owners' association shall be responsible for the provisions of liability insurance, any taxes, and maintenance of recreation area and other facilities located on the common area, payment of assessments for public and private capital improvements made to or for the benefit of the common area located within the development. It shall be further provided that upon default by the owners' association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the common area or assessments for public improvements to the common area, which default shall continue for a period of six months, each owner of a lot or unit in the development shall become personally obligated to pay to the County Tax Assessor a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due by the total number of lots or units in the development. If such sum is not paid by the owner within thirty days following receipt of notice of the amount due, then such sum shall become a continuing lien on the lot or unit of the then owner(s), the owner(s)' heirs, devisees, personal representatives and assigns, and the County Tax Assessor may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the property of the owner.

4. The owners association shall be empowered to levy assessments against the owners of lots or units within the development for payment of expenditures made by the owners association for the items set forth in the preceding paragraph, and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the lot or unit of the owner.

5. Easements over the common areas for access, ingress and egress from and to public streets and walkways, and easements for enjoyment of the common area and for parking areas shall be granted to each owner of any lot

or unit within the development, unless expressly stated otherwise and classified as “limited common areas and facilities” with the declaration.

6. Common walls between any units shall be party walls, and provisions for the maintenance thereof, including restoration in the event of destruction or damage, shall be established within the covenants.

H. *Proof of subordinate mortgage.* The developer shall submit, along with the final plat, documents showing proof that any mortgage on the property or facility is subject to all easements or rights which may be transferred to the individual lot or unit owner or to the owners’ association.

I. *Final plat.* A final plat shall be prepared in accordance with Article XV and also include the following:

(1) All building sites (lots/units) numbered with bearings and distances shown for their respective boundaries.

(2) All “common area” labeled as such with the facilities thereon indicated.

(3) Any notes as required under this section, including maintenance easements when required.

(4) An indication as to the location (book and page number) of the covenants and restrictions governing the recorded plat.

J. *Compliance with State law.* In addition to the above requirements, all zero lot line developments shall comply with the pertinent provisions of Chapter 47A of the N.C. General Statutes, as if the applicable provisions of Chapter 47A were incorporated herewith.

### **SECTION 2403. UNIT OWNERSHIP (CONDOMINIUM DEVELOPMENTS).**

Before a declaration establishing a condominium development may be recorded in the office of the County Register of Deeds as prescribed in the *N. C. Unit Ownership Act* (N. C. GEN. STAT. § 47A-1 *et seq.*), the declaration and plan shall be approved by the Planning and Inspections Department. Such declaration and plan shall conform to applicable subdivision or [other](#) development requirements as set forth in this ordinance and the County Zoning Ordinance. In addition, the following requirements shall be complied with:

A. The declaration shall be a complete legal document prepared strictly in accordance with the *N. C. Unit Ownership Act* (N. C. GEN. STAT. § 47A-1 *et*

seq.) and shall be submitted in final form in three copies to the Planning and Inspections Department at least ten days prior to the submission of the final plat.

B. The final plan of the proposed development shall contain the following particulars:

1. The unit designation of each unit and a statement of its location, approximate area, number of rooms, and/or immediate common area to which it has access and any other data necessary for its proper identification;

2. Description of the general common areas and facilities as defined in the *N. C. Unit Ownership Act* (N. C. GEN. STAT. § 47A-1 *et seq.*) and the proportionate interest of each unit owner therein;

3. Description of boundary lines between portions of the structures designed for different ownership;

4. Description of all garages, balconies, patios, etc., which form a part of any unit;

5. Description of any special common areas and/or facilities stating what units shall share the same and in what proportion; and

6. Statement of the purpose for which the building and each of the units are intended and restricted as to use.

C. The recordation of the declaration and plan shall be completed by the developer within one calendar year after approval by the Planning and Inspections Department.

#### **SECTION 2404. MANUFACTURED HOME PARKS.**

A. *Purpose.* The purpose of this section is to establish regulations and procedures for the initial construction and continued use of manufactured home parks, which is found to be necessary in order to protect the health, safety and welfare of the residents of the manufactured home park.

