

Chapter 74 SUBDIVISIONS* (Includes Amendments through 7-21-08)

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Sec. 74-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, words used in this chapter shall have their respective customary dictionary definitions. The word "lot" includes the words "plot," "tract" and "parcel." The word "building" includes the word "structure." The word "use" includes the terms "arranged," "designed" or "intended" for a use, activity or purpose. The term "subdivision administrator" shall indicate the subdivision administrator of the city.

Dedication means a gift, by the owner, of a right to use of land for a specified purpose. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Easement means a grant of one or more of the property rights by the property owner of a portion of land for a specified purpose and use by the public, a corporation or other entities.

Lot means a separate and distinct unit of land described by either a metes and bounds description or subdivision plat of record or probated will. The term "lot" includes a portion of a subdivision or any other parcel of land, intended as a unit for transfer of ownership or for development or both.

Lot, flag means a lot created by a subdivision, with less lot frontage than is required for a conventional lot by article V, section 4 of the zoning ordinance and composed of a narrow "flagpole" strip extending from the street and a much wider "flag" section lying immediately behind a lot or lots having the required frontage for a conventional lot. In the case of a flag lot, the lot line at the end of the flagpole lying generally parallel to the street to which the flagpole connects shall be considered to be the front line for setback purposes.

Required drainage channel means the theoretical stream bed section which is required to discharge the runoff from a 100-year storm.

Reserve strip means a strip of land, usually only a few feet wide, owned privately, and set aside around a subdivision in order to prevent access to adjacent property by way of subdivision streets.

Storm, 100-year means the surface runoff resulting from a rainfall of an intensity expected to be equalled or exceeded, on the average, once in 100 years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Storm, ten-year means the surface runoff resulting from a rainfall of an intensity expected to be equalled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Storm, 25-year means the surface runoff resulting from a rainfall of an intensity expected to be equalled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Street means a public right-of-way for vehicular travel which has been constructed and then dedicated to and accepted by the city or the state department of transportation for public use or which has been otherwise obtained by such agencies for such use or which is proposed to be constructed and then dedicated to and accepted by such agencies as a public right-of-way for vehicular traffic for public use pursuant to this chapter. Street classifications are as follows:

(1) *Arterial street* means a federal or state highway designed primarily for the movement of large volumes of vehicular traffic from one area to another; a thoroughfare.

(2) *Collector street* means a public way designed primarily to connect residential streets with arterial streets or to provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

(3) *Commercial/industrial street* means a public way designed primarily to connect minor commercial or industrial streets with arterial streets or to provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

(4) *Minor street* means a public way used primarily for providing direct access to abutting properties, and which does not have collector characteristics. Minor streets are further classified as follows:

a. *Residential*: Those streets whose primary function is to provide direct access to residential property.

b. *Commercial/industrial*: Those streets whose primary function is to provide direct access to commercial or industrial property.

c. *Cul-de-sac*: A short minor street having one end open to traffic and the other end permanently terminated with a vehicular turnaround.

Street, half means a proposed vehicular travelway intended to be developed by constructing one-half of a required width of a street with the remainder to be provided at some future date.

Street, private means a vehicular travelway not dedicated as a public street.

Subdivider means a person engaging in the act of subdividing property.

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, including land leases with an effective term of three or more years, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition or be subject to the regulations of this chapter; provided, however, that any document or plat to be recorded pursuant to any such exclusion shall bear the notation "No approval required" and the signature of the subdivision

administrator or his designated agent before being presented for filing with the office of the register of deeds:

- (1) 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 this chapter;
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets;
- (4) 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 this chapter; and
- (5) The division of land into burial plots where no street right-of-way dedication is involved.

Territorial jurisdiction means the city limits and the extraterritorial area of the city as now or may be hereafter established.

Thoroughfare plan means the thoroughfare plan as adopted by the city council and as may from time to time be amended.

(Ord. of 5-18-92, §§ 1.4, 1.10; Ord. of 11-18-02(2), § 1)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 74-2. Purpose of chapter.

The purpose of this chapter is to establish procedures and standards for the development and subdivision of real property within the corporate limits and extraterritorial jurisdiction of the city, in an effort to, among other things:

- (1) Promote orderly growth and development consistent with the goals, objectives and policies of the land development plan;
 - (2) Provide for suitable residential and nonresidential subdivisions with adequate streets and utilities and appropriate building sites;
 - (3) Provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding;
 - (4) Provide for the coordination of streets within subdivisions with existing or planned streets and with other public facilities;
 - (5) Provide for the dedication or reservation of rights-of-way or easements for street and utility purposes;
 - (6) Provide for the dedication or reservation of adequate spaces for public lands and buildings;
 - (7) Protect and enhance environmental quality;
 - (8) Provide for the dedication or provision of facilities for adequate storm drainage;
 - (9) Provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries.
- (Ord. of 5-18-92, § 1.4)

Sec. 74-3. Statutory authority.

This chapter is adopted under the authority and provisions of G.S. 160A-371 et seq.
(Ord. of 5-18-92, § 1.2)

Sec. 74-4. Jurisdiction of chapter.

This chapter shall govern all subdivisions of land within the territorial jurisdiction of the city as now or hereafter established.

(Ord. of 5-18-92, § 1.3)

Sec. 74-5. Interpretation of chapter; conflicting provisions.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this chapter imposes a greater restriction or imposes higher standards than those required by other ordinances, rules or regulations or by easements, covenants or agreements, the provisions of this chapter shall govern so that, in all cases, the most restrictive limitation or requirement, or the requirement causing the highest standard of improvement, shall govern. However, in any case where the zoning ordinance specifically permits a development type not otherwise provided for in this ordinance, the zoning ordinance shall prevail.
(Ord. of 5-18-92, § 6.1)

Sec. 74-6. Repeal and reenactment of existing subdivision ordinance.

