

**AN ORDINANCE AMENDING
THE CODE OF ORDINANCES
OF THE TOWN OF TRYON**

**Chapter 156
Subdivision Ordinance**

Chapter 156: Subdivision Regulations

ARTICLE I GENERAL PROVISIONS

Section 1.1 Title

This Ordinance shall be known as the Subdivision Regulations of the Town of Tryon, North Carolina.

Section 1.2 Authority

This Ordinance is adopted under the authority and provisions of the General Statutes of North Carolina Chapter 160A, Article 19, Part 2, Subdivision Regulations.

Section 1.3 Jurisdiction

These regulations shall govern all Subdivisions of land within the Territorial Jurisdiction of the Town of Tryon as now or hereafter established.

Section 1.4 Purpose

The purpose of this Ordinance is to establish procedures and standards for the development and Subdivision of real property within the Corporate Limits and Extraterritorial Jurisdiction of the Town of Tryon, NC, in an effort to protect the public health, safety and general welfare and to:

- A. Promote orderly growth and development;
- B. Provide for suitable residential and nonresidential Subdivisions with adequate Streets and utilities and appropriate building sites;
- C. Provide for distribution of population and traffic in a manner which shall avoid congestion and overcrowding;
- D. Provide for the coordination of streets within Subdivisions with existing or planned Streets and with other public facilities;
- E. Provide for the Dedication or Reservation of rights-of-way or Easements for Street and utility purposes;
- F. Provide for the Dedication or Reservation of adequate spaces for open space, public lands and buildings;
- G. Protect and enhance environmental quality;
- H. Provide for the Dedication or provision of facilities for adequate storm drainage;
- I. Provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries.

Section 1.5 Subdivision Defined

For the purpose of this Ordinance "Subdivision" shall mean 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 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 nor be subject to the regulations of this Ordinance; provided, however, that any document or plat to be recorded pursuant to any such exclusion shall bear the notation *"Exempt pursuant to Section 1.5 of the Town of Tryon Subdivision Ordinance"* and the signature of the Subdivision Administrator or his designated agent before being presented for certification by the Review Officer:

- A. The combination or recombination of portions of previously subdivided and recorded Lots where the total number of Lots is not increased and the resultant Lots are equal to or exceed the standards of this Ordinance;
- B. The division of land into parcels greater than ten (10) acres where no Street right-of-way Dedication is involved;
- C. The public acquisition by purchase of strips of land for the widening or opening of Streets;
- D. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three Lots, where no Street right-of-way Dedication is involved and where the resultant Lots are equal to or exceed the standards of this Ordinance; and
- E. The division of land into burial plots where no Street right-of-way Dedication is involved;
And,
- F. The division of land by will. (Note: Although the division of land by will is exempt from the requirements of this Ordinance, the resultant lots may not be eligible for a zoning permit/building permit if the lots do not meet the standards and requirements of the Zoning Ordinance.)

Section 1.6 Compliance

From and after the adoption of this Ordinance, no real property lying within the Jurisdiction of this Ordinance shall be Subdivided except in conformance with all applicable provisions of this Ordinance. In addition, after the effective date of this Ordinance, no plat for Subdivision of land within the Jurisdiction of this Ordinance shall be certified for recording by the Review Officer, 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 Ordinance.

Section 1.7 Subdivision Administrator

This Ordinance shall be administered by the Subdivision Administrator who shall be appointed by the Town Manager. The Subdivision Administrator shall administer and enforce the provisions of this Ordinance and have such other specific powers and duties as are set forth in this Ordinance. The Subdivision Administrator may designate agents to act on his behalf. The Subdivision Administrator shall have the right to enter property at reasonable hours for the purpose of making inspections.

Section 1.8 Coordination of Plans

All plans, plats and supporting documents to be submitted in connection with the procedures set forth in this Ordinance 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 Ordinance. Such standards may also include standards for Street, storm drainage and utility Construction Plans. A listing of such standards may be appended to this Ordinance and are presumed to be necessary to satisfy the requirements of this Ordinance. However, it is recognized that each development is unique, and therefore, the Subdivision Administrator may exercise flexible judgement in requiring less or more information and submittals according to the needs of the particular case.

Section 1.9 Administrative Fee

The Town Board shall set a fee schedule for the administration of this Ordinance. The Subdivision Administrator shall be responsible for ensuring such fees are paid. All fees relating to recording of documents shall be borne directly by the Subdivider.

Section 1.10 General Definitions

Unless specifically defined in this Section, words used in this Subdivision Ordinance shall have their respective customary dictionary definitions. For the purpose of these regulations certain words, terms or phrases used herein are interpreted and defined as follows:

- Words used in the present tense shall included the future tense.
- Words used in the singular shall include the plural and words used in the plural shall include the singular.
- The words "shall" and "will" always indicate MANDATORY.
- The words "should" and "may" always indicate OPTIONAL.
- The word "Lot" includes the words "plot", "tract" and/or "parcel".
- The word "building" includes the word "structure".
- The word "person" includes a "firm, association, organization, partnership, trust, company, corporation and/or individual".
- The word "use" includes the terms "arranged", "designed" and/or "intended" for use, activity and/or purpose.

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

Easement - 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 - A separate and distinct unit of land described by either a metes and bounds description and/or subdivision plat of record and/or probated will. 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.

Corner Lot - A lot abutting two (2) or more streets at their intersection.

Through Lot - A lot abutting two (2) streets that do not intersect at the corner of the lot.

Planning Board - The Planning Board of the Town of Tryon, North Carolina

Reservation - An obligation, shown on a plat or site plan, to keep property free from development and available for public acquisition for a stated period of time. It is not a dedication or conveyance.

Reserve Strip - A strip of land (usually only a few feet wide) owned privately, and set aside around a development in order to prevent access to adjacent property by way of development streets.

Street - A public right-of-way for vehicular travel which has been constructed and then dedicated to and accepted by the Town of Tryon or the North Carolina 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 Ordinance. Street classifications are as follows:

- **Category 3:** Thoroughfares that connect town and regional centers. Category 3 streets are typically state-maintained roads that have some level limited access to surrounding property and operate at higher speeds.
- **Category 2:** Connects neighborhoods to commercial centers. Category 2 streets operate at low to moderate speeds and may have on-street parking.
- **Category 1:** Typically provide access to residential areas and connect neighborhoods. Category 1 streets focus on low traffic volume, high accessibility, pedestrian and bicycle safety, and utility infrastructure for neighborhoods.
- **Alley:** Privately maintained right-of-way to access the rear of buildings.
- **Cul-de-sac Street:** A short local street having one end open to traffic and the other end permanently terminated by a vehicular turnaround.

Street, Half - 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, Marginal Access - A local street parallel and adjacent to a major thoroughfare and which provides access to abutting properties and protection from through traffic.

Street, Private - A vehicular travelway not accepted as a public street.

Street Right-Of-Way - A strip of land occupied or intended to be occupied by a travelway for vehicles and also available, with the consent of the appropriate government agency, for installation and

maintenance of sidewalks, traffic control devices, traffic signs, street name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.

Subdivider - A person engaged in the act of subdividing land.

Town Board- The Town Board of Commissioners of the Town of Tryon, North Carolina

Thoroughfare Plan - A plan, adopted by the Town Board of Commissioners, and as may from time to time be amended, for the development of existing and proposed major streets that will adequately serve the future travel needs of the area in an efficient and cost-effective manner.