B. *Application of chapter.* The provisions contained herein are the minimum provisions every manufactured home park plan must comply with prior to allowing for the inhabitation of any manufactured home within the manufactured home park.

C. *Permits required.* It shall be unlawful for any person to construct, maintain or use any lot or other parcel of land within the jurisdiction of



Cumberland County for a manufactured home park until application has been made and a permit has been issued by the Code Enforcement Coordinator. No on-site improvements may be made until after a permit has been granted by the Code Enforcement Coordinator in accordance with an approved manufactured home park site plan.

D. *Site plans.* Site plans for manufactured-home parks in addition to all items required in Article 2203 for preliminary plans shall show the location of all proposed structures; pedestrian paths, type and location of the perimeter buffer, electric lighting plans, off-street parking areas, drainage facilities, and all other required provisions of this section.

E. *Dimensional criteria.*

1. *Lot area.* The minimum lot area for a manufactured home park shall be one acre, excluding publicly dedicated or reserved right-of-way for streets, and floodplain areas.

2. *Density.* The maximum density of individual manufactured home units within a manufactured home park shall be eight per acre excluding publicly dedicated or reserved right-of-way for streets.

3. *Location of manufactured home spaces.* Each proposed manufactured home proposed to be located within a manufactured home park must be located within a designated manufactured home space as approved on the manufactured home park site plan and every manufactured home space shall comply with the following minimum yard space provisions:

a. All manufactured home spaces shall be designed in such a manner that will allow for each manufactured home space to be a minimum of 25 feet apart longitudinally, 15 feet apart end-to-end or corner-to-corner, and when spaces are designed in such a manner that one space is angled toward another space, 20 feet apart;

b. All manufactured home spaces shall be located a minimum of 25 feet from any permanent building located within the manufactured home park;

c. All manufactured home spaces and structures, including buildings within the manufactured home park shall be located no closer than 25 feet of a public street right-of-way; and

d. All manufactured home spaces shall be located no closer than five feet of the internal drive within the manufactured home park.

F. *Street access.* All manufactured home parks shall have direct access to a public right-of-way. Direct access to any public right-of-way shall not be permitted for any single manufactured home space within the manufactured home park; all manufactured home spaces must be served internally by means of a private drive. Street access and entrance area designs shall conform to the *NC Department of Transportation Policy on Street and Driveway Access to North Carolina Highways* guidelines.

G. *Improvements.* In addition to all applicable improvements required by Article XXIII and the County Zoning Ordinance, the following improvements shall be constructed or implemented prior to application for the final building/park inspection:

1. *Parking.* Off-street parking spaces shall be provided in accordance with the applicable zoning district regulations; however, in no case shall there be less than two off-street parking spaces for each manufactured home space. Parking shall not be permitted on or along the internal drives in manufactured home parks.

2. *Internal drives.* All drives and courts shall be designed with a minimum 30 foot right-of-way and a minimum 20 foot paved traffic area which is adequately drained. Every dead end drive more than 100 feet in length or serving more than four manufactured home spaces shall be provided with a paved turn-around having a radius of not less than 40 feet for a traffic surface.

3. *Drainage.* The manufactured home park spaces shall be situated on ground that is not designated as a *Special Flood Hazard Area* and designed and graded with drainage facilities installed to transport runoff to an appropriate outfall in such a manner as to comply with the N.C. Department of Environment and Natural Resources' *Manual of Best Management Practices* (BMP) for storm water control. When manufactured home parks abut an existing public drainage system, connection to the public system is mandatory.

4. *Water and sewer.* Every manufactured home space shall be provided with water and sewer services to meet providing agency's standards, if public, or County Public Health Department requirements, and all such plans shall be approved by the appropriate agencies.

5. *Underground utilities.* All wiring serving new or remodeled manufactured home parks shall be placed underground, except as outlined in Section 2306 D.