The rewriting of this chapter in part carries forth by reenactment some of the provisions of the existing subdivision ordinance of the city, and it is not intended to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the subdivision ordinance which are not reenacted in this chapter are hereby repealed. All suits at law or in equity and all prosecutions resulting from the violation of the subdivision ordinance in effect, which are now pending in any of the courts of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this chapter, but shall be prosecuted to their finality the same as if this chapter had not been adopted; and any and all violations of the existing ordinance, prosecutions for which have not been instituted, may be filed and prosecuted; and nothing in this chapter shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending or which may have been instituted or prosecuted.
(Ord. of 5-18-92, § 6.2)

Sec. 74-7. Effect of chapter on outstanding preliminary plats.

(a) Nothing contained in this chapter shall require any change in any preliminary plat which has received approval by the city prior to the time of the adoption of the ordinance from which this chapter is derived, provided that such preliminary plat has been prosecuted to completion and a final plat recorded in the office of the register of deeds within 18 months after the time of the adoption of the ordinance from which this chapter is derived. If the final plat of all or part of the area shown on any previously approved preliminary plat is not recorded in the office of the register of deeds within 18 months after the time of the adoption of the ordinance from which this chapter is derived, such nonrecorded area shall be subject to all the provisions of this chapter.

(b) After the effective date of the ordinance from which this chapter is derived, any final plat to be recorded based upon any outstanding preliminary plat shall follow the final plat approval procedures of this chapter, including the guarantee of installation provisions.

(c) In addition, nothing contained in this chapter shall require any change in any final plat which has received approval by the city prior to the time of the adoption of the ordinance from which this chapter is derived, provided that such final plat is prosecuted to completion in accordance with the terms of approval. In the event of default or the failure of the subdivider to perform in accordance with the conditions as approved, the city may, at its option, take lawful action pursuant to the subdivision ordinance in existence at the time of the final plat approval or this chapter.

(Ord. of 5-18-92, § 6.3)

Sec. 74-8. Effect of chapter on new territory added to jurisdiction.

At any time when new territory is added to the jurisdiction of this chapter, such new territory shall immediately become subject to the provisions of this chapter. Any proposed subdivision or any subdivision in progress within such new territory shall proceed only in accordance with the following:

(1) Any subdivision for which a final plat has been recorded in the register of deeds office pursuant to the approval of another local government, but which is subject to an outstanding guarantee to such local government for the installation of subdivision improvements, shall remain under the subdivision control of such local government until such time as such subdivision shall have been prosecuted to completion; provided, however, the city may not accept the dedication of any street or street improvements unless such street and street improvements meet the standards of this chapter and the city's policy for acceptance of streets for use and maintenance by the city.

(2) All other subdivisions shall meet all of the requirements of this chapter, and it shall be the responsibility of the subdivider of any proposed subdivision or subdivision in progress to receive approval as provided for in this chapter before proceeding with any development. The subdivider shall arrange a conference with the subdivision administrator, who shall determine the level and type of approval required and provide the subdivider with an approval track for the particular case.

(Ord. of 5-18-92, § 6.4)

Sec. 74-9. Opening or maintenance by city of facilities outside city limits.

Acceptance of dedication of lands or facilities located within the jurisdiction of this chapter but outside the city limits shall not place on the city any duty to open, operate, repair or maintain any street, utility line or other land or facility and the city shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.

(Ord. of 5-18-92, § 6.8)

Sec. 74-10. Compliance with chapter.

From and after the adoption of this chapter, no real property lying within the jurisdiction of this chapter shall be subdivided except in conformance with all applicable provisions of this chapter. In addition, after the effective date of the ordinance from which this chapter is derived, no plat for the subdivision of land within the jurisdiction of this chapter shall be filed, accepted for recording or recorded, nor shall the clerk of superior court order the recording of a plat, until it has been submitted and approved in accordance with the provisions of this chapter.

(Ord. of 5-18-92, § 1.6)

Sec. 74-11. Violation of chapter; penalty.

(a) After the effective date of the ordinance from which this chapter is derived, no subdivision plat of land within the jurisdiction of this chapter shall be filed or recorded until it shall have been submitted to and approved by the appropriate approval authority.

(b) The register of deeds shall not file or record a plat of subdivision of land subject to this chapter that has not been approved in accordance with this chapter, nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with the provisions of this chapter.

(c) After the effective date of the ordinance from which this chapter is derived, any person who, being the owner or agent of the owner of any land within the jurisdiction of this chapter, thereafter subdivides his land in violation of this chapter 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 chapter and recorded in the office of the register of deeds

shall be guilty of a misdemeanor punishable as provided in section 1-7. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from such penalty.

(d) Any violation of the terms of this chapter shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in section 1-7.

(Ord. of 5-18-92, § 6.9)

Sec. 74-12. Modification of standards.

The board of planning and adjustment may modify the requirements of this chapter where, because of the size or shape of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this chapter would cause an unusual and unnecessary hardship on the subdivider. In granting modifications, the board may require such conditions as will secure, insofar as practicable, the objectives or requirements modified. In no case, however, shall the board, acting pursuant to this section, modify the terms or requirements of the zoning ordinance, or chapter 42, article II, pertaining to flood damage prevention. Violation of any condition shall constitute a violation of this chapter. A modification granted as part of a plan approval shall have the same duration as the plan approval.

(Ord. of 5-18-92, § 6.5)

Sec. 74-13. Amendment of chapter.

The city council may from time to time amend the terms of this chapter after a public hearing has been held and notice given as required by G.S. 160A-364. However, any proposed amendment shall be submitted to the board of planning and adjustment for review and recommendation prior to city council action. The board of planning and adjustment shall have 45 days from the date such amendment is first submitted for review to the board to make its recommendation. If the board of planning and adjustment fails to make its recommendation within the specified time, it shall be deemed to have recommended in favor of the amendment.

(Ord. of 5-18-92, § 6.6)

Sec. 74-14. Subdivision administrator.

