

## **PURPOSE - AUTHORITY - JURISDICTION**

### **IA. Purpose**

It is the purpose of this ordinance to provide for the orderly, efficient and economic development of the City and County of Durham by providing for the coordination of streets, highways and other public facilities within proposed subdivisions with existing or planned streets and highways or other public facilities; for the dedication or reservation of rights-of-way, easements, or sites for streets, utilities, open space, recreation areas, and other public facilities; for the protection of historic resources and the natural environment; and for the distribution of population and traffic which shall avoid congestion and overcrowding and which shall create conditions essential to public health, safety and the general welfare.

### **IB. Authority**

The City and County of Durham hereby establish and adopt these regulations governing the subdivision or resubdivision of land pursuant to the authority granted in Chapter 153A, Article IB, and Chapter 160A, Article 19, of the General Statutes of North Carolina, by the Charter of the City of Durham, and other applicable General and Special Statutes of the State of North Carolina.

### **IC. Jurisdiction**

These regulations shall govern the subdivision or resubdivision of land within the territorial limits of the City of Durham and the County of Durham as applicable.

## **APPLICATION OF REGULATIONS**

### **2A. Compliance Requirements**

No subdivision plat of land within the jurisdiction of either the City or County of Durham, which is not exempt as specified in 2B. below, may be filed or recorded with the Register of Deeds until it has been submitted to and approved by the appropriate board or agency as specified herein and until the approval is entered on the face of the plat.

*"Subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street right-of-way or a change in existing street rights-of-way.*

### **2B. Exempt Subdivisions**

The following subdivisions are exempt from these regulations:

1. The combination or recombination of lots, or portions of lots, previously created and recorded, if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of applicable City/County ordinances;
2. The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved;
3. The public acquisition of strips of land for the widening or opening of streets or the location of utility rights-of-way;
4. The division of a tract in single ownership of which the entire area is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of applicable City/County ordinances;

**No City or County review or approval is required for exempt subdivisions; however, planning staff certification of exempt status is required.**

### **2C. Minor Subdivision**

A subdivision which is not otherwise exempt from these regulations and which does not involve any of the following:

1. More than six lots fronting on an existing, publicly maintained street;
2. Creation of any new streets or dedication of additional rights-of-way;
3. Extension of sewer or water lines; installation of drainage improvements;
4. Potential adverse effect upon significant features of the site as described in Section 5A. and/or upon the development of the remainder of the parcel or of adjoining properties;

**Minor subdivisions shall require the submission of Final Plats which shall be reviewed for conformity with ordinance requirements by City/County Planning staff in consultation with other agency staff as appropriate. The City/County Planning Director shall determine that all applicable requirements have been met prior to approving minor subdivision plats.**

**2D. Major Subdivision**

All subdivisions, except those listed above as Exempt or Minor, shall require the submission of both Preliminary and Final Plats and full interagency review for conformity with the requirements of this ordinance. Approval of Preliminary Plats for Subdivisions containing 49 lots or less shall be by the Development Review Board. Preliminary Plat approvals for subdivisions containing 50 lots or more shall be made by the Governing Body responsible after review by the Development Review Board. Attempts to circumvent Governing Body review by submitting multiple Preliminary Plats for contiguous properties, with each containing 49 lots or less, shall not be allowed.

**2E. Partial Subdivision**

When only a portion of a large tract of land is proposed for division into lots leaving a residual tract of at least 10 acres, the subdivider shall be required to plat only the parcel to be subdivided and only that parcel shall be subject to the requirements of this ordinance.

**2F. Conformance with the Durham Zoning Ordinance**

All major and minor subdivisions shall conform with any applicable requirements of the most recently amended version Durham Zoning Ordinance.

## DEFINITIONS AND RULES OF CONSTRUCTION

### 3A. Definitions

Words and terms used in this ordinance shall be given their commonly accepted meaning unless specifically defined herein or unless used in context to indicate a clearly different meaning.

**Alluvial Soils Areas:** The areas within the special flood hazard areas adjacent to water courses or portions of water courses excluded from the Flood Insurance study which contain soils of the Clewacla-Wehadkee-Congaree Soils Association. The soils in this Association include Chewacla, Wehadkee, Congaree, Cartecay, Roanoke and Altavista soils. Alluvial soils areas may also include areas where made land exists which traverses such soils.

**Approving Authority:** For subdivisions containing 50 or more lots, preliminary plat approvals shall be by the Board of County Commissioners or the City Council as appropriate. For all other preliminary plats and final plats, approvals shall be by the Development Review Board.

**Base Flood:** That flood having a one (1) percent chance of being equaled or exceeded in any given year, that is, the one hundred (100) year flood.

**Board of County Commissioners:** The Durham County Board of Commissioners.

**City:** City of Durham

**City Council:** The Durham City Council.

**Cluster Development:** A subdivision concept which permits more efficient and varied residential development by allowing smaller individual lot dimensions than would normally be permitted by the base zoning classification in exchange for the provision of permanent open space within the same development.

**Condominium:** A form of property ownership whereby the owner gains ownership of an interior space within a building. The building structure, the land under the building, structure and all of the surrounding land is commonly owned by all the inhabitants on a proportional basis.

**County:** Durham County.

**Dedication:** The transfer, without payment, of ownership or other interest in real property from a private entity to a public agency (example: street right-of-way or sewer easement).

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations and storage of materials.

**Development Review Board (DRB):** The Technical Planning Board responsible for the review and approval of subdivision plats according to the requirements of this ordinance.

**Durham Historic Inventory:** Surveys of historically significant sites in Durham County as reported in the *Durham Architectural and Historic Inventory* and the *Durham County and Durham ETA Inventories of Historic Sites*.

**Durham Natural Inventory:** A survey of botanical habitat areas reported in the *Inventory of the Natural Areas and Rare Species of Durham County*, Robert D. Sutter, March, 1987 and a survey of zoological habitat areas reported in the *Inventory of the Wildlife Habitats, Movement Corridors, and Rare Animal Populations of Durham County, North Carolina*, by Steven P. Hall, August, 1995, both as amended.

**Easement:** A grant by a property owner for use by the public, a corporation, or person(s), of an area of land for specified purposes.

**Final Plat:** The final map of all or a portion of a subdivision which is presented for final approval.

**Flood Protection Elevation:** The natural base flood elevation plus one (1) foot.

**Floodway:** The area within the special flood hazard areas identified on the Federal Emergency Management Agency/(FEMA) Flood Boundary and Floodway Maps as the portion of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**Floodway Fringe:** The area within the special flood hazard areas identified on the FEMA Flood Boundary and Floodway Maps as being adjacent to the floodway, within the 100 year floodplain, and inundated by the base flood.

**Governing Body:** The Board of County Commissioners or the City Council.

**Greenway:** A linear open space or park left in its natural state which may include paths and trails.

**Health Department:** Durham County Health Department

**Lot:** A piece, parcel, tract, or plot of land intended as a unit for development, transfer of ownership, or both.

**Planning Department:** Durham City-County Planning Department; the lead agency responsible for administering and enforcing this ordinance.