6. *Lighting.* All interior drives and off-street parking areas within the manufactured home park shall be lighted and in compliance with Section 1102 M, County Zoning Ordinance. The plans for lighting and all other

electrical hookups and wiring shall be approved by a County Electrical Inspector.

7. *Trash receptacles/dumpsters.* All manufactured home parks shall provide trash and garbage storage receptacles for each manufactured home space that complies with the standards of the County Department of Solid Waste Management. The manufactured home park owner is responsible for proper storage, collection and disposal of the trash.

8. *Screening.* All dumpster and utility areas shall be located on concrete slabs and at a minimum, fenced around three fenced sides. Chain link fencing may be utilized, but it must be accompanied with vegetative plantings so planted to effectively screen the dumpster and utility areas.

9. *Recreation and open space.* Each manufactured home park shall provide on-site recreation/open space areas to service the needs of the residents of the park complying with the provisions of Section 2308. Irregular shaped areas will be judged for usefulness considering the intent of this ordinance. Each recreation/open space area shall be delineated on the site plan. Areas within the yard setbacks can be counted as part of the required recreation/open space area provided these areas are developed, which could include such items as tennis and basketball courts, jogging trails, etc. These facilities shall not consist of over ten percent of the required recreation/open space area. No portion of the fifteen-foot perimeter buffer/landscaped area, required below, shall be counted as part of the required recreation/open space area. On-site amenities outside of the yard setbacks, such as indoor recreation centers, clubhouses, etc. may be utilized for calculation to satisfy the recreation/open space area requirements.

10. *Perimeter buffer.* All manufactured home parks shall have a minimum fifteen-foot wide natural or landscaped buffer area around the perimeter of the park, excluding entrance drives within which no temporary or permanent structures shall be permitted. All manufactured home parks shall have a physical barrier (i.e. fencing, hedge, etc.) defining the boundaries of the park. Additionally, if earth berms, fences or walls are located within the buffer area, the buffer width shall not be reduced.

11. *Fire protection.* Fire protection standards shall be provided in accordance with the rules and regulations of the fire district in which they are located. All manufactured home park plans shall be submitted and approved by the County Fire Marshal prior to occupancy.

12. *Pedestrian circulation.* All manufactured home parks shall contain and maintain minimum three-foot wide internal pedestrian paths to central facilities, such as pools, office areas, laundry facilities, recreation areas, bus stops, etc. These paths, at a minimum, shall consist of a top layer of sand,

crushed gravel or similar approved material. The location of these paths shall be shown on the site plan. No building/park final inspection can be accomplished until these paths are installed.

H. *Highway Plan.* Any manufactured home park site impacted by a proposed right-of-way shall reserve (or dedicate, if final plat required) the right-of-way up to 80 feet in width. Until the reservation is utilized, the developer is allowed to use the area for manufactured home park development. However, this area shall be designated so that it can exist independently from the remainder of the manufactured home park so that when the roadway construction commences, it will have little impact on the rest of the park.

I. *Manufactured home classification.* All manufactured home park spaces developed and approved after July 1, 1996 shall be restricted to Class A and Class B manufactured homes, as defined by this ordinance.

J. *Replacement homes.* When manufactured home park owners intend to replace a manufactured home, they shall first notify the Code Enforcement Coordinator and stake out the site of the new manufactured home showing the required setbacks, buffers and separation areas.

## **ARTICLE XV FINAL APPROVAL**

### **SECTION 2501. FINAL APPROVAL – GENERALLY.**

A. *Installation/Construction of improvements required.* Before any plat shall be eligible for final approval, the improvements proposed by the developer and required by this ordinance must have been installed or assured to be installed in accordance with the provisions of Section 2502. In addition, improvements meeting or exceeding those standards required by this ordinance and the County Zoning Ordinance shall be installed in accordance with the standards and requirements for acceptance of the N. C. Department of Transportation (NCDOT), the standards of the [Environmental](#) ~~Public~~ Health Department, the standards of the Planning Board, or the officially adopted standards of other public agencies, whichever is applicable.