This chapter shall be administered by the subdivision administrator, who shall be appointed by the city manager. The subdivision administrator shall administer and enforce the provisions of this chapter and have such other specific powers and duties as are set forth in this chapter. The subdivision administrator may designate agents to act on his behalf.

(Ord. of 5-18-92, § 1.7)

Sec. 74-15. Coordination of plan review; standards for submittals; technical review committee.

(a) All plans, plats and supporting documents to be submitted in connection with the procedures set forth in this chapter shall be submitted first to the subdivision administrator. The subdivision administrator shall develop and maintain a set of standards to serve as a basis for the type, size, graphic media, number of copies, information to be shown and other such matters in regard to the maps and documents required to be submitted in the administration of this chapter. Such standards may also include standards for street, storm drainage and utility construction plans. A listing of such standards may be appended to the ordinance from which this chapter is derived and compliance with such standards is presumed to be necessary to satisfy the requirements of this chapter. However, it is recognized that each development is unique, and, therefore, the subdivision administrator may exercise flexible judgment in requiring less or more information and submittals according to the needs of the particular case.

(b) To assist the subdivision administrator in the coordination of subdivision plan and plat review and to provide for review and approval of construction plans and other such matters as are required in the administration of the subdivision process, the city manager shall appoint a technical review committee (TRC) consisting of representatives of the various city departments. The membership and operating procedures of the technical review committee shall be as determined by the city manager. The subdivision administrator shall serve as chairman of the technical review committee and shall act in all instances in regard to the administration and enforcement of this chapter.
(Ord. of 5-18-92, § 1.8)

Sec. 74-16. Administrative fees.

The city council shall set a fee schedule for the administration of this chapter. The subdivision administrator shall be responsible for collecting such fees. All fees relating to recording of documents shall be borne directly by the subdivider.
(Ord. of 5-18-92, § 1.9)

Secs. 74-17--74-40. Reserved.

Sec. 74-41. Approval levels.

(a) The subdivision review procedure shall consist of three levels of required approval:
(1) Sketch plan;
(2) Preliminary plan, including required construction plans; and
(3) Final plat.
(b) Sketch plan approval shall be a prerequisite to preliminary plan approval and preliminary plan approval shall be a prerequisite to final plat approval; provided, however, the subdivision administrator may modify the required number and sequence of approval levels according to the needs of the particular case.
(Ord. of 5-18-92, § 2.1)

Sec. 74-42. Subdivision types.

(a) The subdivision review procedure shall consist of two types of subdivisions:
(1) Major subdivisions; and
(2) Minor subdivisions.
(b) Major subdivisions are those subdivisions which involve the dedication of new street segments (but not simply widening), those subdivisions where special developments are involved as permitted by the zoning ordinance, and those subdivisions that involve dedication or reservation of land for open space, school sites and other public purposes. All other subdivisions shall be considered to be minor subdivisions.
(Ord. of 5-18-92, § 2.2)

Sec. 74-43. Approval authority.

The approval authority for the levels and types of subdivision approval shall be as follows:
(1) Sketch plans, major and minor subdivisions: Subdivision administrator.
(2) Preliminary plans (tentative final):
a. Major subdivisions: Board of planning and adjustment.
b. Minor subdivisions: Subdivision administrator.
(3) Final plats, major and minor subdivisions: Subdivision administrator.
(Ord. of 5-18-92, § 2.3)

Sec. 74-44. Plan and plat requirements.

(a) Plans and plats and supporting documents and material for the levels of subdivision approval shall be submitted in the form as provided for in the subdivision administrator's standards for such submittals.

(b) Although not required, it is recommended that the subdivider hold a presubmittal conference with the subdivision administrator in order to determine the subdivision approval track and supporting document requirements for the particular case.

(Ord. of 5-18-92, § 2.4)

Sec. 74-45. Plan and plat submittal and review periods.

Plans and plats, in the proper form, may be submitted to the subdivision administrator for review and consideration of approval, or submission to the board of planning and adjustment, according to the following schedule. The subdivision administrator may refuse to accept the submission of any plans, plats or supporting documents which in his opinion do not meet the standards for such submittals as contained in the subdivision administrator's mapping standards and this chapter.

(1) *Sketch plans.* Sketch plans may be submitted at any time. The subdivision administrator shall either approve, approve conditionally or deny the approval of the sketch plan within 30 days of receipt. Approval, conditional approval or denial shall be in written or drawn form and dated.

(2) *Preliminary plans for minor subdivisions.* Preliminary plans for minor subdivisions may be submitted at any time. The subdivision administrator shall either approve, approve conditionally or deny the approval of the preliminary plans within 30 days of receipt. Approval, conditional approval or denial shall be in written or drawn form and dated.

(3) *Preliminary plans for major subdivisions.* Preliminary plans for major subdivisions may be submitted at any time; provided, however, in order to be eligible to be placed on an agenda of a board of planning and adjustment meeting, such submittal shall have been filed with the subdivision administrator at least 30 days prior to that meeting. The board of planning and adjustment shall approve, approve with conditions, or deny the approval of the preliminary plan within 30 days of its first consideration. Approval, conditional approval or denial shall be in written or drawn form and dated.

(4) *Final plats.* Final plats may be submitted at any time. The subdivision administrator shall either approve, approve conditionally or deny the approval of the final plats within 30 days of receipt. Approval, conditional approval or denial shall be in written or drawn form and dated.

(Ord. of 5-18-92, § 2.5)

Sec. 74-46. Appeals.

An aggrieved person may appeal any decision of the subdivision administrator to the board of planning and adjustment and may appeal any decision of the board of planning and adjustment to the city council by filing written notice with the subdivision administrator within 30 days of the action by the subdivision administrator or board of planning and adjustment, or their failure to act if either failed to act within the allotted time. The board of planning and adjustment or city council, as the case may be, acting on appeal, shall have the same authority as the approval authority from which the appeal is made in regard to the subject level of subdivision review and approval.