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

**Preliminary Plat:** A map indicating the proposed layout of a development and related information that is submitted for preliminary approval.

**Private Street:** A vehicular street or road not intended for dedication to or maintenance by a public agency.

**Register of Deeds:** Durham County Register of Deeds; Orange County Register of Deeds.

**Reservation:** Willingness by a private entity to withhold specific real estate from further development pending acquisition by a public agency.

**Root Zone Protection Areas:** The land area around the base of a tree in which disturbances are prohibited in order to protect the roots of the tree and aid the tree's survival. Root zone protection areas shall be the greater of a) a six (6) foot radius around the tree or b) one (1) foot for every inch of tree diameter measured at a point four and one half (4½) feet above the ground.

**Sidewalk:** A paved, pedestrian walkway located within or immediately adjacent to a public street or road right-of-way.

**Site Plan:** An accurately scaled development plan that shows existing conditions on a site as well as depicting details of proposed development.

**Steep Slope Area:** Steep slope areas shall be defined as land areas that a) have a grade of twenty-five (25) percent or more, b) have an area of ten thousand (10,000) square feet or greater and c) are located within two hundred (200) feet of any floodway fringe and perennial stream or within one hundred (100) feet of an intermittent stream. Steep slope areas refer to natural grades and shall not include man-made grades.

**Steep Slopes:** Areas of topography with continuous slopes (100 feet or more in length) greater than 20 percent (20 feet of vertical change in 100 feet of horizontal distance).

**Streets:**

*Freeway* - A multi-lane, controlled or limited access major road connecting this region, major activity centers or major roads with other regions, major activity centers or major roads. It is designed to accommodate large traffic volumes at high speeds. Such facilities may be part of the Interstate, Federal, or State primary highway system and are identified on the adopted Thoroughfare Plan.

*Major Thoroughfare* - Major streets, excluding freeways but not excluding limited access facilities, that provide for the expeditious movement of large volumes of traffic within and through the urban area. These facilities are shown on the adopted Thoroughfare Plan.

*Minor Thoroughfare* - Minor thoroughfares perform the function of collecting traffic from local access streets and carrying it to the major thoroughfares system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating minor through movements and may also serve abutting property. They are identified on the adopted Thoroughfare Plan.

*Collector* - A local street which serves as a connector street between local residential streets, commercial development and the thoroughfare system; such streets typically collect traffic from 250 to 400 dwelling units.

*Local* - Loop streets less than 2,500 feet in length, or streets less than one mile in length that do not connect thoroughfares, or major traffic generators, and do not collect traffic from more than 100 dwelling units.

*Residential Major Local* - Loop streets less than 2,500 feet in length, or streets less than one mile in length that do not connect thoroughfares or major traffic generators and do not collect traffic from more than 250 dwelling units.

*Residential Local* - Loop streets less than 2,500 feet in length, or streets less than one mile in length that do not connect thoroughfares or major traffic generators and do not collect traffic from more than 100 dwelling units.

*Residential* - Loop streets less than 2,500 feet in length or streets less than one mile in length that do not connect thoroughfares or major traffic generators and do not collect traffic from more than 25 dwelling units.

*Cul-de-sac* - A short street having only one end open to traffic and the other being permanently terminated with a vehicular turn-around provided.

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

**Subdivider:** Any person(s), firm, or corporation subdividing land within the jurisdiction of this ordinance.

**Subdivision:** All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets.

**Trail/Path:** A pedestrian/bicycle way located away from a public street or road right-of-way; an alternate path which is usually part of a greenways/trails system.

**Unique Planned Developments:** Residential and non-residential developments utilizing site design concepts which vary from typical single buildings set in the middle of individual lots fronting on public streets; design alternatives often utilize commonly owned open space and other facilities, alternative building types and lotting patterns, and private streets and include, but are not limited to, unified developments, townhouses, planned unit developments, zero-lot line properties, and planned density residential areas.

**Unit-Ownership (Condominium) Development:** A project of two (2) or more units in one or more buildings designed and constructed for Unit-Ownership as permitted by the North Carolina Unit-Ownership Act.

**Urban Growth Area:** The land within the City limits plus those portions of the County, as determined by elected officials, which can be expected to develop an urban character within the next 20 to 30 years.

**Wetlands:** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation as defined by responsible Federal and State agencies.

**Zero lot line development:** A development which consists of lots on which single-family detached residences are constructed against the side and/or rear property line of the subject lot.

**Zoning Ordinance:** The zoning regulations of the City and/or County as applicable.

### **3B. Rules of Construction**

For the purposes of this ordinance the following rules apply.

1. The words "shall", and "will" are mandatory.
2. The word "may" is permissive except when used in the negative.
3. Words used in the present tense include the future tense.
4. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

## **PLAT/PLAN SUBMISSION REQUIREMENTS**

### **4A. Preliminary Conference**

Persons considering the subdivision of land are encouraged to consult with the Planning Department before preparing plats. Although such conferences are not required, they may help to conserve time, effort, and expense in preparing and submitting the required plans and plats.

### **4B. Sketch/Concept Plans**

Another suggested step in the subdivision approval process is that of submitting a sketch/concept plan for review by the Planning staff. This plan should, in simple sketch form, show the proposed layout of streets, lots and other features in relation to existing conditions. It should also include the following information for the property being subdivided:

1. Boundary lines with intersecting property lines;
2. Zoning classification(s), including overlay districts;
3. Water courses, drainage ways, flood hazard areas, wetlands, and other unusual natural features;
4. Cemeteries; existing easements;
5. Existing streets or proposed thoroughfares on or within 300 feet of property with location, names, and right-of-way widths.

Sketch Plans for partial subdivisions should also include general development concepts for residual, unsubdivided acreage, if known.

### **4C. Preliminary Plats (and Site Plans Subject to this Ordinance)**

Preliminary Plat documents shall be drawn to the following specifications and shall contain the information listed below. *No processing or review will proceed without the required information.* Detailed standards and specifications for design and construction are available from City, County, or State agencies, as applicable.

*Where Site Plans, as required by Zoning Ordinance, serve as Preliminary Plats for subdivisions, they shall satisfy these submission requirements in addition to those required for zoning compliance.*

1. *General Requirements:*
  - a. Title - Name of subdivision, labeled Preliminary Plat; Date; Sheet size (24" x 36" maximum) with index map and match lines if multiple sheets are required; Graphic scale (not smaller than one inch to 200 feet on a standard engineering scale); North point; Tax map reference; Vicinity map clearly establishing the location of the proposed subdivision with readily recognized landmarks;
  - b. Existing features shall be shown by dashed lines to distinguish them from proposed features which shall be shown by solid lines; Name, address, and telephone number of owner or subdivider; Name, address, and telephone number of surveyor, engineer, landscape architect, or other designer, with seal;
2. *Existing Conditions:*  
(Within the tract and contiguous to it):