B. *Final plat.* The final plat shall conform to the preliminary [plan](#) ~~plat~~ as approved. The developer may submit as a final plat that portion of the approved preliminary plan which he proposes to develop immediately, provided that, such action on the preliminary plan by the Planning & Inspections Department (hereinafter “Department”) shall expire and be of no

further effect unless the final plat is submitted to the Department for final approval within two years from the date on which preliminary plan approval was granted, or within two years from the date an extension of the preliminary plan approval was obtained.

C. *Final approval required with no final plat required.* For developments not requiring final plat approval, the preliminary approval shall expire and be of no further effect if the development has not been completed or if there are no active open permits within two years from the date on which preliminary approval was granted by the Department, or within two years from the date an extension of the preliminary plan approval was obtained.

## **SECTION 2502. FINAL PLAT - GUARANTEES OF IMPROVEMENTS.**

Developers must satisfy one of the following guarantees of improvements prior to submission for final plat approval of any portion of an approved preliminary plan:

A. All required improvements have been installed by the developer ~~subdivider~~ in accordance with the requirements of this ordinance and the County Zoning Ordinance; or

B. A surety bond or certified check has been posted by the developer, payable to the County, and against which the County may draw upon default in the installation of all required improvements. The surety bond or certified check along with a sealed estimate of the cost of improvements submitted by a certified engineer or a licensed contractor shall be submitted to the Department. Upon receipt of the surety bond or certified check and the estimate of cost of construction, the Department will submit the surety bond or certified check to the County Attorney for approval of legal sufficiency and to the County Engineer for approval of the estimate. The developer ~~subdivider~~ and the Planning & Inspections Director (hereinafter "Director") shall set a reasonable time within which the improvements are to be installed and completed. Unless an extension of that time is granted by the Director and a new estimated date of completion approved, in case of default the County shall cause the improvements to be completed, making use of the certified check or calling upon the surety of the bond; or

C. An irrevocable letter of credit issued by a bank or other lending institution reasonably satisfactory to the County, or a deposit of funds into escrow, may be accepted in lieu of a bond or check subject to the same terms as "b" above; or

D. The Department may approve the initial and succeeding sections of an approved preliminary plan, submitted as a final plat, without installation of

improvements or financial guarantee of improvements, but final plat approval of any other section of the development will be withheld until required improvements have been installed as required by this ordinance and the County Zoning Ordinance. Final plats approved under this procedure shall be limited to a maximum of 25 lots or 50 percent of the total number of building lots of the approved preliminary plan remaining prior to submission, whichever is less.

A final plat of the final section of a development submitted under this procedure or a final plat constituting an entire subdivision/development may be of any size and shall be granted final approval only under (a), (b) or (c) above.

### **SECTION 2503. FINAL PLAT – SUBMISSION AND APPROVAL.**

The final plat shall be submitted to the Department in such a form as required below. The Director, or the Director's designee, shall review the final plat for compliance with the provisions of this ordinance, the County Zoning ordinance and other conditions of approval of the preliminary plan. The final plat shall not be approved until the improvements required by the preliminary plan approval or required by this ordinance or the County Zoning Ordinance have been installed or guaranteed to be installed in accordance with Section 2502. The following must be shown on the final plat:

A. *General.* The final plat shall conform to the approved preliminary plan and to the requirements of North Carolina General Statute 47-30.

B. *Map form.* The final plat shall be submitted as a reproducible map, either original ink on polyester film (mylar), or a reproduced drawing, transparent and archival (as defined by the American National Standards Institute); shall be drawn to a scale of not larger than 20 feet to the inch, and not less than 200 feet to the inch; and shall have an outside margin size of either 18 by 24 inches or 24 by 36 inches. Where size of land areas require, maps may be shown on two or more sheets with appropriate match lines and each section shall contain a key map showing the location of the sections.