(Ord. of 5-18-92, § 2.6)

Sec. 74-47. Effect of plan or plat approval.

(a) *Sketch plan.* Sketch plan approval shall entitle the subdivider to prepare for submittal of the preliminary plan. The subdivision administrator may refuse to accept a preliminary plan based upon a sketch plan approval that was granted more than six months prior to the preliminary plan submittal.

(b) *Preliminary plan.*

(1) Preliminary plan approval shall constitute tentative approval of the final plat if the final plat is in substantive agreement with the preliminary plan, and shall entitle the subdivider to proceed to prepare street, storm drainage and utility construction plans, if applicable, or to proceed to prepare the final plat, as the subdivider may be directed by the subdivision administrator. Approval of construction plans shall entitle the subdivider to proceed with construction of subdivision improvements for the preliminary plan, and no construction, including grading, shall proceed without such approval. In addition, the subdivision administrator may require, as a prerequisite to preliminary plan approval, the submittal for review and approval of all or part of subdivision construction plans in order to ascertain the feasibility of all or part of a proposed subdivision.

(2) If a final plat of all or part of the area shown on a preliminary plan is not recorded in the office of the register of deeds within 18 months of approval of the preliminary plan, or if there is a lapse of more than 18 months between the recording of sections, the subdivision administrator may require the resubmittal of the unrecorded portion as a sketch plan or preliminary plan as he may determine.

(c) *Final plat.*

(1) Final plat approval shall entitle the subdivider to record the final plat. A final plat must be recorded in the office of the register of deeds within 30 days of its approval by the subdivision administrator. No final plat shall be regarded as finally approved until such plat shall be recorded.

(2) No final plat shall be approved for recording until all required subdivision improvements have been installed and approved or until the subdivider supplies an appropriate guarantee of installation as provided for in article IV, division 2, of this chapter.

(3) In addition, no final plat shall be approved for recording unless such plat is in substantial agreement, as determined by the subdivision administrator, with the approved preliminary plan. Final plats not in substantial agreement shall be resubmitted as preliminary plans as provided for in this chapter.

(4) After the final plat is recorded, lots as shown on the plat may be sold or otherwise conveyed by reference to the plat. Building permits may be authorized to be issued and certificates of occupancy issued provided all improvements have been installed and inspected and approved by the subdivision administrator.

(5) Approval and recording of the final plat shall constitute dedication by the subdivider of the right-of-way of each public street and utility and drainage easement shown on such plat. Such dedication, however, does not constitute acceptance by the city of such right-of-way, nor does it constitute acceptance for maintenance or for other purposes of the improvements within such rights-of-way and easements such as pavements, sidewalk, drainage facilities and other utility lines. Such right-of-way and improvements may be accepted by the city council by resolution upon completion by the subdivider and inspection by the appropriate city staff. In addition, land designated on an approved and recorded final plat as public open space and for similar public purposes shall be considered to be offered for dedication until the city has by resolution accepted such dedication and such land is deeded to the city. Until such dedication has been accepted, land so offered may be used for open space purposes by its owner or his designees and the city shall be held harmless of any liability involving such land. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use without the express approval of the city council.

(Ord. of 5-18-92, § 2.7)

Secs. 74-48--74-70. Reserved.

Sec. 74-71. General standards.

(a) All proposed subdivisions subject to the regulation of this chapter shall comply with this article and shall be so planned as to facilitate the most advantageous development of the entire community and shall bear a reasonable relationship to the land development plan and thoroughfare plan of the city.

(b) The general design of the subdivision shall take advantage of and be adjusted to the contour of the land so as to produce usable building sites and streets of reasonable gradients.

(c) G.S. 136-102.6, Compliance of Subdivision Streets with Minimum Standards of the Board of Transportation Required of Developers, requires that new public streets outside the city limits and changes to existing streets inside the city limits that are the responsibility of the state department of transportation be in accordance with the minimum right-of-way and construction standards established by the board of transportation for acceptance on the state highway system. It is the intent of the standards and requirements set forth in this article to complement and not to conflict with the requirements of the state department of transportation as stated in G.S. 136-102.6. In all cases, the most restrictive limitation or requirement or the requirement causing the highest standard of improvement shall govern.

(Ord. of 5-18-92, § 3.1)

Sec. 74-72. Duplication of existing subdivision or street names.

(a) In no case shall the name of a proposed subdivision duplicate or be phonetically similar to an existing subdivision name within the jurisdiction unless the proposed subdivision lies adjacent to or is in close proximity to the existing subdivision.

(b) Proposed streets which are obviously in alignment with others already existing or proposed and named shall bear the name of the already existing or proposed street. In no case shall the names of proposed streets duplicate or be phonetically similar to other existing street names in the jurisdiction, irrespective of the addition of a prefix, suffix or word such as "street," "avenue," "place," "drive" or "court."

(Ord. of 5-18-92, § 3.2)

Sec. 74-73. Design of streets.

The proposed street system shall extend existing and projected streets at not less than the required minimum width and shall be in conformance with the following criteria:

(1) *Conformance with thoroughfare plan.* The location and design of streets shall be in conformance with the thoroughfare plan. Where conditions warrant, right-of-way width and pavement width in excess of the minimum street standards may be required. In any case where any part of a subdivision lies within the corridor of a thoroughfare shown on a roadway corridor official map adopted pursuant to G.S. 136-44.50 et seq., no subdivision approval shall be granted with respect to the property in the roadway corridor; provided, however, no subdivision plat approval shall be delayed by the provisions of the roadway corridor official map procedure for more than three years from the date of its original submittal.

(2) *Street classification.* The final determination of the classification of streets in a proposed subdivision shall be made by the board of planning and adjustment. All streets shall be planned, designed and dedicated as public streets.

(3) *Conformance with adjoining street system.* The planned street layout of a proposed subdivision shall be compatible with existing or proposed streets and their classifications on adjoining or nearby tracts.