- a. Boundary of tract to be subdivided, with source reference; Total number of acres; Zoning of tract and surroundings, including water quality and other overlay designations; Names of adjoining subdivisions or property owners; Existing lot lines and buildings; Existing streets, alleys, or railroad lines with their names and widths; Existing cemeteries; Location, purpose, and widths of all existing easements and rights-of-way of record, or otherwise known, traversing the property; existing utility lines, both above and below ground; Location, sizes, elevations of existing sewer and water lines, culverts, or other subsurface structures or lines;
  - b. Locations of water bodies, streams (intermittent and perennial), drainage ways, stream buffers (with widths shown and the required ten (10) foot grading and construction set back); floodway, floodway fringe and alluvial soils area, shaded and labeled; a tree survey in accordance with the requirements of Section 10.13, Tree Survey; other site features, including wetlands, wetland buffers, rock outcrops, steep slope areas, and established Durham Inventory (historic and cultural a resources) sites, and Durham Natural Inventory sites;
  - c. Existing contours, with source reference, at the smallest interval available from existing mapping, but not more than 5 feet, for the entire area to be subdivided and extended into adjoining property for a distance of 100 feet at all points where street rights-of-way connect to the adjoining property. The contour elevation shall be referenced to National Geodetic Vertical Datum (NGVD), if within 2,000 feet of a monument, or referenced to a City of Durham benchmark. A precise description of the monument or benchmark and datum used shall be clearly shown on the plans.
3. *Proposed Conditions:*  
(Clearly drafted to distinguish from existing conditions):
- a. Location of proposed streets, labeled as public or private, with their proposed names and widths; Alleys with widths; Proposed lots (numbered) with tentative dimensions and building (envelopes) setback lines;
  - b. Proposed street rights-of-way and improvements, including typical cross sections, and other plans as required by the City of Durham or N.C. Department of Transportation; Adjusted contours at two foot intervals for the entire site; Location of stands of existing trees, as well as free-standing individual trees to be preserved, with approximate sizes and tree protection method shown.
  - c. Location, width, and designation by purpose of all proposed easements and rights-of-way for water, storm sewer, sanitary sewer, gas, electric, and communication system facilities;
  - d. The location of all proposed storm drainage, open and enclosed, with grades, inverts, and sizes indicated, together with a map of the drainage area or areas tributary to the proposed storm drains, and a copy of the

- professionally sealed calculations used in determining the sizes of drainage pipes and structures; the boundaries of drainage ways as inundated by the 10-year, or greater storm, as required; and base flood elevation data, if applicable.
- e. Proposed method of water supply and sewage disposal with location and size of water and sanitary sewer facilities shown on plans as required by City or County Engineering. *If a subdivision is proposed for public sanitary sewer service and treatment capacity is not available at the time of Preliminary Plat approval, a note on the plat will acknowledge that a Final Plat cannot be approved until adequate treatment capacity is available.*
  - f. Location, size, and designation by purpose and future ownership of proposed sites to be dedicated or reserved for thoroughfares, other public facilities, Durham inventory sites, park sites, recreation areas, greenways, open spaces, common areas, and railroad corridors designated for preservation on a plan adopted by the Governing Body.
  - g. Calculations of the amount of tree coverage required by Section 10.11, Tree Coverage and Protection Standards and the amount and percentage of tree coverage provided by tree preservation and tree replacement; calculation of the amount of street trees required by Section 10.5, Street Tree Standards and the amount provided by tree preservation and tree installation; a tree survey in accordance with the requirements of Section 10.13.2, Land Disturbance Tree Survey; and the location and a description of all proposed and required tree protection measures.

#### **4D. Final Plats**

The Final Plat shall conform to the approved Preliminary Plat and may constitute only that portion of the Preliminary Plat which is proposed for recordation. The Final Plat shall be drawn in accordance with N.C. General Statute 47-30, Plats and Subdivisions - Mapping Requirements; standard land surveying and mapping practices; and City/County Engineering standards; and shall contain at a minimum the information listed below. *No processing or review will proceed without the required information.*

1. Name of Subdivision, labeled Final Plat; Name of owner(s); Name of registered surveyor with seal; Date; North arrow with reference; Township; Tax map reference; Vicinity map clearly establishing the location of the proposed subdivision with readily recognized landmarks; Graphic scale (not smaller than one-inch to 100 feet on a standard engineering scale); Sheet size, as acceptable to the Register of Deeds, with index map and match lines if multiple sheets are required.
2. The exact boundary of the property being subdivided with at least two permanent control points labeled; An accurate description of the location of all monuments, markers, and control points; Sufficient survey data to determine readily and reproduce on the ground every line shown; All dimensions, both linear and angular, as determined by accurate control survey in the field in accordance with G.S. 47-30.

3. The location, width and other dimensions, and names and purposes of all street lines (with public or private label); alley lines, lot lines, building lines, cemeteries, and utility, storm drainage, and other easements; The location and dimensions of lands dedicated or reserved for streets and thoroughfares, open space, recreation, trails and greenways, and other public and private purposes with notes stating their proposed use and disposition; All lots numbered consecutively throughout; Previously recorded lot lines shown by dotted lines; Wetlands boundaries; Floodway, floodway fringe and alluvial soils areas, shaded and labeled, with base flood elevation data, if applicable; areas subject to other overlay zone regulations, including noise.
4. The angle of departure of adjoining property lines, streets and alley lines with names and widths; The names of adjoining recorded subdivisions and the names of abutting property owners.
5. Any amendment to a previously approved Final Plat shall note on the amended plat the nature and extent of the changes and the deed or plat book and page number where previously recorded.
6. The following certificates shall be placed upon all Final Plats:
  - a. Certificate of accuracy and mapping by registered surveyor - signed and notarized;
  - b. Certificate of ownership and dedication - signed and notarized. (Including all individuals, partnerships, and corporations, and lenders with financial security interests.)
  - c. Attorney's certification of ownership for any Final Plat involving a right-of-way dedication - signed and notarized.
7. Calculations of the amount of tree coverage required by Section 10.11, Tree Coverage and Protection Standards and the amount and percentage of tree coverage provided by tree preservation and tree replacement; calculation of the amount of street trees required by Section 10.5, Street Tree Standards and the amount provided by tree preservation and tree installation; a tree survey in accordance with the requirements of Section 10.13.2, Land Disturbance Tree Survey; and the location and a description of all proposed and required tree protection measures.

## **MINIMUM DESIGN STANDARDS FOR PRELIMINARY AND FINAL PLATS**

### **5A. Preservation of Significant Features**

Subdivision design shall be sensitive to the protection and preservation of existing site features, natural and man-made. To the maximum extent possible, subdivisions shall be designed, using Unique Planned Development concepts, to preserve structures and sites of historic or cultural significance and to protect habitats of rare or unusual plants or wildlife as documented in the established Durham Inventory, the State Natural Heritage Listing, or the National Register of Historic Places.

Every effort shall be made to minimize grading and removal of tree cover and to preserve vegetative strips along water courses. Where existing trees are shown to be preserved on a Preliminary Plat, protection measures shall be located so that they either maintain a 6-foot minimum radius or provide a 1-foot radius for each 1 inch of trunk diameter (measured at a point 4.5 feet above ground), whichever is greater, around trees to be saved.

### **5B. Land Suitability**

Unique Planned Development concepts, including clustering, should be used for portions of tracts which are subject to flooding, wetlands, steep slopes (over 20 percent), excessive erosion, rock outcrops, or other adverse site conditions.