ARTICLE II SUBDIVISION REVIEW PROCEDURE

Section 2.1 Approval Levels

- A. The Subdivision review procedure shall consist of two levels of required approval:
- Preliminary Plan (followed by required Construction Plans); and,
 - Final Plat
- B. Preliminary Plan approval shall be a prerequisite to Final Plat approval except for minor Subdivisions where Preliminary Plan approval is not required.
- C. Prior to Preliminary Plan application, the Subdivider may submit to the Subdivision Administrator a sketch plan showing the concept of the proposed subdivision. The Subdivider may at that time discuss the proposed Subdivision with the Subdivision Administrator and become familiar with the Subdivision Regulations. This procedure does not require formal application or fee. The Subdivision Administrator may, at his option, present any sketch plan to the Planning Board for review. Approval of Construction Plans are the responsibility of the Subdivision Administrator and his agents. Construction Plans are not required to be submitted as part of the Preliminary Plan approval. It is the responsibility of the Subdivider to ensure that the Preliminary Plan design is feasible for public facility services. The Subdivision Administrator may require, however, the submittal for review and approval of all or part of Subdivision Construction Plans in order for the Planning Board/Town Board to ascertain the feasibility of serving all or part of a proposed Subdivision.
- D. Approved Construction Plans are a prerequisite to receive permission to proceed with construction of subdivision improvements and for final plat approval.

Section 2.2 Subdivision Types

- A. **Major Subdivisions** are those Subdivisions which involve more than five (5) lots or more than ten (10) acres, 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.
- B. **Minor Subdivisions** include all other subdivisions.

Section 2.3 Approval Authority

The approval authority for the levels and types of Subdivision approval shall be as follows:

A. Preliminary Plans

Major Subdivisions - Town Board on recommendation by the Planning Board

Minor Subdivisions - No preliminary submittal required

B. Final Plats

Major Subdivisions - Town Board

Minor Subdivisions - Subdivision Administrator

Section 2.4 Plan and Plat Requirements

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 standards for such submittals contained in the Appendix of this Ordinance. 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 Ordinance.

Section 2.5 Plan Submittal and Review Periods - Preliminary Plans

- A. Preliminary Plans for recommendation by the Planning Board may be submitted at any time, provided, however in order to be eligible to be placed on an agenda of a Planning Board Meeting, such submittal shall have been filed with the Subdivision Administrator at least twenty-one (21) days prior to that meeting. The Planning Board shall recommend approval, approval with conditions or denial of the Preliminary Plan within ninety (90) days of its first consideration. The recommendation shall be in writing and/or drawn form and dated.
- B. Preliminary Plans for approval by the Town Board may be submitted at any time, provided, however in order to be placed on an agenda of a Town Board meeting, such submittal shall have been filed with the Subdivision Administrator at least fifteen (15) days prior to that meeting. Upon review of the Plan and the recommendation of the Planning Board, the Town Board may take whatever action it deems appropriate.

Section 2.6 Plat Submittal and Review Periods - Final Plats

A. Final Plats - Minor Subdivisions

Final plats for Minor Subdivisions for approval by the Subdivision Administrator may be submitted at any time.

B. Final Plats - Major Subdivisions

Final Plats for Major Subdivisions for approval by the Town Board may be submitted at any time, provided, however in order to be placed on an agenda of a Town Board meeting, such submittal shall have been filed with the Subdivision Administrator at least fifteen (15) days prior to that meeting. Upon review of the Plat, the Town Board may take whatever action it deems appropriate.

Section 2.7 Effects of Approvals - Prerequisites

- A. **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, and/or to proceed to prepare the Final Plat. 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 twelve (12) months between the recording of sections, the Subdivision Administrator may require the re submittal of the unrecorded portion as a Preliminary Plan.

- B. **Construction Plan** approval 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.
- C. **Final Plat** approval shall entitle the subdivider to submit the Final Plat for recording to the Register of Deeds. No Final Plat shall be regarded as finally approved until such Plat shall be recorded. No final Plat shall be approved for recording until all required Subdivision improvements have been installed and approved. In addition, no Final Plat shall be approved for recording unless such plat is in substantial agreement, as determined by the Town Board, with the approved Preliminary Plan. Final Plats not in substantial agreement shall be resubmitted as Preliminary Plans as provided for herein.

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 may be issued provided all improvements, including individual building connections, have been installed and inspected and approved by the Subdivision Administrator.

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 Town 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 Town Board by resolution upon completion by the Subdivider and inspection by the Subdivision Administrator. In addition, land designated on an approved and recorded Final Plat as public open space and similar public purposes shall be considered to be offered for Dedication until the Town has by resolution accepted such Dedication and such land is deeded to the Town. Until such Dedication has been accepted, land so offered may be used for open space purposes by its owner or his designees and the Town 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 Town Board.

ARTICLE III DESIGN STANDARDS

Section 3.1 General

All proposed subdivisions subject to these regulations shall comply with the design standards of this Article and shall be so planned as to facilitate the most advantageous development of the entire community.

Section 3.2 Incorporation of Other Town Ordinances, Policies, and Plans

All proposed subdivision plans shall incorporate the land development requirements and provisions of all Town Ordinances, Policies and Plans as now or hereafter established or amended the same as if each were fully contained within these regulations. No subdivision plan may be approved which fails to incorporate such requirements and provisions or which is not consistent with such Ordinances, policies, and plans. Ordinances, policies, and plans include, but are not limited to, the Zoning Ordinance, the Flood Damage Prevention Ordinance, the Storm Water Drainage Standards, Water and Sewer Standards, the Thoroughfare Plan and any conditions of approval imposed through any approval process.

Section 3.3 Appropriate to Physical Conditions

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. Subdivision plans shall be drawn in consideration of the suitability of the land and its capability to support and maintain the proposed development. Due consideration shall be given to such factors as topography, soil conditions, flood damage prevention, erosion control, wetland preservation, storm water management, solar energy, tree preservation, noise and pollution control, habitat for endangered species, areas of historical, archaeological or architectural significance, and land use relationships in addition to other factors including those prescribed by these regulations.

Section 3.4 Park, Recreation and Open Space Land

3.4.1 General Purposes

All residential subdivisions shall entail provisions for the adequate satisfaction of park, recreation and open space needs of persons expected to reside in the development through dedication of land. The subdivider may, as an alternative, elect to pay a fee in lieu of land dedication.

3.4.2 Standards for Dedication

Eight hundred (800) square feet shall be dedicated for each dwelling unit to be situated on any lot shown on the preliminary plat, or where a preliminary plat is not required, shown on the final plat. This shall include single-family, two-family, multifamily, and manufactured homes. Land dedicated for recreation, park, or open space development shall substantially meet the following criteria:

- A. **Unity:** The dedicated land shall form a single parcel, except where the Town Board determines that two (2) parcels or more would be in the public interest; and in such case the Town Board may require that such parcels be connected by a dedicated strip of land at least thirty (30) feet in width.
- B. **Location:** The dedicated land shall be located so as to reasonably serve the park, recreation and open space needs of the development for which the dedication is made.

- C. **Usability:** At least one-half (1/2) of the total land dedicated shall be located outside areas of special flood hazard, including the one hundred year flood plain, and at least seventy five (75) percent of the total land dedicated shall be outside of wetland subject to State or Federal regulatory jurisdiction. Within the area proposed for dedication sufficient engineering data and/or detail shall be indicated to insure compliance with this section.
- D. **Shape:** The shape of the area proposed for dedication shall be suitable for recreation purposes as determined by the Town Board.
- E. **Access:** Public access to the dedicated land shall be provided either by adjoining street frontage or public easement at least thirty (30) feet in width.
- F. **Conformance with standards:** The area dedicated shall conform to the minimum subdivision regulations and zoning standards for the district in which located and shall be of adequate dimension to constitute a building site of like design and characteristics as other lots within the common development.
- G. **Plans:** Municipal and county plans, particularly any park and open space plans, shall be considered when evaluating proposals for dedication.