(4) *Access to adjoining property.* Where in the opinion of the board of planning and adjustment it is desirable to provide for street access to adjoining property, proposed streets shall be extended to the boundary of such property.

(5) *Reserve strips, half streets and private streets.* Reserve strips adjoining street rights-of-way for the purpose of preventing access to or from adjacent property, except those required to prevent access to major thoroughfares, and half streets shall not be permitted under any condition. Private streets shall be permitted only in specific developments as permitted by the zoning ordinance.

(6) *Intersections.* Streets shall be designed so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than 75 degrees. Streets crossing natural areas or streams shall cross at or as near to right angles as possible within limits of topographic conditions. Offset intersections are to be avoided.

(7) *Culs-de-sac.*

a. Permanent dead-end streets should not exceed 1,200 feet in length unless necessitated by topography or property accessibility and approved by the board of planning and adjustment. Measurement shall be from the point where the centerline of the dead-end street intersects with the centerline of a through street to the center of the turnaround of the cul-de-sac. Culs-de-sac shall be provided with a turnaround meeting city standards.

b. Where one cul-de-sac extends from another cul-de-sac, the end of each cul-de-sac shall be no more than 1,200 feet from a through street as measured by the centerline of the streets.

c. Culs-de-sac should not be used to avoid connection with an existing street, to avoid the extension of a thoroughfare or collector street, or to avoid connection to adjoining property.

(8) *Marginal access streets.* Where a tract of land to be subdivided adjoins a thoroughfare, the subdivider may be required to provide a marginal access street parallel to the thoroughfare or provide for through lots on a local street for the lots to be developed adjacent to the thoroughfare. Where through lots are established, such lots may be prevented from having direct access to the thoroughfare by driveways.

(9) *Utilities, streetlights and storm drainage within streets.* Utilities, streetlights, sidewalks, storm drainage and other such facilities to be placed within the street right-of-way shall be placed in accordance with city standards for construction in public rights-of-way. All utilities shall be placed underground.

(10) *Pavement, curb and gutter.* Pavement, curb and gutter to be placed in public streets shall be placed in accordance with the city standards for construction in public rights-of-way.

(11) *Additional standards.* All street design and construction within public street rights-of-way shall be in accordance with the city standards for street design and construction in public rights-of-way.

(Ord. of 5-18-92, § 3.3)

(a) Land disturbing activities must comply with all local, state, and federal laws. With respect to erosion and sedimentation particularly, all disturbed areas must be satisfactorily stabilized to restrain erosion on public rights-of-way and on water line, sanitary sewer line and storm sewer easements prior to final plat approval. A guarantee may be posted by the subdivider in lieu of actual stabilization prior to final plat approval in accordance with section 74-131.

(Ord. of 7-21-08)

(12) Exemption from Curb and Gutter Requirements. Short extensions of existing ribbon paved streets may be made without curb and gutter for a length individually not-to-exceed one thousand (1,000) feet. Extensions of existing ribbon paved streets across a through street or from some other stop condition will be curb and guttered.

(Ord. of 7-21-08)

Sec. 74-74. Water and sewer facilities.

All water and sewer facilities extending or connecting to the city systems shall be designed and constructed in accordance with the standards of the city. All public systems shall be approved for construction by the appropriate agency of the state.

(Ord. of 5-18-92, § 3.3)

Sec. 74-75. Lots.

(a) The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision, for the type development contemplated, and in consideration of the method of providing water and sewer facilities to the lots.

(b) It is the intent of this chapter that lot size, shape and orientation shall be controlled by the provisions of the city zoning ordinance and the types of development permitted by that ordinance. Every lot shall have sufficient area, dimensions and shape to permit a principal building to be constructed thereon in conformance with the applicable provisions of the zoning ordinance. Such buildable area shall lie at or be elevated to least two feet above the 100-year flood elevation as provided for in chapter 42, article II. Lots shall be designed so as to provide positive drainage away from building sites and individual lots shall be coordinated with the general storm drainage plan for the subdivision. Lot boundaries shall be made to coincide with natural and preexisting manmade drainageways to the extent practicable, to avoid the creation of lot that can be built upon only by altering such drainageways. Lotting arrangements shall be made with due consideration given to not disturbing wetlands, rock outcrops and other such natural features. Side lines of lots should be at or near right angles or radial to street lines. All lots must have public street access and frontage meeting the requirements set forth in the zoning ordinance. Parcels created through the subdivision process which are not intended for building purposes shall be so designated and perpetually bound as "not buildable" unless subsequently released through the subdivision process.

(Ord. of 5-18-92, § 3.4)

Sec. 74-76. Storm drainage facilities.

Storm drainage systems and facilities shall be designed in accordance with the requirements of section 74-104.

(Ord. of 5-18-92, § 3.5)

Sec. 74-77. Easements.

To provide for electric, telephone and gas service, community antenna television distribution systems, water and sewer lines and other such facilities within the subdivision, appropriate utility easements not to exceed 30 feet shall be provided on the final plat. The locations of such easements shall be as determined by the subdivision administrator and based upon the approved construction plans. All utilities shall be placed underground. In addition, storm drainage easements may be required in order to carry out the storm drainage improvements as required in section 74-104.

(Ord. of 5-18-92, § 3.6)

Sec. 74-78. Phasing.

Subdivisions may be designated to be constructed and platted in phases; provided, however, the subdivision administrator may not approve a phasing plan when in his opinion such phasing will not provide for adequate public facilities to support any such phase independent of the overall subdivision plan. In approving phases, the subdivision administrator may require that additional streets, water and sewer facilities or other required public facilities

be constructed as part of the phase in order to ensure that sufficient public facilities will be in place to support such phase independent of any future subdivision development.
(Ord. of 5-18-92, § 3.7)

Sec. 74-79. Entrance markers and landscaped medians.