C. *Surveyor's certificate.* There shall appear on each final plat a certificate by the person under whose supervision the survey or final plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references and any other recorded data shown thereon; and the ratio of precision before any adjustments. Any lines on the final plat not actually surveyed be clearly indicated and a statement included indicating the source of information. Where a final plat consists of more than one sheet, only one sheet need contain the certification but all other sheets shall be signed and sealed.

This certificate shall indicate the source of information for the survey and data indicating the ratio of precision of the survey before adjustments and shall be in substantially the following form:

"I, \_\_\_\_\_, certify that this plat was drawn under my supervision from actual survey made under my supervision (deed description recorded in Book \_\_\_\_, Page\_\_\_\_; Book\_\_\_\_, Page\_\_\_\_; etc,) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book \_\_\_\_\_, page\_\_\_\_; that the ratio of precision as calculated is 1:\_\_\_\_; that this plat was prepared in accordance with N.C. GEN. STAT. 47-30 as amended. Witness my hand and seal this \_\_\_\_day of \_\_\_\_\_, A.D., \_\_\_\_\_."

(Seal or Stamp)

\_\_\_\_\_  
Surveyor  
Registration No.:

Nothing in this section shall prevent the recording of a final plat that was prepared in accordance with a previous version of N.C. GEN. STAT. 47-30 as amended, properly signed and notarized, pursuant to the statutes applicable at the time of the signing of the final plat. However, it shall be the responsibility of the person presenting the final plat to prove that the final plat was so prepared and signed.

*D. Certificate of ownership and dedication.* The following notarized owner certificate shall appear on the final plat along with the owner(s) signature:

"The undersigned hereby acknowledges that the land shown on this plat is within the subdivision regulation jurisdiction of the County of Cumberland and that this plat and allotment is (my or our) free act and deed and that (I or we) do hereby dedicate to public use as (streets, parks, playgrounds, school site, open spaces and easements) forever all areas so shown or indicated on said plat."

\_\_\_\_\_  
Owner's Signature(s)

*E. Director's certificate of approval.* The following certificate shall appear on the final plat with the signature of the Director prior to submission of the final plat to the Plat Review Officer:

"Approved by the Cumberland County Planning & Inspections Department on the \_\_\_\_day of \_\_\_\_\_, \_\_\_\_\_."



Signed: \_\_\_\_\_(seal)  
Planning & Inspections Director

F. *Plat Review Officer certification.* The Plat Review Officer shall certify the final plat, if it complies with all statutory requirements for recording, with the following certificate on the face of the final plat:

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

"I, \_\_\_\_\_, Plat Review Officer of Cumberland County, certify that the plat to which this certificate is affixed meets all statutory requirements for recording.

Signed: \_\_\_\_\_(seal)  
Plat Review Officer

Date: \_\_\_\_\_

G. *Certificate of registration.* Space shall be provided on the final plat for the certificate of registration by the Cumberland County Register of Deeds as required by law.

#### **SECTION 2504. DISCLOSURES REQUIRED.**

A. *Disclosure of private street status.* The following disclosures shall appear on any final plat containing a private street as approved under the provisions of Section 2304, if applicable:

1. *All Private Streets.*

"Cumberland County and other ~~No public agencies~~ agency is presently have no enforcement responsibility regarding ~~responsible for~~ maintenance or encroachments into ~~of~~ the private street ~~(s)~~ right(s)-of-way as shown on this plat. Private streets are for the use of all owners of property within this subdivision/development and their guests; any governmental agency or personnel or equipment thereof granted perpetual access over all such private streets to accomplish or fulfill any service or function for which the agency is responsible; any agency or organization designated by a governmental agency to perform a designated function shall also be granted access the same as that government agency. Any governmental agency exercising its access rights shall have the same rights and only such liabilities as it would have on any public lands, rights-of-way, or easements.

2. *Class "C" private streets.*

"All current and future owners of the tracts served by and having access to the Class "C" private street(s) shown on this plat are responsible for the maintenance of the Class "C" private street(s)."