Proposed building sites shall only be permitted within floodway fringe areas as allowed by the flood hazard regulations section of the zoning ordinance. Base flood elevation data shall be provided for all subdivision proposals for which it is applicable. Soils evaluation by qualified soil scientists, early in the subdivision process, is recommended where the use of individual, on site wastewater disposal systems is anticipated. (Added 5/93).

### **5C. Neighborhood Compatibility**

New subdivisions shall be planned to complement or enhance the character of the neighboring areas.

### **5D. Consistency with Public Plans and Policies**

Subdivision of land shall be consistent with adopted public plans and policies for the area in which it is located. This includes general policy regarding development objectives for the area as reflected in both comprehensive and small area plans, as well as specific policy or plans for public facilities such as streets and thoroughfares, parks and open space, schools, and other similar facilities.

### **5E. Public School and Other Public Facility Sites**

When a proposed site for any public facility, including but not limited to schools, parks, open space/greenways, or other public use sites, as shown on an adopted plan, falls within a proposed subdivision, the site shall be temporarily set aside and/or reserved in accordance with Section 7D. Reservations of Public Facility Sites and Lands shall be followed.

### **5F. Naming of Subdivisions**

The name of a subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the City or County of Durham.

### **5G. Street Standards**

The proposed street layout shall be coordinated with the existing street system of the surrounding area and shall conform to official plans for major and minor thoroughfares and collector streets, including the Durham - Chapel Hill - Carrboro Urban Area Thoroughfare Plan, with respect to location, alignment, cross-section, etc. Street design shall satisfy the minimum requirements of the City of Durham and the NC Department of Transportation, as applicable. The following street standards may be modified or varied by the approving transportation agency to accommodate unique subdivision conditions.

1. *Right-of-Way Widths:* A proposed street right-of-way must be of sufficient width to accommodate the required cross section. However, in no case shall the proposed right-of-way be less than the currently adopted standards unless the approving authority determines that special circumstances exist which make the dedication or reservation of the full right-of-way unnecessary or impractical.
2. *Private Streets and Roads:* Permanent private access easements, streets, and roads shall be permitted in residential subdivisions serving no more than 6 lots or within Unique Planned Developments or any non-residential development. Such facilities shall be designed and constructed to the minimum design standards for public and private residential streets within Durham City and County. Roads intended for future acceptance by the N.C. Department of Transportation as public roads shall be designed and constructed to the department's standards.
3. *Grades:* Proposed streets shall be designed to produce street gradients which provide for safety, proper drainage, and usable lots and to fit the natural contours of the land in order to minimize earthmoving.
4. *Curves:* Horizontal and vertical curves and roadway alignment shall be governed by anticipated street classification, traffic volume, design speed, sight distances, and other relevant standards.
5. *Intersections:*
  - a. Street intersections shall be as nearly at right angles as possible and no intersection angle should be less than 75 degrees.
  - b. Offset intersections shall be avoided. Intersections on residential streets which cannot be aligned should be separated by a minimum distance of 200 feet between centerlines. For higher level streets, this distance will be determined on a site by site basis after considering possible signalization, necessary storage, and sight distance, as well as other design constraints.
  - c. Adequate sight distances shall be provided at all intersections between streets and at driveway intersections with streets.
  - d. Property lines at corners of all intersecting streets shall, as a minimum, be established as the hypotenuse of a triangle with each leg having a length of at least 20 feet along both street rights-of-way.
6. *Cul-de-sac:* Cul-de-sac streets shall not be used to avoid needed street connections, existing or potential. Such streets shall not be longer than 800 feet and shall be terminated by a circular right-of-way having a minimum diameter of 100 feet or an approved alternative turnaround.

7. *Reserve Strips Controlling Access:* The reservation of private property strips controlling access to public ways shall not be permitted.
8. *Frontage Roads/Marginal Access Streets:* Where a subdivision abuts or contains a controlled or limited access street or thoroughfare, whether existing or proposed, a marginal access street or frontage road may be required.
9. *Street Names:* Street names shall not duplicate nor closely approximate existing street names within the City or County. Extensions of existing, named streets shall bear the existing street name. (A complete list of previously used names shall be maintained by City/County staff.)

#### **5H. Block Layout**

The length, width, and shape of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; needs for vehicular, transit, and pedestrian circulation, control, and safety; and constraints of topography and existing land use patterns and facilities.

1. *Block Lengths:* Blocks shall not normally exceed 1,000 feet in length.
2. *Block Widths:* Blocks widths shall be sufficient to allow two tiers of lots except where single tiers of lots will facilitate non-residential developments, or the separation of residential and non-residential developments, or the separation of residential development from through traffic.

#### **5I. Alleys**

Alleys may be required along the rear lot line of commercial or industrial property, along the rear lot line of lots fronting on thoroughfares, or where the lots are less than 50 feet wide. Alley widths shall be determined by their proposed use.

#### **5J. Sidewalks and Trails**

Sidewalk, walkway and trail systems sufficient to serve both existing and projected pedestrian and bicyclist needs shall be reflected in all subdivision design. Such systems may include either conventional sidewalks along street rights-of-way or walkways and trails in alternative locations as appropriate. Design, location, dimensions, dedications, easements, and reservations, shall conform to applicable City and/or County Urban Growth Area policies and plans for sidewalks and trails.

Unless an alternate walkway is approved, conventional sidewalks within the Urban Growth Area shall be located as follows:

1. On both sides of major and minor thoroughfares (as defined by the adopted Thoroughfare Plan) except on freeways;
2. On one side of collector streets and nonresidential streets with existing or projected traffic of 2,000 or more vehicles per day;
3. On one side of residential streets of all types that are not cul-de-sacs;
4. On one or both sides of local streets in non-residential areas where review indicates that sidewalks are, or will be, needed to accommodate pedestrian traffic.

Alternate walkway and trail systems, located outside of street rights-of-way, shall be planned to serve pedestrian and bicycle traffic circulation as satisfactorily as would conventional sidewalks, and to reach locations which would otherwise be inaccessible.

Such walkways and trails shall be designed to maximize the safety of users and the security of adjoining properties with respect to location, visibility, and landscaping.

**5K. Easements: Utility, Storm Drainage, Stream Buffers and Other**

Utility easements for water, sanitary sewer, electricity, gas and communications improvements shall be provided in the location and to the width as required by the utility. Where economically feasible electricity and communications lines should be placed underground. Easements for storm drainage improvements and stream buffers shall be provided as required by City/County policies and regulations. Easements for other purposes, including but not limited to trails and greenways, scenic views, historic preservation, cemetery access, and unique natural sites, shall be designed for reservation or dedication as appropriate. *All plats shall exhibit standard easement notes stating the type and purpose of the easement along with a list of prohibited uses/activities within the easement.*

**5L. Lot Layout**

1. The size, width, depth, shape, and orientation of lots shall be appropriate for the natural features and land suitability of the site, the zoning of the property, and the type of development proposed. Where double or reverse frontage (through) lots are proposed, special treatment (landscaping/fencing/berms) shall be used and maintained to prevent adverse impact.
2. Every buildable lot shall abut either a public street or an approved private street.
3. Side lot lines shall generally be perpendicular or radial to street lines.