The board of planning and adjustment may permit subdivision entrance markers and landscaped medians within the public right-of-way on a case-by-case basis subject to the following conditions and any additional conditions the board may find to be appropriate in the individual circumstance:

- (1) The city will not be responsible for maintenance.
- (2) An entity responsible for maintenance shall be created.
- (3) No such improvements shall interfere with sight distance or with normal maintenance requirements.
- (4) In the event of loss, damage or lack of maintenance, the city may remove all improvements and maintain the area in accordance with city standards.
- (5) The median or island and its associated travelway shall be designed to accommodate the anticipated traffic for the type street section in accordance with the standards of AASHTO. Medians in culs-de-sac shall be designed to accommodate all design vehicles as defined by AASHTO.

Outside the city limits such markers and medians shall be subject to the approval of the state department of transportation.

(Ord. of 5-18-92, § 3.8)

Sec. 74-80. Deleted

(Ord. of 6-18-07)

Secs. 74-81--74-100. Reserved.

Sec. 74-101. Responsibility for installation; approval of plans.

The subdivider shall install the improvements described in this article, and such improvements shall be installed at no cost to the city, except as set forth in this chapter and except as may be otherwise provided for in the city utilities and public works extension policies. No improvements shall be installed until construction plans have been approved by the city and such other agency as may be appropriate or as required by law. As provided for in section 74-47(c), a final plat may be recorded prior to installation of any or all required improvements provided that a financial guarantee in a form acceptable to the city is given by the subdivider as provided for in section 74-131.

(Ord. of 5-18-92, § 4.1)

Sec. 74-102. Compliance with state street construction standards.

G.S. 136-102.6, Compliance of Subdivision Streets with Minimum Standards of the Board of Transportation Required of Developers, requires that new public streets outside the city limits and changes to existing streets inside the city limits that are the responsibility of the state department of transportation be in accordance with the minimum right-of-way and construction standards established by the board of transportation for acceptance on the state highway system. It is the intent of the standards and requirements set forth in this article to complement and not to conflict with the requirements of the state department of transportation as stated in G.S. 136-102.6. In all cases, the most restrictive limitation or requirement or the requirement causing the highest standard of improvement shall govern.

(Ord. of 5-18-92, § 4.1)

Sec. 74-103. Street improvements generally.

(a) All proposed streets shall be graded to the full width of the right-of-way and improved with a pavement width and standard curb and gutter section as required for the particular classification of street. All grading, pavement, and curb and gutter shall be designed and installed in accordance with city standards and the approved construction plan.

(b) In addition, street paving and curb and gutter, in accordance with the conditions set out in subsection (a) of this section, shall be installed in the following situations:

(1) Any existing street segment that has not been accepted for maintenance by either the city or the state department of transportation, and that is to serve as the required frontage for one or more lots created pursuant to this chapter, shall be improved and dedicated to the public, as provided for in subsection (a) of this section, in such a way that the street segment meets the standards of this chapter for the particular classification of street, including right-of-way width. Such street segment shall be directly connected to the existing public street system by way of at least one public street accepted for maintenance by either the city or the state department of transportation. No subdivision shall be permitted on any street that is an "island" not connected directly to the public street system.

(2) Subdivisions that adjoin existing streets maintained by either the city or the state department of transportation shall dedicate additional street right-of-way necessary to meet the minimum width requirements for the type of classification of the adjoining street. When any part of the subdivision is on both sides of an existing street, the entire minimum right-of-way shall be provided. When the subdivision is located on only one side of an existing street, one-half of the minimum right-of-way, measured from the centerline of the existing street, shall be provided. The improvement requirements of this article shall not apply to the subdivision of lots fronting on established streets that have already been accepted for maintenance by the city or the state department of transportation.

(3) The board of planning and adjustment may require pavement and widening or pavement and widening and curb and gutter for turning lanes along any existing or proposed street that forms a significant entrance to a proposed subdivision, where in the opinion of the board such improvements are necessary in order to provide for safe vehicular movement into and out of the proposed subdivision.

(4) In cases where a street is stubbed into adjoining property for future extension and such street serves as the frontage for one or more lots which are not corner lots, the board of planning and adjustment may require the pavement of a temporary turnaround in a form similar to a cul-de-sac on such street where in its opinion such turnaround is necessary for the public convenience, safety and service. Temporary easements for such purposes may be required.

(Ord. of 5-18-92, § 4.1; Ord. of 10-26-98(1), § 1)

Sec. 74-104. Storm drainage improvements.

(a) A comprehensive storm drainage system shall be planned and implemented for each subdivision in accordance with the general standards and requirements of this section. The general storm drainage plan shall be shown on the preliminary plan. Detail plans, where required, shall be submitted as part of the construction plan requirement. Where easements are required, they shall be noted on the final plat.

(b) Storm drainage plans shall be considered on an individual basis depending upon the situation within a given subdivision. The requirements of chapter 42, article II, pertaining to flood damage prevention, shall apply to storm drainage design where applicable. Generally the following standards shall apply:

(1) *Types of drainageways requiring treatment.* Types of drainageways requiring treatment are as follows:

- a. Those draining one acre of land or more.
- b. Those carrying stormwater runoff from public streets, either existing or proposed.
- c. Those carrying stormwater runoff from large impervious surfaces other than streets.

(2) *Design storms.* Design storms shall be as follows:

- a. Open drainage channel: 25-year storm.
- b. Enclosed systems: Ten-year storm for collectors and 25-year storm for streets crossing conduits and immediate downstream areas.
- c. One-hundred-year storm where required by chapter 42, article II.

(3) *Types of treatment.* Types of treatment are as follows:

- a. Enclosed subsurface drains.
- b. Open, unimproved channel.
- c. Open, improved channel.
- d. Open channel with floodplain and open space dedicated to the city. This option shall not be available except in cases where the city council agrees to accept such dedication prior to final plat approval.