3.4.3 Private Park and Recreation Dedication

Land that is set aside for private recreation or community open space, so long as such area meets the above criteria, will be accepted as fulfilling the requirements of this section in whole or in part. Full credit will be given for this acreage in determining the total amount that is to be dedicated. Such recreation or open space area is to be privately owned and maintained by all future residents of the subdivision, and shall be held by a homeowners' association or recreation association for the specific use of all residents of that subdivision. All such dedications shall be recorded on the final plat; maintenance shall be adequately provided for by written agreement. Use of private recreation and open space areas is restricted to park and recreation purposes. Where private park and recreation space is to be used to satisfy the requirements of this Section, the documents creating the Homeowner's Association and setting up the dedication of land for such park and recreation dedication shall provide that in specific defined instances of failure to develop and maintain such areas to meet the intent of this Section that the Town Board at their election may assume ownership of the land on behalf of the Town.

3.4.4 Payments in Lieu of Dedication

- A. Any person developing and/or subdividing property subject to this section, and upon approval of the Town Board, may make a payment in lieu of any required dedication of public recreational space.
- B. Such payment in lieu of dedication shall be the product of the current assessed market value of the land to be subdivided (as established in subsection 3 below) multiplied by the number of acres to be dedicated.
- C. The current assessed market value of the gross land area of the development or subdivision at the time of submission of the required plan and/or plat shall be used to determine the land value. The current assessed market value shall be the appropriate value as determined by and maintained on file

in the Polk County Tax Supervisor's Office. The average value per gross acres shall be calculated from this total tax value and applied to the required recreational land area in order to determine the land value.

3.4.5 Option Required

Where the minimum amount of land required for dedication does not either individually, or when combined with other dedicated lands jointly, meet the criteria set forth under subsection B above, the developer shall exercise the payment in lieu of dedication option as set forth herein.

3.4.6 Procedures

- A. The developer/subdivider shall indicate on the Preliminary Plan, or where a Preliminary Plan is not required on the Final Plat, whether land dedication or a fee in lieu thereof is proposed. If land dedication is desired, the area(s) to be dedicated shall be indicated on the plat.
- B. Land dedicated to meet requirements shall be shown on the final plat submitted for approval. Where the payment in lieu of dedication option is used, or where a combination of payment and dedication is used, such payment shall be deposited with the Town prior to the recording of the final plat.
- C. Where a subdivision is to be recorded in phases, acreage and/or fees sufficient to, at least, meet the requirements for those lots in the phase under final plat consideration shall be dedicated and/or deposited as provided herein.

3.4.7 Authority to Sell

The Town Board shall have authority to sell land dedicated pursuant to this section with the proceeds of such sale used only for the acquisition, expansion or improvement of recreation, park, or open space sites.

3.4.8 Land Acceptance

The Town Board shall have the authority to accept or reject land dedications made as a requirement of this section. At the developer's request, the Town Board may accept a land dedication located elsewhere in the Town's jurisdiction in lieu of land dedication at the site of the proposed development.

Section 3.5 Blocks

- A. Blocks shall be laid out with special consideration given to the type of land use proposed within the block.
- B. Blocks shall not exceed twelve hundred (1200) feet in length nor shall they be less than four hundred (400) feet in length.
- C. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic.

Section 3.6 Lots (Building Sites)

- A. The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision, for the type development contemplated.

- B. It is the intent of this Ordinance that lot size, shape and orientation shall be controlled by the provisions of the Zoning Ordinance and type 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.
- C. Building area shall lie at or be elevated to at least one (1) foot above the one-hundred (100) year flood elevation as provided for in the Flood Damage Prevention Ordinance. 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. Storm drains carrying water from street rights of way shall be placed along lot lines where practical and shall extend for a minimum of thirty-five (35) feet beyond the building lines. Lot boundaries shall be made to coincide with natural and pre-existing man-made drainage ways to the extent practical to avoid the creation of lots that can be built upon only by altering such drainage ways.
- D. Lots shall be arranged with due consideration given to not disturbing wetlands and other such natural features.
- E. Side lines of lots should be at or near right angles or radial to street lines.
- F. Public street access and frontage shall meet the requirements set forth in the Zoning Ordinance.
- G. 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 development process.
- H. Double frontage lots shall be avoided except where required to restrict access as set forth in Section 4.2.5.

Section 3.7 Streets, Sidewalks, & Utilities

Streets, sidewalks, and utilities shall be designed and installed in accordance with Article 4.

ARTICLE IV REQUIRED IMPROVEMENTS

Section 4.1 General

- A. All required improvements set forth in this section shall be installed or constructed by the Subdivider at no cost to the Town except as may otherwise be specifically provided. Required improvements under this section shall not be installed or constructed until required construction plans have been approved by the Subdivision Administrator and an order to proceed has been issued. The Town may, in order to serve future development, require the developer to install certain oversized improvements and/or to increase such improvements to a size and/or extent beyond that necessary for the needs created by the subdivider. In such cases, the Town shall enter into an agreement to reimburse the developer for the oversizing and/or extension based upon rates as agreed to by the Town.

- B. Subdivisions may be designated to be constructed and platted in phases. Provided, however, the Town Board may not approve a phasing plan when in its opinion such phasing will not provide for adequate public facilities to support any such phase or phases independent of the overall development plan. In approving phases the Town Board may require that additional streets, water and sewer facilities or other required public facilities be constructed as part of the phase or phases in order to ensure that sufficient public facilities will be in place to support such phase or phases independent of any future development.

Section 4.2 Street Improvements

4.2.1 General Provisions

- A. Unless otherwise specified in this Ordinance, design criteria shall meet current NCDOT standards.

- B. 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 and storm drainage section as required for the particular classification of street. All grading, pavement and curb and gutter shall be designed and installed in accordance with Town standards and the approved construction plan. Where bridges are required, such shall be installed to fit the cross-section of the street classification. In addition, street paving and curb and gutter and storm drainage, in accordance with the above conditions, shall be installed in the following situations:
 - 1. Any existing street segment that has not been accepted for maintenance by either the Town or the North Carolina Department of Transportation (NCDOT), and that is to serve as the required frontage for one or more lots created pursuant to these regulations, shall be improved and dedicated to the public, as provided for above, in such a way that the street segment meets the standards of these regulations 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 Town or the North Carolina Department of Transportation. No subdivision shall be permitted on any street that is an "island" not connected directly to the public street system.

 - 2. Where a subdivision fronts on any existing street segment maintained by either the Town or

NCDOT and the street does not meet the minimum standards of these regulations for the classification of street, the subdivider shall improve the portion of street adjoining the subdivision to meet the minimum standards including construction and width. When the subdivision adjoins only one side of an existing street, one-half of the minimum right-of-way shall be provided, measured from the centerline of the street.

3. The Town Board may require pavement and widening or pavement and widening and curb and gutter and storm drainage for turning lanes along any street that forms a significant entrance to a proposed development where in the opinion of the Town Board such improvements are necessary in order to provide for safe vehicular movement into and out of the proposed subdivision.
4. 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 Town Board may require the pavement of a temporary turn-around in a form similar to a cul-de-sac on such street where in the Town Board's opinion such turn-around is necessary for the public convenience, safety and service.
5. Private streets where permitted shall be constructed to NCDOT standards for paved residential streets in a fifty (50) foot right-of-way. Curb and gutter is not required. Private streets where provided shall be subject to an Owner's Association agreement that provides for assessment for maintenance.

4.2.2 Connectivity and Appropriateness to Adjoining Property and Land Uses

The subdivision shall be designed in relationship to adjoining property and land uses. Except where the Town Board determines that a different scheme is more appropriate, the proposed street system shall extend existing and projected streets at no less than the required minimum width for the classification of the street and shall be in conformance with the following criteria:

A. Conformance With Thoroughfare Plan

The location and design of streets shall be in conformance with the Thoroughfare Plan.