3. *Class "B" or "C" private streets, if applicable.*

"All current and future owners of the tracts served by and having access to the Class "B" or "C" private street(s) shown on this plat shall not be permitted to further divide the tracts without upgrading the Class "B" or "C" private street(s) to \_\_\_\_\_ standards."

B. *Farmland Protection Area disclosure.* All final plats for subdivision or other developments located within a designated Rural Area ~~Farmland Protection Area~~, as defined in the Land Use Plan in effect at the time of recordation, and depicted on the Land Use Plan map, or subsequent comparable officially adopted plan and map, shall contain a disclosure notice that states:

"This property or neighboring property may be subject to inconvenience, discomfort and the possibility of injury to property and health, arising from normal and accepted farming and agricultural practices and operations, including but not limited to noise, odors, dust, the operation of any kind of machinery, the storage and disposal of manure, and the application of fertilizers, soil amendments, herbicides, and pesticides."

C. *On-site water and/or sewer disclosure.* The following statement shall be on any final plat for property not served by public water and/or sewer, as applicable:

"Individual lots shown on this plat do not have public sewer and/or water services available, and no lots have been approved by the Health Department for on-site sewer services or been deemed acceptable for private water wells as of the date of this recording."

D. *Nonconforming structure disclosure.* All structures existing on the subject property at the time of the recording shall be shown on the final plat or the final plat shall include the following certification signed by the owner(s):

"Nonconforming structures have not been created by this subdivision/development/recombination plat."

E. *Proposed public street disclosure.* When the streets proposed within a subdivision or development do not qualify for acceptance by the NC Department of Transportation for addition to the State system, the following disclosure shall be included on the final plat:

“The streets shown on this plat though labeled as “public” – unless otherwise noted – have not been accepted by the NC Department of Transportation as of the date of this recording. Until such time that the streets are accepted and formally added to the State system, maintenance and liability of the streets are the responsibility of the developer and any future lot owner(s).”

**SECTION 2505. APPROVAL OF PLAT NOT ACCEPTANCE OF DEDICATION.**

The approval of a plat pursuant to this ordinance shall not be deemed to constitute or effect the acceptance by the County, other public agency or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat.

**SECTION 2506. FINAL PLAT – RECORDING.**

The developer or the developer’s agent shall record the final plat in the Cumberland County Registry within one year after approval of the final plat by the Director. Failure of the developer or the developer’s agent to record the final plat in the Cumberland County Registry within one year after the final approval shall cause such final approval to be null and void and of no further force or effect.

**ARTICLE XVI  
LEGAL PROVISIONS**

**SECTION 2601. WAIVERS.**

The Planning Board may waive the requirements of this ordinance where it finds by resolution that:

A. Because of the size of the tract to be subdivided or developed, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this ordinance would cause a special hardship to the property owner and be inequitable, and

B. The public purposes of this ordinance and the County Zoning Ordinance would be served to an equal or greater degree, and

C. The property owner would not be afforded a special privilege denied to others.

In granting waivers, the Planning Board may require such conditions as will secure, in so far as practicable, the objectives of the requirements waived. Any waiver, thus granted, is required to be entered in writing in the minutes of the Planning Board and the reasoning upon which departure was justified set forth.

## **SECTION 2601.1. VIOLATIONS.**

A. Statutory Authority. This ordinance may be enforced by any appropriate equitable action, including but not limited to, injunction and abatement, in addition to any other remedy authorized by N.C. GEN. STAT. §153A-123.

B. Notice of Civil Citation. If the Planning and Inspections Director or the Director's designee (hereinafter *Director*) finds that any provision of this ordinance is being violated, the Director shall cause to be served upon the offender or its agent, by certified mail, return receipt requested, or by personal service, a notice of civil citation. The notice of civil citation shall indicate the nature of the violation and order the action necessary to correct it. The citation shall also state the monetary penalty and the right of the offender to appeal the violation that is the basis of the citation to the Planning Board within ten days from the date of service of the citation.