(4) *Easements.*

- a. Maintenance easements may be required depending upon the size of the drainageway and the maintenance responsibility as determined by the technical review committee.
- b. In any case where maintenance is to be the responsibility of the property owner, the city may require a right to enter for maintenance purposes where the city council determines that the public health, safety or general welfare constitutes a public necessity for such maintenance.

(Ord. of 5-18-92, § 4.2)

Sec. 74-105. Drinking water improvements.

(a) Any subdivision which has city system lines available shall be required to extend the public water system throughout the subdivision to each lot located therein. All required water line extensions shall include appropriate valves, hydrants, taps and service to the property line of each lot as required by city standards.

(b) For subdivisions within or partially within the city, the term "available" shall mean that there is an existing water line of adequate size and water flow and pressure either crossing the subdivision property or immediately available from an adjacent public right-of-way or the city indicates its commitment to extend such a water line to the property line of the subdivision at no cost to the subdivider.

(c) For subdivisions located entirely outside the boundaries of the city, but within the jurisdiction of this chapter, the term "available" shall mean that there is an existing water line of adequate size and water flow and pressure within 400 feet of the outside boundary line of the subdivision or the city indicates its commitment to extend such a water line to within 400 feet of the property line of the subdivision at no cost to the subdivider and there are no legal or topographic problems which prevent the subdivider from connecting onto and extending the existing system to the subdivision. If there are phases to the subdivision or the subdivision is a part of a larger tract of land owned by or under the control of the subdivider, then, and in that event, public water service shall be deemed to be available if an existing or proposed public water system line extends or will be extended to within 400 feet of the larger tract of land.

(d) If the city elects not to extend a water line of sufficient size, flow and pressure to the subdivision (if in the city), or within 400 feet of the subdivision boundary (if outside the city), because of topographic features, legal obstacles or financial reasons, then the subdivider shall not be required to extend water lines to each lot or provide water service to the subdivision.

(e) In any case where a public drinking water system or supply system intended to serve more than two lots is proposed to be installed in a subdivision as part of the plan approval process,

such system shall be considered to be a required improvement within the context of this article regardless of whether such a system is an extension of the city system or not, and such system shall be required to be installed by the subdivider. This requirement includes both facilities within the subdivision and off-site facilities which are essential to providing the service to the property.

(Ord. of 5-18-92, § 4.3)

Sec. 74-106. Sanitary sewerage improvements.

(a) Any subdivision which has city sewer system lines available shall be required to extend the public sewer system throughout the subdivision to each lot located therein. All required sewer line extensions shall include appropriate manholes, lift stations, pumps, cleanouts, taps and service to the property line of each lot as required by city standards.

(b) For subdivisions within or partially within the city, the term "available" shall mean that there is an existing sewer line of adequate size and flow either crossing the subdivision property or immediately available from an adjacent public right-of-way or the city indicates its commitment to extend such a sewer line to the property line of the subdivision at no cost to the subdivider.

(c) For subdivisions located entirely outside the boundaries of the city, but within the jurisdiction of this chapter, the term "available" shall mean that there is an existing sewer line of adequate size and flow within 400 feet of the outside boundary line of the subdivision or the city indicates its commitment to extend such a sewer line to within 400 feet of the property line of the subdivision at no cost to the subdivider and there are no legal or topographic problems which prevent the subdivider from connecting onto and extending the existing system to the subdivision. If there are phases to the subdivision or the subdivision is a part of a larger tract of land owned or under the control of the subdivider, then, and in that event, public sewer service shall be deemed to be available if an existing or proposed public sewer system line extends or will be extended to within 400 feet of the larger tract of land.

(d) If the city elects not to extend a sewer line of sufficient size and flow to the subdivision (if in the city), or within 400 feet of the subdivision boundary (if outside the city), because of topographic features, legal obstacles or financial reasons, then the subdivider shall not be required to extend sewer lines to each lot or provide sewer service to the subdivision.

(e) In any case where a sanitary sewerage system or treatment system intended to serve more than two lots is proposed to be installed in a subdivision as part of the plan approval process, such system shall be considered to be a required improvement within the context of this article regardless of whether such system is an extension of the city system or not, and such system shall be installed by the subdivider. This requirement includes both facilities within the subdivision and off-site facilities which are essential to providing the service to the property.

(Ord. of 5-18-92, § 4.4)

Sec. 74-107. Oversized water and sewer facilities.

The city may, in order to serve future development, require the subdivider to install certain oversized water and sewer improvements or to increase such improvements to a size or extent beyond that necessary for the needs created by the subdivision. In such cases, the city shall enter into an agreement to reimburse the subdivider for the oversizing or extension based upon rates as agreed to by the city.

(Ord. of 5-18-92, § 5.5)

Sec. 74-108. Other utilities.

Electric power, telephone, cable television, natural gas lines and other utilities which are proposed to be installed in the subdivision, and which are required to be shown on construction plans, are not required improvements within the context of this article. Since the installation of

such improvements is by agreement between the subdivider and the appropriate utility company, the execution of such agreements between the subdivider and the utility companies are deemed to satisfy the construction and installation requirements of this chapter as long as they are installed in the public right-of-way or easement in accordance with city standards for such installations.

(Ord. of 5-18-92, § 4.4)

Sec. 74-109. Sidewalk improvements.

The subdivider shall install a sidewalk within the street right-of-way, constructed in accordance with city standards, in the following situations:

(1) In any case where a subdivision adjoins and has legal access to, or will have legal access to, an existing or proposed major or minor thoroughfare as shown on the thoroughfare plan, the subdivider shall construct a sidewalk along the adjoining frontage of such thoroughfare.

(2) In any case where a subdivision adjoins a street, or will adjoin an extension of a street, which has sidewalk on one or both sides within 500 feet of the boundary of the land to be subdivided, the subdivider shall construct a sidewalk along the adjoining frontage of such street in such a way that the existing sidewalk pattern will be extended.