**5M. Recreation Land: Parks, Open Space, Greenways and Railroad Corridors**

Provisions for both active and passive recreation areas, including parks, greenways, and open space, consistent with City/County policies, plans, and regulations, including but not limited to the Durham Urban Trails and Greenways Masterplan and the Durham County Open Space Plan, shall be made for all subdivisions. All such land, dedicated or reserved, shall satisfy applicable City/County site suitability standards with respect to location, accessibility, size, configuration, slope, etc.

In addition to the required payments and/or dedications listed below, the subdivider is responsible for the reservation of additional needed recreation areas, including parks, open space, greenways, and railroad corridors according to the reservation procedures prescribed under Section 7D "Reservation of Public Facility Sites and Lands."

1. Within the City, the subdivider is responsible for either paying a recreation impact fee or dedicating 575 square feet of land for parks and active recreation areas for each proposed dwelling unit. In addition, he/she shall pay the required open space impact fee and shall dedicate at least 575 square feet of passive recreation (open space) land for each proposed dwelling unit within a subdivision or shall make payment-in-lieu equivalent to the tax value of 575 square feet of comparable property per dwelling unit.

**The requirements stated in Paragraphs 2 & 3, following, shall not be in force until the date of the adoption of the Durham County Open Space Plan by the Board of County Commissioners.**

2. Within the Urban Growth Area, outside of the City, the subdivider is responsible for either dedicating 575 square feet of land for parks and active recreation areas for each proposed dwelling unit within a subdivision or shall make payment-in-lieu equivalent to the tax value of 575 square feet of comparable property per dwelling unit. In addition, he/she shall dedicate at least 575 square feet of land for passive recreation (open space) areas for each proposed dwelling unit or shall make payment-in-lieu equivalent to the tax value of 575 square feet of comparable property per dwelling unit. The County shall establish recreation service districts, and payments made under this section shall be expended within the respective district from which collected.
3. Within the remainder of the County, outside of the Urban Growth Area, the subdivider is responsible for either dedicating 1,150 square feet of land for recreation purposes (including open space areas) for each proposed dwelling unit, or for making payment-in-lieu equivalent to the tax value of 1,150 square feet of comparable property per dwelling unit. The County shall establish recreation service districts, and payments made under this section shall be expended within the respective district from which collected.

The Approving Authority shall decide during the Review and Approval process as to which of following shall be required: (1) dedication of land, (2) payment-in-lieu of dedication, and/or (3) payment of an impact fee. In addition, the Approving Authority shall decide whether the reservation of land shall be required.

Dedicated railroad corridors shall reduce the subdivider's obligation to dedicate recreation/open space under this section by the amount of the corridor dedicated.

#### **5N. Stormwater Drainage**

Drainage adequate to accommodate a ten-year or greater storm shall be provided generally following the existing natural drainage systems. Piping and modification of streams and other natural water courses should be minimized and will be considered on a case-by-case basis to determine if it is necessary and environmentally sound. Systems shall be designed to minimize flooding, protect downslope properties, and preserve water quality.

##### *City Jurisdiction:*

Properties and waterways downstream from land development sites may be adversely impacted from increases in volume, velocity, and peak flow rates. Any land-disturbing activity which results in an increase of impervious area may be required to provide stormwater management facilities or make other improvements to the existing drainage system to address water quantity concerns, water quality concerns, or both if the proposed development will increase potential flood damages to existing properties or significantly increase pollutant levels in downstream receiving waters.

The owner of the property proposed for development shall submit a stormwater impact analysis that complies with the requirements of the City Engineer and which determines the impact of the increased stormwater runoff on downstream stormwater facilities and



properties whenever the peak runoff rate from either the 2-year storm or the 10-year storm increases by more than 10 percent as a result of the proposed development. The need for stormwater management facilities to address offsite impacts shall be determined by the City Engineer. Stormwater management facilities shall be designed and maintained in accordance with Section 5.5.7.2 of the Durham Zoning Ordinance.

*County Jurisdiction:*

Properties and waterways downstream from land development sites may be adversely impacted from increases in volume, velocity, and peak flow rates. Any land-disturbing activity which results in an increase of impervious area may be required to provide stormwater management facilities or make other improvements to the existing drainage system to address water quantity concerns, water quality concerns, or both if the proposed development will increase potential flood damages to existing properties or significantly increase pollutant levels in downstream receiving waters.

Prior to the approval of any subdivision or site plan or the issuance of a building permit for any structure other than a single-family residence, the owner of the property proposed for development shall submit a stormwater impact analysis that complies with the requirements of the City Engineer and which determines the impact of the increased stormwater runoff on downstream stormwater facilities and properties whenever the peak runoff rate from either the 2-year storm or the 10-year storm increases by more than 10 percent as a result of the proposed development. The need for stormwater management facilities to address offsite impacts shall be determined by the City Engineer. Stormwater management facilities shall be designed and maintained in accordance with Section 5.5.7.2 of the Durham Zoning Ordinance.

**5O. Water and Sewer Systems**

Proposed additions to public systems shall be coordinated with the existing systems and shall satisfy the standards of the Utility providing the services. Where not otherwise prohibited by local ordinance, community systems, or systems designed to serve more than one user independent of public systems, shall satisfy the standards of the applicable County or State agency responsible for approval.

**5P. Unique Planned Developments and Ownership Alternatives**

Where unique planned developments and ownership alternatives for both residential and non-residential properties are permitted by zoning regulations, including but not limited to planned unit developments, planned density-residential, townhouses, condominiums, and zero lot-line properties, applicable design standards of both the zoning ordinance and this ordinance shall be followed.

In addition, planned developments utilizing alternative design standards may be approved subject to the submittal of site plan documents demonstrating that equivalent or superior provisions have been made for open space, building siting, vehicular parking and circulation, buffering and landscaping, pedestrian and bicycle circulation, recreation, solid waste handling, and areas of common ownership and maintenance.

## **5Q. Cluster Developments**

To encourage innovation in residential subdivision design, cluster developments shall be permitted providing for more efficient layout of lots, streets, and utilities, for the preservation of open space and recreation areas, and for the protection of unique site features and scenic vistas. Cluster developments permitting reductions in lot area in exchange for equal amounts of open space shall be allowed in all single family zoning districts subject to the standards of applicable zoning regulations, this ordinance, and the following additional criteria:

1. Acreage in cluster development: minimum 4 acres;
2. Maximum number of lots: no greater than the number permitted by the base zone classification;
3. Open Space Requirements: equivalent in land area to combined reductions in lot area ; identified on plats as being permanently set aside to satisfy cluster land area requirements; situated so as to provide perpetual environmental and/or recreational benefit to the overall development; not more than fifty percent of the area credited for open space shall be located within either floodway or areas normally covered by water. (These requirements are in addition to the recreation and open space requirements stated in Section 5 M. above.) (Revised 5/93).
4. Minimum exterior lot area and dimensions (including setbacks): Property on the edge of cluster developments shall either
  - a. Be set aside in open space which satisfies zoning ordinance requirements for 50 - foot buffers; or
  - b. Be platted in lots which conform to the base zone dimensional requirements, unless the Approving Authority determines that a reduction in dimensional requirements of twenty percent or less is appropriate; or
  - c. Be platted in lots which satisfy the equivalent zoning dimensional requirements of the immediately adjacent exterior property, unless the Approving Authority determines that lots of different dimensions are more appropriate in order to be consistent with the actual size of the adjacent platted lots. (Revised 5/93).