C. Responsible Parties. The owner, lessee, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or any other person who participates in, assists, directs, creates or maintains any violation of the provisions of this ordinance may be held responsible for the violation and be liable for the penalties and be subject to the remedies provided in Section 2602 below.

D. Separate Offense. Each day that any violation continues after notification by the Director that such violation exists shall be considered a separate offense for purposes of penalties and remedies specified herein.

E. Appeal of Citation. If the offender files notice of appeal to the Planning Board within the ten-day time period, the appeal shall stay the collection of the penalty so imposed as well as the corrective action prescribed in the citation. Appeals to the Planning Board shall be in writing and submitted in the same manner and cost as for an appeal of a zoning matter to the County Board of Adjustment; however, the time for perfecting the appeal shall be ten days as hereinbefore stated. A violation of this ordinance may not be appealed to the Planning Board if the offender did not perfect an appeal to the Planning Board within the ten-day time period set forth herein.

F. Emergency Enforcement. Notwithstanding the forgoing, in cases where delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety or welfare, the Director may seek enforcement of this ordinance without prior written notice by invoking any of the penalties or remedies herein authorized.

## **SECTION 2602. PENALTY.**

A person who violates any of the provisions of this ordinance shall be subject to revocation of any permits and a civil penalty in the sum of \$500.00 following the issuance of a civil citation. The penalty shall be recovered by the County in a civil action if the offender fails to pay the penalty to the Finance Director, Cumberland County, Post Office Drawer 1829, Fayetteville, North Carolina 28302, within ten calendar days after being cited for the violation. The civil action of recovery shall be in the nature of an action to recover a debt and shall include as an additional sum to be recovered the full costs of the action, including but not limited to, filing, service and attorney fees. Second and subsequent violations shall subject the offender to a \$500.00 penalty. Nothing in this section shall preclude the enforcement of this ordinance pursuant to the all of the provisions of N.C. GEN. STAT. §14-4 where appropriate.

From and after the effective date of this ordinance, any person who being the owner, or agent of the owner, of land located within the ~~planning~~ jurisdiction of this ordinance as established in Section 2004, thereafter transfers or sells such land by reference to a plat showing a subdivision or development of land before such plat has been properly approved under the terms of this ordinance and recorded in the office of the Register of Deeds shall be guilty of a misdemeanor. The description of metes and bounds in the instrument of transfer, or other document used in the process of selling or transfer, shall not exempt the transaction from such penalties. The County, through its County Attorney or other official designated by the Board of Commissioners, may enjoin such illegal transfer or sale by action for this jurisdiction.

**State statute reference:** N. C. GEN. STAT. § 153A-334.

## **SECTION 2603. VALIDITY.**

If any article, section, sub-section, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and

each article, section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more article, section, sub-section, sentence, clause, or phrase be declared invalid.

#### **SECTION 2604. RESPONSIBILITY OF THE REGISTER OF DEEDS.**

From and after the adoption of this ordinance, or any amendment thereto, by the Board of Commissioners and the filing of a copy with the [Commissioners' Clerk](#) ~~Register of Deeds~~, no subdivision plat of land within the County's subdivision [and development](#) regulation jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the Planning and Inspection Department and until such approval shall have been entered on the face of the plat in writing, by the Director of the Planning and Inspections Department. The Register of Deeds shall not file a plat of subdivision land located within the territorial jurisdiction of Cumberland County as defined in Section 2103, which has not been approved in accordance with these provisions nor shall the Clerk of Superior Court order or direct the recording of a plat where such recording would be in conflict with this section.

#### **SECTION 2605.1. AMENDMENT CLAUSE.**

[This ordinance, upon its effectiveness as provided by law, amends in its entirety the previously existing Cumberland County Subdivision Ordinance, originally adopted July 1, 1970, including all subsequent amendments to said previously existing ordinance, except where otherwise expressly stated within this ordinance.](#)

#### **SECTION 2605. EFFECTIVE DATE.**

This ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of Cumberland County this the 19th day of August, 2008.