(3) In any case where a residential subdivision creates or proposes to create as part of the subdivision, whether immediate or future, a community facility, public or private, such as a school, day care center, recreation center, swimming pool or similar facility, or a commercial or industrial center of any type, the subdivider shall construct a system of sidewalks leading to such community facility or commercial or industrial center in an amount equal to one linear foot of sidewalk for each two feet of length of public street within the subdivision.

(Ord. of 5-18-92, § 4.5)

Sec. 74-110. Street name signs.

In subdivisions located outside the city limits, the subdivider shall install street name signs at appropriate locations in accordance with the standards and specifications of the county. Inside the city limits, the city shall install standard street name signs at appropriate locations in accordance with the city's standards and specifications. The subdivider shall be responsible for the cost of such sign installation in accordance with the city's cost schedule.

(Ord. of 5-18-92, § 4.6)

Sec. 74-111. Traffic control signs and markings.

In subdivisions outside the city limits, the subdivider shall install traffic control signs and pavement markings in accordance with the standards and specifications of the state department of transportation. Inside the city limits, the city will install traffic control signs and pavement markings in accordance with the city's standards and specifications. The subdivider shall be responsible for such signs and markings in accordance with the city's cost schedule.

(Ord. of 5-18-92, § 4.7)

Sec. 74-112. Street lights.

Inside the city limits, the subdivider shall install street lighting at appropriate locations in the subdivision in accordance with city standards. Where installation is within the street right-of-way, such installation shall be in accordance with the city standards for construction in the right-of-way. Outside the city limits, the subdivider shall install the wiring for future street light installation at appropriate locations in the subdivision in accordance with city standards. All wiring shall be underground. A one-time fee as determined by the city and based primarily on power company rates will be charged for underground wiring installation for street lights. The

one-time fee for underground wiring installation for street lights must be received by the city prior to final plat approval.

(Ord. of 5-18-92, § 4.8; Ord. of 6-19-95(1))

Sec. 74-113. Monuments.

The subdivider shall install such monuments and other property markers as are required by G.S. 39-32.1 et seq., and as are specified by the standards of practice for land surveying in the state.

(Ord. of 5-18-92, § 4.9)

Sec. 74-114. Warranty against defects.

(a) Prior to the approval of the final plat or acceptance by the city of any improvements in any subdivision, the subdivider shall furnish to the city a written warranty against defects which shall guarantee the material and workmanship for a period of not less than two years from the date of such acceptance. Such warranty shall be accompanied by a financial guarantee payable to the city equal to at least ten percent of the cost of the installation of such improvements as determined by the subdivision administrator. Such financial guarantee shall be in the form of financial guarantee as provided for in section 74-131(1) or (2).

(b) Upon successful performance of the improvements, as determined by the subdivision administrator, for the two-year period, the financial guarantee shall be returned to the subdivider. Upon the failure of an improvement to perform within the generally accepted standards for the type improvement as determined by the subdivision administrator, the subdivider shall be notified and given a reasonable period of time to correct the defects. Should the subdivider fail to act, fail to act in a timely manner, or otherwise fail to correct the defects, the subdivision administrator shall find the subdivider in default and proceed in the same manner as provided for in section 74-133.

(Ord. of 5-18-92, § 4.10; Ord. of 7-21-97(1), pt. 1)

Secs. 74-115--74-130. Reserved.

DIVISION 2. GUARANTEES

Sec. 74-131. Generally.

In lieu of requiring the completion, installation and inspection of all required improvements as described in this article prior to final plat approval and upon completion of at least 90 percent of all required improvements, the city may enter into a contract with the subdivider whereby the subdivider shall agree to complete all required improvements. Once the agreement is signed by both parties and the security required in this section is provided, the final plat may be approved if all other requirements of this chapter are met. To secure this contract, the subdivider shall provide either of, or a combination of, the following guarantees to cover the costs of the proposed improvements:

(1) *Cash bond.* The subdivider shall deposit cash bond with the city finance department. The amount of the bond shall be equal to 120 percent of the estimated cost, as approved by the subdivision administrator, of installing all required improvements. The initial cost estimate shall be the responsibility of the subdivider, but the approval of the final cost estimate shall be made by the subdivision administrator.

(2) *Governmental guarantee.* In any case where a required improvement is to be provided by the state or any local government other than the city, the subdivider may provide, in lieu of the types of financial guarantee as provided for in subsection (1) of this section, a letter from the appropriate state or local government official guaranteeing the installation of the improvement in

the required manner and within the time allotted. In any case where the cost of such improvement exceeds \$10,000.00 as determined by the city, such governmental guarantee shall be in the form of an approved project budget ordinance where local government is to be the provider, and an equivalent document where the state is to be the provider.

(Ord. of 5-18-92, § 5.1; Ord. of 2-17-97, § I)

Sec. 74-132. Duration.

(a) The duration of a financial guarantee provided for in this division shall be of a reasonable period to allow for completion and acceptance of improvements. In no case shall the duration of the financial guarantee for improvements exceed 18 months.

(b) All subdivisions whose public improvements are not completed and accepted at least 30 days prior to the expiration of the financial guarantee shall be considered to be in default, unless the guarantee is extended with the consent of the subdivision administrator to a future date certain not to exceed six months.

(Ord. of 5-18-92, § 5.2)

Sec. 74-133. Default.

(a) Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as specified, the cash bond shall be drawn upon up to the amount needed to complete the improvements, based on an estimate by the city. The city, at its discretion, may expend such portion of such funds as deemed necessary to complete all or any portion of the required improvements. The city shall return to the subdivider any funds not spent in completing the improvements less appropriate administrative charges.

(b) Default on a project does not release the subdivider from liability or responsibility, financial or otherwise, for the completion of the improvements.

(Ord. of 5-18-92, § 5.3; Ord. of 2-17-97, § I)

Sec. 74-134. Release of security.

The city may release a portion or all of any security posted pursuant to this division as the improvements are completed and approved by the city.

(Ord. of 5-18-92, § 5.4)