Minimum interior lot area and dimensions (Including setbacks): Interior lots shall not be reduced by more than fifty percent from the base zone requirements. No principal building shall be closer than 15 feet to either a public street right-of-way or a principal building on an adjacent lot. (Revised 5/93).

## **5R. Grading Plan and Mass Grading Buffers**

Preliminary plats shall include a grading plan using two (2) foot contour intervals. The preliminary plat plan shall note whether grading for the tract will occur for multiple lots at one time (i.e., mass grading) or on a lot-by-lot basis.

Preliminary plats that propose mass grading shall provide perimeter buffers on the tract at all exterior property lines. The intent of these buffers is to visually screen views of mass graded tracts from surrounding properties. Perimeter buffers shall be twenty-five (25) feet

and shall achieve the standards of Buffer Intensity Class 2 in accordance with Section 10.2.4, Buffer Width. However, perimeter buffers shall not be required along common internal boundaries of multiple parcels that make up a development project. If the perimeter buffer contains vegetation insufficient to achieve that standard, the preliminary plat shall include a vegetation plan showing landscaping materials to be installed in order to achieve that standard. No grading shall be allowed within perimeter buffer, with the exception of grading required for utility installation. Perimeter buffers shall be in place before other site improvements begin. The perimeter buffers required by Section 5.R, Grading Plan and Mass Grading Buffers that are associated with any lot shall no longer be required when a building permit is issued for residential construction on that lot.

**5S. Phased Grading Plan**

Preliminary plats for major subdivisions shall include a phased grading plan for the grading and stabilization of the tract. The phased grading plan shall demonstrate to the satisfaction of the approving body a) how grading and other site disturbances will be phased in such a manner to minimize the amount of site disturbance at any one time; and b) how disturbed land will be stabilized as soon as the majority of work in individual phases is completed.

**5T. Tree Coverage**

Tree coverage for new subdivisions shall be provided in accordance with the Durham Zoning Ordinance, Section 10.11, Tree Coverage and Protection Standards.

## **IMPROVEMENTS REQUIRED FOR FINAL PLAT APPROVAL**

### **6A. Construction Plans, Permits and Procedures**

After Preliminary Plat (or Site Plan) approval, the subdivider shall work directly with appropriate City, County, and State agency personnel in the preparation, submission, review, and approval of construction plans; the obtaining of all necessary permits; and the scheduling of required inspections, before, during, and after the installation of improvements.

All proposed improvements shall be designed and installed according to applicable City, County, and State requirements available from the City and County Engineering Departments, the City and State Departments of Transportation, and other applicable agencies.

*All proposed improvements shall be installed by the subdivider and approved by the responsible regulatory agency either prior to Final Plat submission or in accordance with Section 6O. Performance Guarantees.*

### **6B. Protection of Natural, Historic and Cultural Features; Tree Cover; Floodway, Wetlands, and Stream Buffers; Recreation, Open Space, and Other Public Land**

The subdivider shall cause all property identified on the approved Preliminary Plat as dedicated, reserved, or otherwise set aside for one or more of the above purposes to be surveyed, staked, and appropriately marked and protected prior to beginning clearing and grading work.

### **6C. Clearing and Grading**

In addition to protecting the areas described above, the subdivider shall perform clearing and grading in conformity with the approved Preliminary Plat.

### **6D. Sedimentation and Erosion Control**

Prior to any land disturbing activity, the subdivider shall comply with all Federal, State, and County permitting requirements. All applicable sedimentation and erosion control standards shall be followed.

### **6E. Stormwater Management**

Stormwater drainage improvements shall be designed, constructed, and maintained, according to all applicable City, County, State, and Federal requirements. Points of discharge shall be within the subdivision unless otherwise approved. Filtration, infiltration, retention, and detention methods and devices shall be used as required.

### **6F. Streets and Alleys**

Rights-of-way shall be dedicated and/or reserved and improvements installed to City or N. C. Department of Transportation standards for each class of street as follows:

1. Freeways  
Entire right-of-way reserved for future acquisition and improvement by the public.
2. Thoroughfares (Major and Minor)

On new streets, required right-of-way dedicated with remainder reserved; subdivider shall install improvements sufficient to service traffic demands of proposed development; on existing streets, subdivider shall dedicate or reserve additional right-of-way and install improvements as required to serve proposed development; other improvements will be installed according to public street improvements programs.

4. Private Streets and Alleys

Rights-of-way or easements as required for approved private streets and alleys shall be established and improvements installed to the minimum design standards for public and private residential streets within Durham City and County. Subdivisions utilizing private streets shall be subject to Section 8.1.13 of the Zoning Ordinance and shall not receive Final Plat approval until the subdivider furnishes an attorney's certification that restrictive covenants, deeds of easement, and/or other legal documents have been filed for perpetual road maintenance and access arrangements for adjoining properties and for City/County services. All final plats containing private streets and roads shall contain a note requiring a disclosure statement to be furnished to all subsequent purchasers of property shown on the plat.

**6G. Sidewalks and Trails**

Sidewalks and trails shall be located as shown on the approved Preliminary Plat and shall be constructed to applicable City, County, or N.C. Department of Transportation standards.

When the Approving Authority determines that the construction of a conventional sidewalk is impractical because of impending street widening or physical, functional or pedestrian service limitations, an alternative walkway which adequately serves the projected pedestrian traffic may be approved where there is a legal entity responsible for construction and maintenance.

**6H. Water and Sewer Systems**

Public: Installation of improvements which are extensions to existing public systems shall be approved by the municipal or other public utility providing the services.

Community: Installation of community systems which are designed to serve more than one user independent of public systems, shall be approved by the responsible County or State agency. Subdivisions utilizing community systems shall not receive Final Plat approval until the subdivider furnishes an attorney's certification that appropriate legal documents, including performance guarantees, have been filed for perpetual system operation and maintenance.

**6I. On-Site Water Supply and/or Wastewater Disposal  
(Reserved)**

**6J. Other Utilities**

The subdivider shall arrange for the coordinated installation of all other proposed utilities, including gas, electricity, and communications improvements and shall insure that Final Plats clearly show all related easements and/or rights-of-way.

**6K. Survey Monuments and Markers**

Permanent survey monuments and markers shall be installed in accordance with N. C. General Statutes 39-32 and 47-30, as supplemented by City/County and N. C. Department of Transportation Requirements.

**6L. Street Signs and Markers**

1. Standard street name signs shall be installed at one corner of all street intersections, including private streets. The size, design, materials, location, and installation of the signs shall be in accordance with N. C. Department of Transportation and City/ County standards.
2. Signs denoting the beginning and ending of public maintenance shall also be erected and maintained on private streets.
3. Signs denoting the right-of-way boundaries of dedicated or reserved, unopened streets shall be erected and maintained according to City/County standards.