B. Street Classification

All streets within and adjoining the subdivision shall be classified according to function by the Town Board. Each street segment shall be classified in accordance with the Schedule of Street Classifications contained in the Appendix of these regulations and as defined herein. The classification of a street segment shall determine the cross-section and design standard to which that street segment shall be designed and constructed. Street design standards for each street classification are shown in the appendix.

C. Connection to Adjoining Property

Proposed streets shall be extended to the boundary of the subdivision for connection to existing streets on the boundary of adjoining property or for future connection. Cul-de-sacs shall 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. In general, cul-de-sacs shall not be used to provide access to development on the boundary of the development. Cul-de-sacs shall not exceed

800 feet in length unless necessitated by topography or property accessibility and specifically approved by the Town Board. Measurement shall be from the point where the centerline of the deadend street intersects with the centerline of a general circulation street to the center of the turnaround of the cul-de-sac. Where one cul-de-sac extends from another cul-de-sac, the end of each cul-de-sac shall be no more than 800 feet from a general circulation street as measured by the centerline of the streets.

4.2.3 Connection to State Streets

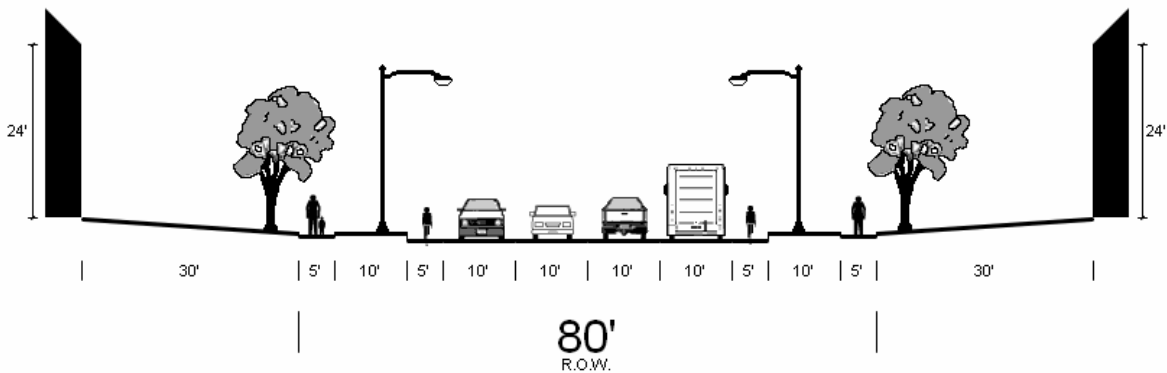
An approved permit is required to connect to any existing state system street. North Carolina General Statute 136-102.6 "Compliance of Subdivision Streets with Minimum Standards of the Board of Transportation Required of Developers" requires that new public streets outside the Town limits and changes to existing streets inside the Town limits that are the responsibility of NCDOT 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 these standards and requirements, as set forth, to complement and not to conflict with the requirements of NCDOT as stated in NCGS 136-102.6. In all cases the most restrictive limitation or requirement or the requirement causing the highest standard of improvement shall govern.

4.2.4 Public Street Design

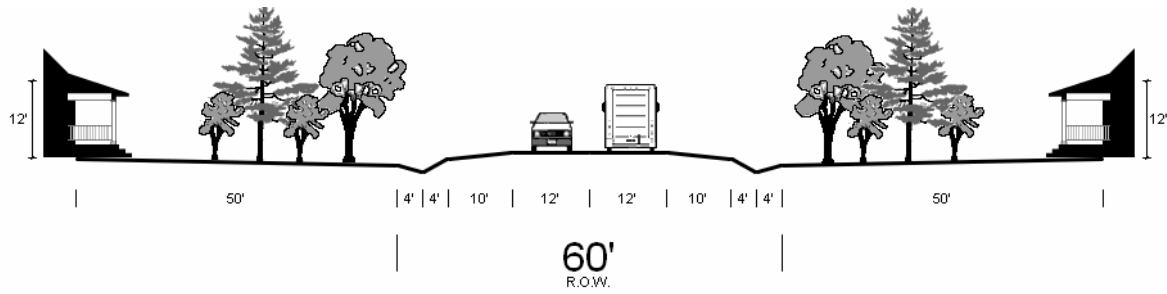
A. Street Categories & Examples

The following diagrams depict possible street sections for Category 3, Category 2, and Category 1 streets and alleys. Widths shown are *approximate*. The Subdivider shall work with Planning Staff, the Planning Board, and Town Board of Commissioners to determine the proper street section to be utilized. The Town Board of Commissioners shall have the final determination of the street section. For specific standards see (B) below.