**6M. Street Lights**

Street lighting, as required for traffic safety and property security, shall be installed in conformance with City/County policies. The design, materials, location, and installation shall conform to City/County/public utility standards, including appropriate separation from street trees.

**6N. Unique Developments and Ownership Alternatives**

Subdivisions utilizing unique development patterns and ownership alternatives shall not receive Final Plat approval until the subdivider furnishes an attorney's certification that proper legal provisions have been made for the following as applicable:

1. Establishment of property owners association;
2. Declaration of covenants and restrictions for common areas; and
3. Declaration of unit-ownership development.
4. Provisions for perpetual ownership and maintenance of commonly-owned streets, utilities, other improvements, and lands.

**6O. Performance Guarantees**

1. Filing of Performance Guarantees - Where required street, sidewalk, storm drainage, water and/or sanitary sewer and other public improvements have not been completed prior to the submission of a Final Plat for approval, the City or County may approve the plat and may issue building permits. However, no Certificates of Occupancy or Compliance shall be issued and no permanent individual water or sewer services provided until all required improvements have been completed or until an acceptable performance guarantee, sufficient to insure completion of all required improvements, has been filed with the City or County, as appropriate.
2. Form and Conditions of Performance Guarantee - Such guarantee may be in the form of a surety bond, letter-of-credit, or some other surety instrument acceptable to the City or County. Such guarantee shall be conditioned upon the performance of all work necessary to complete the specified improvements and the delivery of all necessary encroachment agreements, with said performance and delivery to be done within a stipulated time period. The required amount of

the guarantee shall be as determined by the City or County and shall allow for administrative costs, inflation, and other contingencies.

3. Release of Guarantee - All improvements shall be completed according to the City, County, or N. C. Department of Transportation standards and specifications, as applicable, and must be acceptable for City or State maintenance. No guarantee shall be released until all of the appropriate agencies certify that all of the necessary improvements have been completed as required. Once the conditions of the guarantee have been completed to the satisfaction of the City or County, the guarantee shall be released.

## **REVIEW AND APPROVAL PROCEDURES**

### **7A. Development Review Board (DRB)**

1. A Development Review Board (DRB) is hereby created and designated as the technical planning agency responsible for the application and enforcement of this ordinance and for the approval or recommendation for the approval of plats and site plans in accordance with the provisions of this ordinance. In its membership and actions, the DRB shall be governed by the provisions of N.C. General Statutes 193 A: 321 and 332, Designated Planning Agencies and of the Durham City Charter, Section 97 (3), Subdivision Review Board.
2. The DRB shall include the following officials or their representatives:
  - a. General Members (eligible to vote on all matters):  
Durham Planning Commission Chairperson  
City-County Planning Director  
Sedimentation and Erosion Control Director  
City Transportation Department Director
  - b. City Members (eligible to vote on City and Urban Growth Area matters):  
City Engineer  
Inspection Services Director
  - c. County Members (eligible to vote on all outside of City, including Urban Growth Area, matters):  
County Engineer  
Environmental Health Director  
Inspections Director
  - d. Advisory Member (eligible to vote only on matters requiring N.C. DOT approvals):  
District Engineer, N.C. Department of Transportation
3. A designated member may select an alternate, representing the same office and/or function, to serve in his/her absence. In the event of further mergers of City and County departments, the merged department head positions created shall be eligible to vote on all matters.
4. The DRB shall meet as required, but at least monthly, to review and take action on proposed subdivisions and site plans for properties located throughout the City and County. A quorum shall consist of one more than a majority of the membership eligible to vote.
5. The DRB shall elect a Chair and Vice-Chair from among its members. Designated members of the City-County Planning staff shall serve as Clerk-to-the-board and shall be empowered to stamp and sign approved plans and plats on behalf of the Board. The Clerk shall see that accurate records are maintained of reviews, proceedings, and actions by the Board. The Board shall adopt rules, procedures, standards, and guidelines to implement this ordinance and to assist applicants in understanding its requirements.

### **7B. City - County Planning Department**

The staff of the Durham City-County Planning Department shall be responsible for coordinating the review process for Preliminary and Final Plats. All subdivision plats as



listed under Section 2. Application of Regulations shall be submitted to the Planning Department for determination as to the level of review required.

Exempt subdivision plats shall be stamped by Planning staff, noting their exemption, and signed so that they can be recorded by the Register of Deeds staff.

Minor Subdivisions shall be reviewed by Planning and other agency staff as appropriate and, after being found in compliance with applicable regulations, shall be stamped noting their approval and signed so that they can be recorded.

Major Subdivisions shall fulfill the requirements of Section 4. Plat/Plan Submission Requirements and shall be reviewed according to the following Preliminary and Final Plat review processes.

**7C. Preliminary Plats (And Site Plans Subject to this Ordinance)**

1. Complete sets of Preliminary Plat documents shall be submitted to the Planning Department in the required number, along with a completed application for review, and payment of the prescribed review fee. Staff shall check the submittal for completeness and, if found to be in order, it shall be transmitted to appropriate public entities and utility agencies for review and comment. As applicable, notification of Preliminary Plat review shall be sent to public groups including, but not limited to, the following: Urban Trails and Greenways Commission, Durham Area Transportation Authority, Historic Properties Commission, Open Space Commission, and various neighborhood and small area planning groups.
2. Staff review agencies shall complete review and transmit comments back to Planning staff. If required corrections are minor, Planning shall schedule the subdivision for review at the next Development Review Board meeting; if required corrections are extensive, the subdivider shall be given an opportunity to correct the plat before it is scheduled for DRB.
3. The subdivision documents, along with the review comments, shall then be considered by the Development Review Board at a scheduled public meeting at which a representative of the subdivider or any other interested person may be heard. If the Preliminary Plat is for a subdivision containing 49 or fewer lots, the DRB shall approve the plat as is, approve it subject to additional corrections, defer action for additional information and/or corrections, or disapprove it.
4. If the Preliminary Plat is for a subdivision containing 50 or more lots, the DRB shall recommend the plat for approval by the appropriate Governing Body as is, recommend it subject to additional corrections, recommend disapproval, or defer action for additional information and/or corrections. When the DRB has completed action on such plats, the Planning staff shall transmit the subdivision documents, along with the DRB recommendations, for action by the Governing Body at a regular meeting.
5. Approved, corrected Preliminary Plats shall be stamped and signed denoting approval, after which the subdivider shall be given two years to complete construction of improvements and submit a Final Plat for approval. Portions of the approved Preliminary Plat not included within a Final Plat submitted for

approval within two years shall be subject to be re-review and re-approval according to then current standards.

6. Revisions: Minor revisions to approved Preliminary Plats, which reflect the same basic street and lot configuration as used for the original approval, may be approved by the DRB at a scheduled meeting. Significant changes to an approved Preliminary Plat, as determined by the DRB, must be resubmitted for review and approval as if it is a new application.