Category 3 Streets

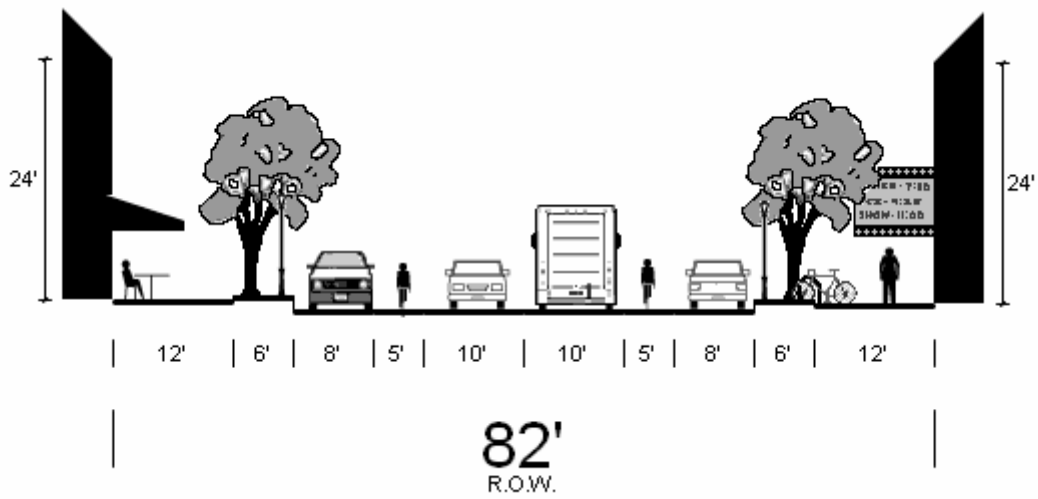


Thoroughfare Road

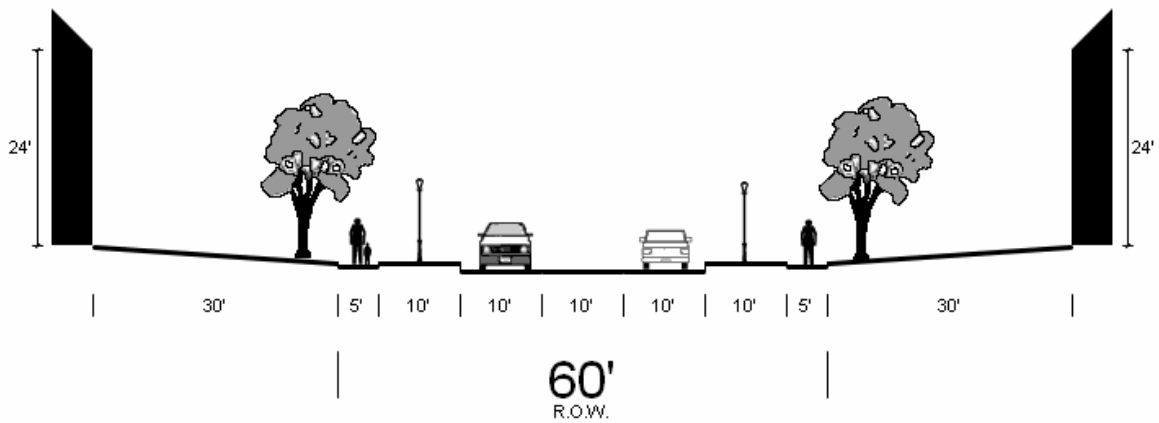


Rural Thoroughfare Road

Category 2 Streets

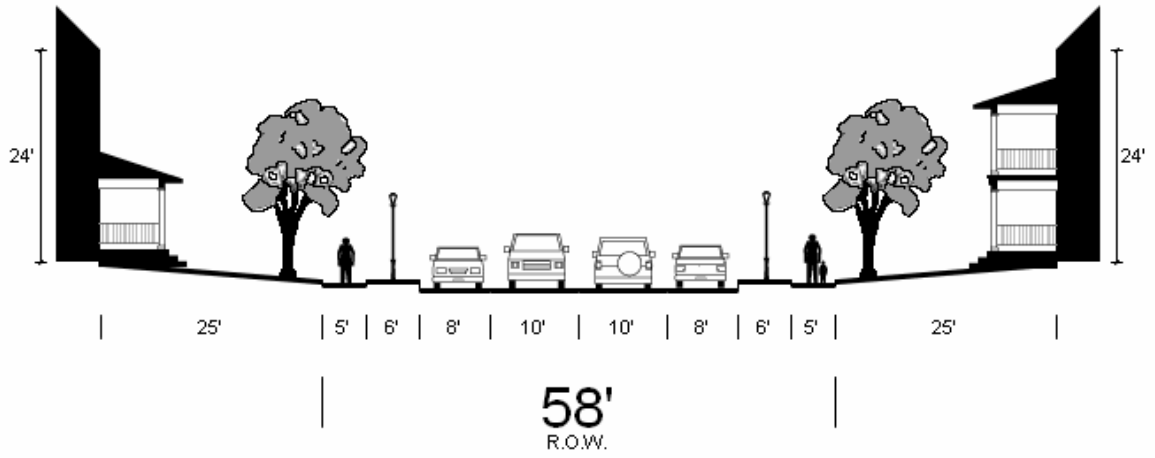


Main Street

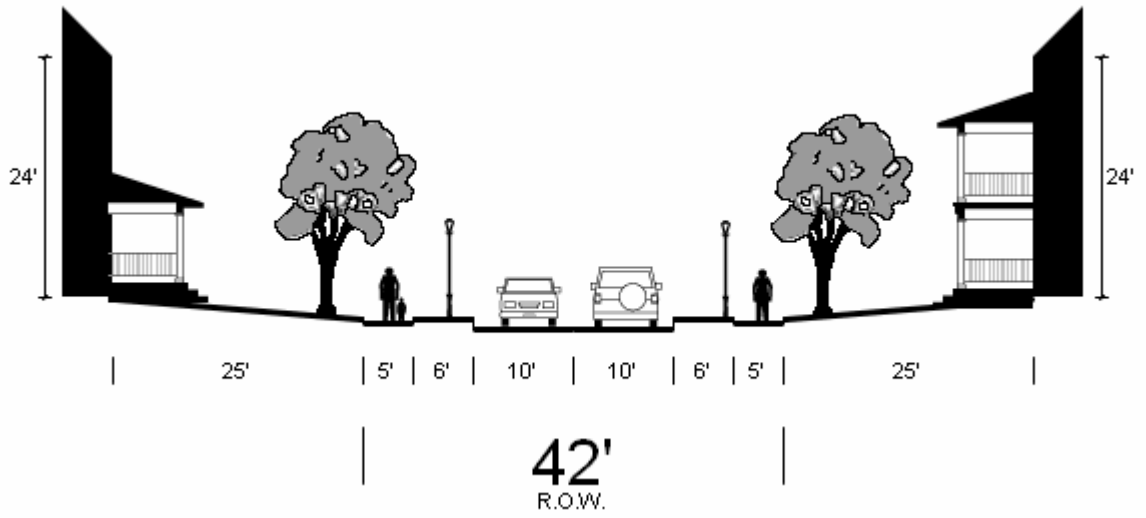


Collector Road

Category 1 Streets

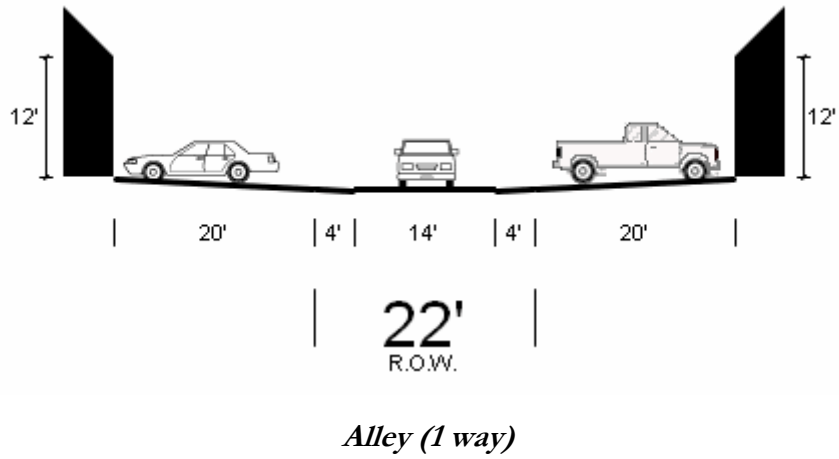
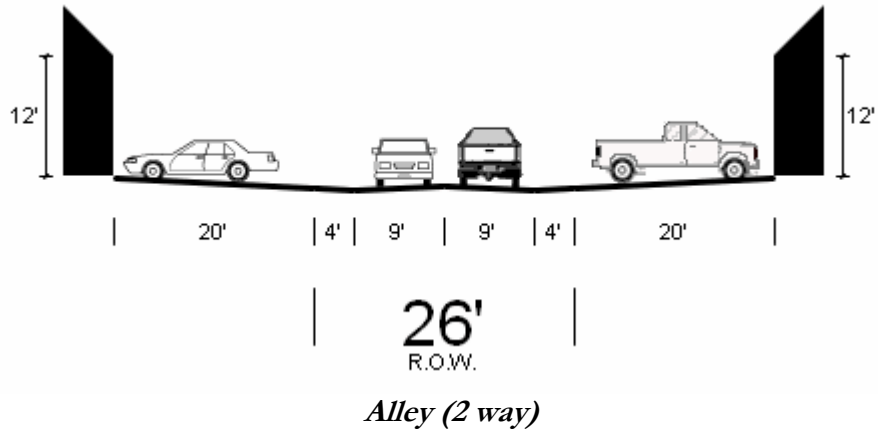


Residential Street (on-street parking both sides)



Residential Street (no on-street Parking)

Other



B. Street Design Criteria by Street Type

Category 3

<i>Element</i>	<i>Street Subcategory</i>	
	Thoroughfare Road	Thoroughfare Rural Road
Land Uses	Non-residential	Non-residential & residential
Right-of-Way Width	70-90 feet	60-80 feet
Number of Lanes	3-5	2-5
Lane Width	10-12 feet	10-12 feet
Median Required	No	No
Bike Lane Required*	Yes	No
Design Speed	30-45 mph	45-55 mph
On-street Parking Allowed	No	No
Sidewalk Space Required	Yes	No
Sidewalk Width (min.)	5 feet	n/a
Planting Strip Width	6-15 feet	n/a
Utility Area (min.)	10 feet (within planting strip & sidewalk width)	15 feet
Street Suffixes	RD	RD

*bike lane width to be dedicated

Category 2

<i>Element</i>	<i>Street Subcategory</i>	
	Main Street	Collector Road
Land Uses	Non-Residential & Residential	Non-Residential & Residential
Right-of-Way Width	60-85 feet	65-80 feet
Number of Lanes	2-4	3-4
Lane Width	10-12 feet	10-12 feet
Median Required	No	Optional
Bike Lane Required	Optional	Optional
Design Speed	20-35 mph	30-45 mph
On-street Parking Required	Yes	Optional
Sidewalk Space Required	Yes	Yes
Sidewalk Width (min.)	5 feet	5 feet
Planting Strip Width	n/a	6-10 feet
Utility Area (min.)	10 feet (within sidewalk width)	10 feet (within planting strip & sidewalk width)
Street Suffixes	ST	ST, RD

Category 1 & Alleys

<i>Element</i>	<i>Street Subcategory</i>		
	Residential Street	Alley (two-way)	Alley (one-way)
Land Uses	Residential	Residential	Residential
Right-of-Way Width	42-60 feet	25-35 feet	20-25 feet
Number of Lanes	2	2	1
Lane Width	10-12 feet	9-11 feet	14-16 feet
Median Required	No	No	No
Bike Lane Required	No	No	No
Design Speed	15-25 mph	5-10 mph	5-10 mph
On-street Parking Required	Optional	No	No
Sidewalk Space Required	Yes	No	No
Sidewalk Width (min.)	5 feet	n/a	n/a
Planting Strip Width	6 feet	n/a	n/a
Utility Area (min.)	10 feet (within planting strip & sidewalk width)	n/a	n/a
Street Suffixes	ST, LN, CT, CIR, DR, TR	ALLEY	ALLEY

C. Street Grades

1. Street grades shall be not more than twelve (12%) percent nor less than one-half of one percent (1/2 %).
2. Grades approaching intersections shall not exceed five percent (5%) for a distance of not less than one hundred (100) feet from the centerline of said intersection.

D. Horizontal Curves

Where a centerline deflection angle of more than ten (10) degrees occurs, a circular curve shall be introduced, having a centerline radius of not less than the following:

- Major Streets----- 300 ft.
- Collector Streets----- 200 ft.
- Minor Streets ----- 100 ft.

E. Vertical Curves

All vertical curves shall have such length as necessary to provide safe sight distance and a gradual change in grade.

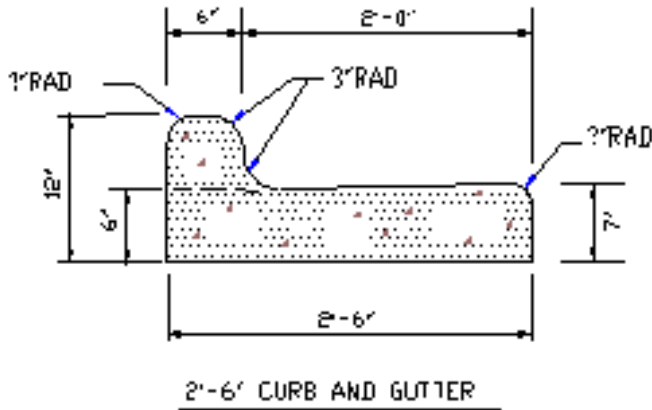
F. Tangents

A tangent of at least one hundred (100) feet shall be provided between curves on all streets.

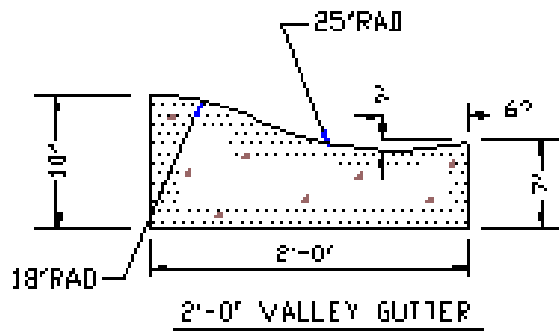
G. Curb and Gutter

Curb and gutter is an optional method of stormwater management. See Section 4.3.3 for more details. If curb and gutter is utilized, then the minimum width for vertical curb and gutter is two feet six inches (2'-6") and for valley curb and gutter is two feet (2'-0"). Below are details for vertical curb and gutter and valley curb and gutter.

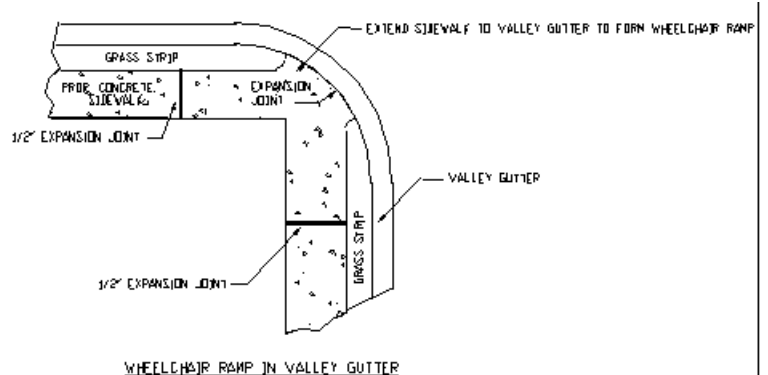
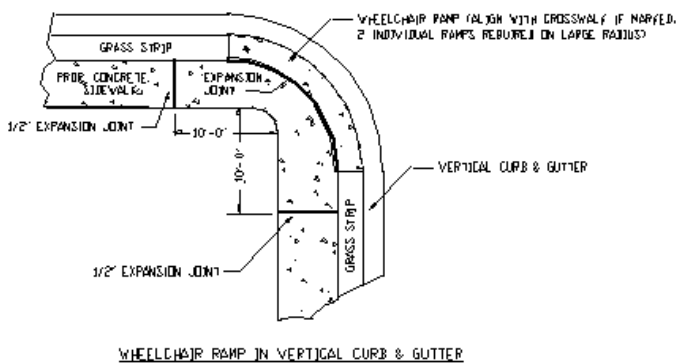
1. Vertical Curb and Gutter



2. Valley Curb and Gutter

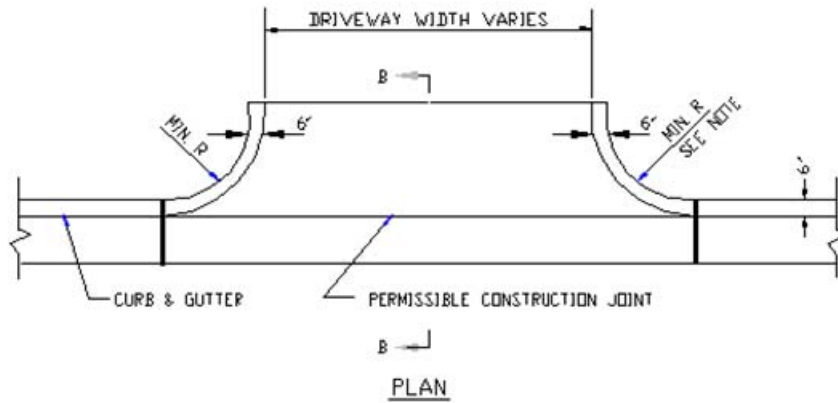


3. Wheelchair Ramp for Curb and Gutter

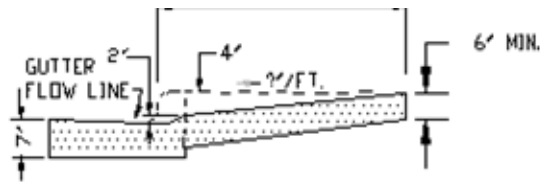


4. Driveway Cuts in Curb and Gutter

Minimum turning radius for residential curb cuts is two feet (2'-0") and for commercial curb cuts is five feet (5'-0").