#### **7D. Reservation of Public Facility Sites and Lands**

*(This section does not apply to the reservation of lands for public streets and roads which is regulated according to the procedures set forth by the General Statutes of North Carolina.)*

1. The review of preliminary plats may be delayed by no more than forty-five (45) calendar days if the proposed subdivision contains sites which appear in an adopted plan or policy documents as a future site for a public school or other public facility, recreation area, park, greenway or other open space, or railroad corridor. During Preliminary Plat review, the appropriate agency responsible for future site acquisition shall be given 45 calendar days from date of plat/plan submission to decide if it wishes to reserve the site.
2. If the site is not to be reserved, the subdivision shall be processed in the normal fashion. If the agency wishes to reserve the site and specifies such intent in writing to the Planning Director, the subdivision shall not be approved without the reservation.
3. Public school authorities shall have 18 months from the date of Preliminary Plat approval to acquire the site by purchase, by receipt of dedication, or by initiating condemnation proceedings. If, at the end of the 18 month period, none of the above actions has occurred, the subdivider may consider the land free from reservation and apply for revised Preliminary Plat approval for its use.
4. Other public agencies shall have 120 calendar days from the date of Preliminary Plat approval to arrange for site acquisition for public facilities by option to purchase, by purchase, by receipt of dedication, or by initiating condemnation proceedings. If, at the end of the 120 day period, none of the above actions has occurred the subdivider may consider the land free from reservation and apply for revised Preliminary Plat approval for private use of the property.

#### **7E. Site Improvements**

Upon Preliminary Plat (or Site Plan) approval, the subdivider may apply for permits to begin site work and the installation of improvements. All site work shall be performed in compliance with the requirements of this ordinance and other applicable regulations of the City, County, and State.

#### **7F. Final Plats**

1. When the installation of required site improvements is nearing completion, the subdivider may submit a Final Plat for review and approval.
2. Complete sets of Final Plat documents shall be submitted to the Planning Department in the required number, along with a completed application for review, and payment of the prescribed review fee. Staff shall check the submittal

- for completeness and, if found to be in order, it shall be transmitted to appropriate public and utility agencies for review and comment.
3. Review agencies will transmit review comments back to Planning. If required corrections are minor, Planning shall schedule the Final Plat for review at the next Development Review Board meeting. If required corrections are extensive, the subdivider shall be given an opportunity to correct the plat before it is scheduled for DRB.
  4. The Final Plat documents, along with the review comments, will then be considered by Development Review Board at a public meeting at which a representative of the subdivider or any other interested person may be heard. The DRB shall then approve the plat as is, approve it subject to additional corrections, defer it for additional information and/or corrections, or disapprove it.
  5. Approved, corrected Final Plats shall be stamped and signed denoting approval, after which the subdivider shall be given 90 calendar days to file and record the Final Plat with the Register of Deeds office before the approval becomes void.
  6. Although Final Plats may be approved and Building Permits issued prior to the completion of all required site improvements, no Certificates of Occupancy or Compliance shall be issued and no individual water or sewer services provided until all required improvements have been completed or until an acceptable Performance Guarantee has been filed.

## **7G. Variances**

1. The Approving Authority may by affirmative majority vote vary or modify specific provisions of this ordinance after making all of the following findings:
  - a. Unusual conditions or circumstances peculiar to the site exist;
  - b. Strict application of one or more ordinance provisions would cause unnecessary hardship; and
  - c. Granting a variance would not violate the intent and purpose of these regulations.
2. For purposes of financing or re-financing development, it is sometimes necessary to subdivide a previously approved development complex (including but not limited to a shopping center, an office or industrial park, or a housing complex) originally located on a single parcel into two or more lots. The Development Review Board may by affirmative majority vote, vary or modify the requirements of this ordinance and the dimensional, parking, landscaping, and buffering provisions of the zoning ordinance to permit such subdivision to occur subject to making the following findings:
  - a. A valid, approved site plan exists for the overall complex;
  - b. The complex, in its entirety, satisfies all ordinance requirements;
  - c. Each Final Plat created contains a note stating that the owner(s) acknowledge that the individual parcel is a part of the named development complex and that deeds of easement, restrictive covenants, and/or other legal documents necessary for the perpetual functioning of the development complex will be executed and recorded with the Final Plat.

**7H. Appeals to Approving Authorities**

1. The Approving Authority shall hear and decide appeals from and review any order, decision, or determination made by an administrative official pursuant to the specific provisions of this ordinance. The notice of appeal shall be filed with the Planning Department within 30 calendar days of the action appealed. The filing of such notice stops future action and requires the official whose action is appealed to transmit to the authority all administrative files and records regarding the subject matter of the appeal.
2. The Approving Authority shall set a reasonable time for hearing the appeal and shall give due notice to the parties involved who may appear in person or by representation. The Authority may by affirmative majority vote reverse or modify the order, decision, determination, or interpretation under appeal upon finding appropriate grounds for such action.

**7I. Appeals from Approving Authorities**

Appeals to decisions and actions of the Approving Authority in the interpretation or application of this ordinance may be taken to the Superior Court by proceedings in the nature of certiorari. Any petition for appeal to the court shall be filed with the Court Clerk within 30 calendar days of the action appealed.

## **ENFORCEMENT, VIOLATION AND PENALTIES**

No permit shall be issued by any administrative agent of the City or County for the construction of any building or other improvement requiring a permit upon any land for which a subdivision is required by this ordinance until all requirements herein have been met.

After the effective date of this ordinance, a plat of a subdivision filed or recorded in the office of the Register of Deeds without required approval shall be null and void for purposes of this ordinance.

Any person who, being the owner or the agent of the owner of any land located within the jurisdiction of this ordinance, subdivides land in violation of this ordinance, or transfers, or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance, and recorded in the office of the Register of Deeds, shall be guilty of a misdemeanor and shall be punishable, accordingly, by fine and/or imprisonment.

The description by metes and bounds in the instrument of transfer, or other document used in the process of selling or transferring land, does not exempt the transaction from penalties. The City or County, as appropriate, may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order for compliance.

Any person who proceeds to develop land as authorized by an approved Preliminary Plat and who fails to carry out such development according to the provisions of the plat, and all specific conditions of approval, shall be in violation of this ordinance and shall be punishable by fine. Such fine shall be in accordance with the schedule of fines for violations adopted by the Governing Bodies.

## **OTHER LEGAL PROVISIONS**

### **9A. Severability**

If any portion of this ordinance is adjudged invalid or unconstitutional by a court of competent jurisdiction, such decision shall apply only to the portion so adjudged and the remainder of this ordinance shall be deemed valid and effective.

### **9B. Conflict**

These regulations are not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other public laws, ordinances, or regulations. Where these regulations conflict with other provisions of public law and regulations, the more stringent requirements shall apply.

### **9C. Amendments**

The City Council and the Board of County Commissioners may from time to time adopt, amend, supplement, or repeal the regulations and provisions of this ordinance. Before adopting an amendment to this ordinance, both the City Council and the Board of County Commissioners shall give notice and hold a public hearing or public hearings as provided by the General Statutes of North Carolina.

### **9D. Effective Date**

This ordinance shall become effective July 1, 1992.