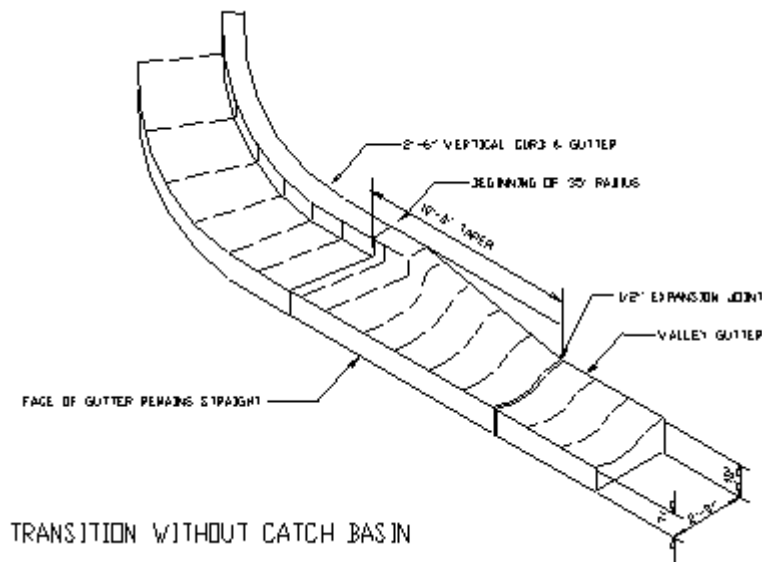


MIN. 2'-0"

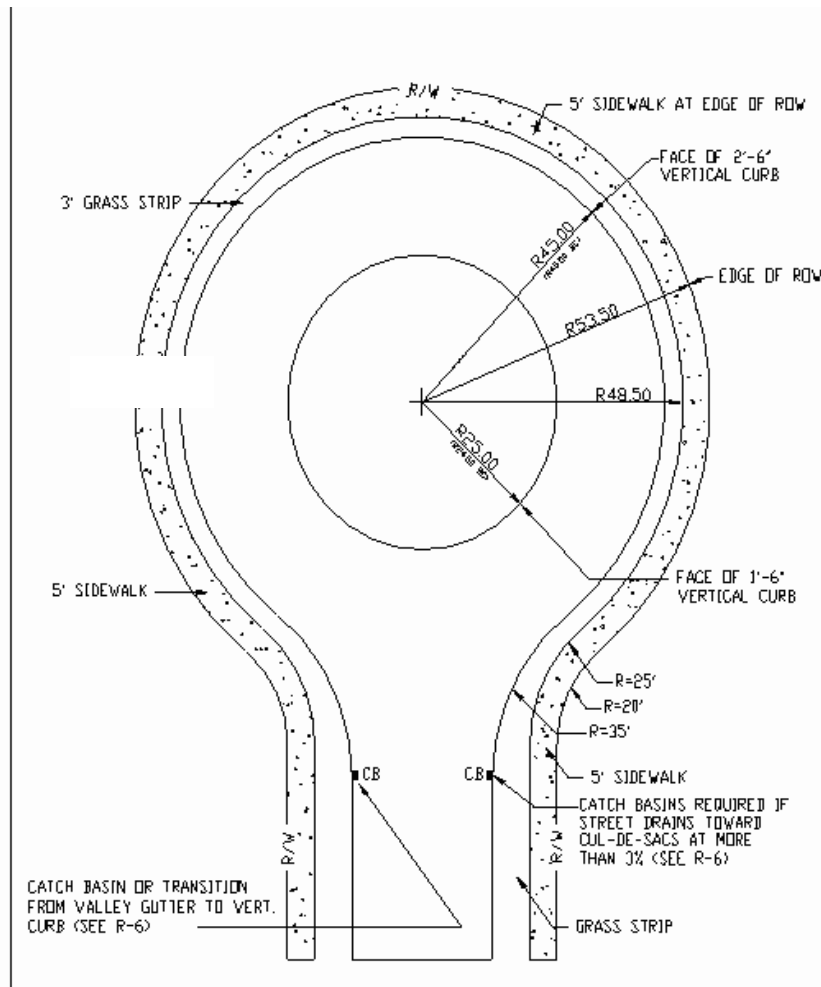


SECTION B-B

5. Curb and Gutter Transition at Cul-de-sac



I. Cul-de-sacs



J. On-Street Parking

On-street parking shall be at least 8 feet wide and 22 feet long and be marked on the pavement.

K. Sight Distance

No planting, structure, sign, fence, wall, or obstruction greater than three (3) feet in height shall be placed or maintained within the sight triangle. The sight triangle shall be formed by the intersecting street centerlines and a straight line connecting points on the street centerlines, each of which is 75 feet for minor streets and 150 feet for major streets in distance from the point of the intersection.

4.2.5 Access Management & Driveways

A. Restriction of Access

Where a subdivision abuts or contains an existing or proposed thoroughfare, the Town Board may require marginal access streets, reverse frontage or such other treatment as may be necessary for adequate separation of through and local traffic.

B. Reserve Strips, Half Streets and Private Streets

Reserve strips and non-access easements adjoining street rights-of-way for the purpose of preventing access to or from adjacent property (except those required by the Town Board to prevent access to thoroughfares) and half-streets shall not be permitted under any condition. Private streets are not permitted.

C. Driveways

The number of street and driveway connections permitted serving a single property frontage or commercial development shall be the minimum deemed necessary by the Town or NCDOT for reasonable service to the property without undue impairment of safety, convenience, and utility of the roadway. Normally, not more than two driveways shall be permitted for any single property frontage. The arrangement of driveways should be related to adjacent driveways and nearby street intersections and meet the following criteria:

1. Driveways accessing Category 1 or Category 2 streets shall be at least 100 feet from the point of tangency of the radius curvature of the next intersecting street.
2. Driveways serving streets with traffic volumes in excess of 300 ADT or accessing Category 3 streets shall be located a minimum of 250 feet from the point of tangency of the radius of curvature of the intersecting street.
3. Where two driveways are proposed along a single property frontage to facilitate operations, the minimum distance between the centerlines of the drives shall be 200 feet.
4. The minimum distance between the centerlines of driveways into shopping centers or facilities generating in excess of 300 ADT shall be a minimum of 400 feet.
5. Full access driveways open to signalization should be 1000 feet apart. Driveways which access thoroughfares and serve more than 1500 ADT shall provide deceleration lanes in approach to the driveway.
6. Residential drives shall be located a minimum of 10 feet from the point of tangency of curb radii of street intersections.

D. Street Alignment and Separation

1. 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 sixty (60) degrees. Streets crossing natural areas or streams shall cross at or near to right angles as possible within limits of topographic conditions. Offset intersections are to be avoided.
2. There shall be a minimum of 200 feet between centerlines of street jogs on collectors and arterials. Local streets shall not be offset less than 125 feet from their centerline.
3. Median breaks shall be provided to allow safe and efficient movement of traffic. The desirable spacing of median breaks shall be at 1000 foot intervals, with the minimum allowable spacing to be at 500' intervals.
4. Intersections of roadways controlled by a traffic signal should be spaced along roadways at the following intervals:

Street Category	Interval Spacing
Category 3	2,620-5,280 feet
Category 2	1,310 feet
Category 1	1,000 feet

5. Four legged intersections not controlled by a traffic signal should be spaced along roadways at the following intervals:

Street Category	Interval Spacing
Category 3	1,000 feet
Category 2	750 feet
Category 1	300 feet

6. Three legged intersections not controlled by a traffic signal should be spaced along roadways at the following intervals:

Street Category	Interval Spacing
Category 3	800 feet
Category 2	500 feet
Category 1	200 feet

4.2.6 Street Names & Signs

- A. Proposed streets which are obviously in alignment with others already existing and named, shall bear the names of existing streets. In no case shall the name for proposed streets duplicate or be phonetically similar to existing street names, irrespective of the use of suffix street, avenue, boulevard, driveway, place, or court.
- B. Standard street name signs shall be installed by the Town at all intersections inside the Town in accordance with Town Standards with the subdivider reimbursing the Town for the cost. The subdivider may, however, with the approval of the Town Board of design and material, install a different street name sign type at no cost to the Town. In such case, the developer or his successors or assignees shall be responsible for replacing such signs in instances of loss, damage or deterioration; otherwise, the Town will replace such signs with its standard sign. Outside the Town limits the subdivider shall be responsible for installing street name signs at all intersections in accordance with County standards.

4.2.7 Traffic Control Signs, Signals, and Markings

Traffic control signs, signals, and markings will be installed by the Town in accordance with Town standards and specifications inside the Town. Outside the Town limits the subdivider shall be responsible for installing such facilities in accordance with NCDOT standards and specifications.

4.2.8 Subdivision Entrance Markers and Landscaped Medians

The Town Board may permit subdivision entrance markers and landscaped medians within the public right-of-way, or an easement set aside for such purposes, subject to the following conditions and any additional conditions the Town Board may find to be appropriate in the individual circumstance:

- The Town will not be responsible for maintenance.
- An entity responsible for maintenance shall be created.
- No such improvements shall interfere with sight distance or with normal maintenance requirements or otherwise pose a hazard to vehicular or pedestrian traffic.
- In the event of loss, damage or lack of maintenance, the Town may remove all improvement and maintain the area in accordance with Town standards.
- NCDOT must approve any such developments in streets to be maintained by NCDOT.

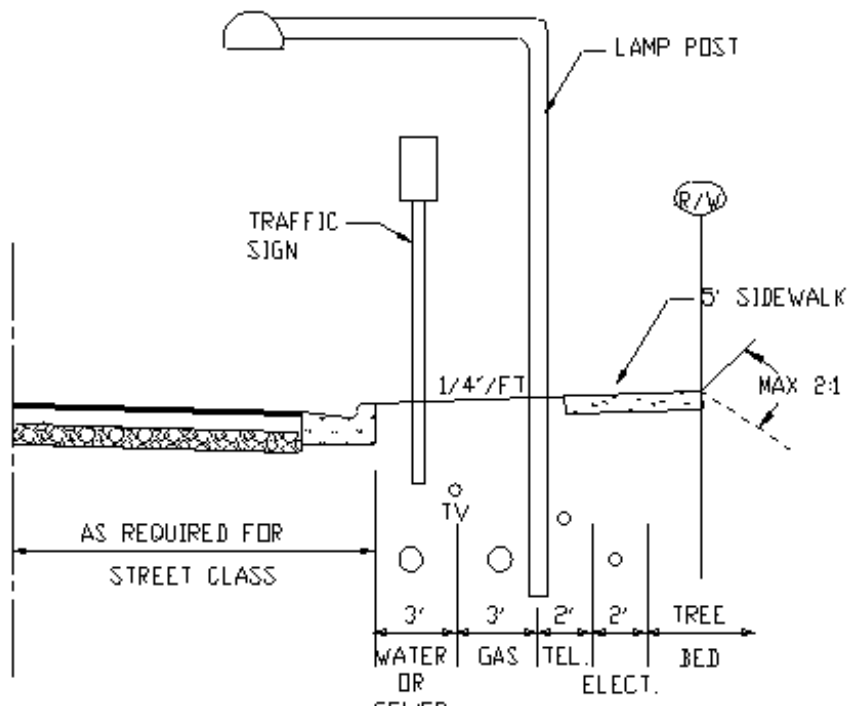
4.2.9 Construction in Public Right-of-Way and Easements

The design and construction of any facilities whether required or provided, within public right-of-way and easements shall be in accordance with Town design and construction standards.

Section 4.3 Utilities

4.3.1 Utility Location

- A. Utilities shall be located as depicted below within the planting strip and sidewalk areas. All electrical and telephone lines in new developments shall be buried. Sewer lines shall be located under the street pavement as approved by the Public Works Department. Lines shall be buried to the depth required by Public Works or the utility provider.



- B. Utility pedestals shall be located minimum of two (2) feet behind the sidewalk and near property lines between buildings and shall be screened with a wall, fence, or evergreen landscaping.
- C. Where utility easements are necessary, they shall be a minimum of 20 feet and shall be placed along a lot line (centered with 10 feet on each side of the lot line). The subdivider shall be responsible for incorporating the design of all utilities and services into the easement and construction design.

4.3.2 Street Lights

The Town will install street lights at appropriate locations inside the Town in accordance to Town standards and specifications. Where different light standards are proposed the subdivider shall enter into an agreement with the Town. Outside the Town the subdivider shall install underground wiring for street lights and may install lights at the subdivider's cost.

4.3.3 Storm Drainage

- A. All streets must be so designed as to provide for the discharge of surface water from the right-of-way of all streets. Street drainage facilities shall be designed in accordance with the Storm Water Drainage Ordinance and the Town's standard for street construction.
- B. The design of storm drainage systems and plans, including calculations, shall clearly indicate the easements and dedicated areas required for the construction and maintenance of the drainage system.
- C. The Construction Plans shall be accompanied by the proposed method of providing for storm water drainage. It shall be the responsibility of the subdivider to provide a drainage system which is designed to meet the following objectives:
 - 1. No surface water shall be channeled or directed into a sanitary sewer.
 - 2. Where feasible, the subdivider shall connect to an existing storm drainage system.
 - 3. Where an existing storm drainage system feasibly cannot be extended to the subdivision, a drainage system shall be designed to protect the proposed development and adjacent properties from water damage.
 - 4. Stormwater design shall follow the most recent edition of NCDENR Division of Water Quality *Stormwater Best Management Practices*.
 - 5. Surface drainage courses shall have side slopes, where feasible, or at least two (2) feet of horizontal distance for each one (1) foot of vertical distance (2:1). Courses should be of sufficient size to accommodate the drainage area and be designed to comply with the standards and specifications for erosion control as required by the North Carolina Sedimentation Pollution Control Act, NCGS 143-34.12, Chapter 113k Article 4, and the North Carolina Administration Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinance.
 - 6. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.

7. Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, NCGS 143.34.12, Chapter 1 13A, Article 4, and the North Carolina Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.
8. Any dam constructed within a subdivision which is greater than fifteen (15) feet in height (measured from the lowest point on downstream top of the dam to the highest point on the fill) and is also greater than ten (10) acre-feet in area (measured from the top of the dam) shall comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2K.
9. In areas of flood hazard, identified on the Flood Insurance Rate Map as Zones A and AE, all subdivisions shall be designed to minimize flood damage in accordance with the provisions of the Town's Flood Damage Prevention Ordinance.

4.3.4 Water and Sewer

All subdivisions shall be designed to provide Town water and sewer or meet Health Department requirements for on-site systems. Water and sewer system shall be designed in accordance with Town standards. The Subdivider shall be responsible for obtaining all necessary permits and approvals.

4.3.5 Drinking Water Improvements

- A. Any Subdivision which has public water 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 the standards of the Town.
- B. For subdivisions within or partially within the Town, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure either crossing the subdivision property or immediately available from an adjacent public right-of-way or the Town 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 Town but within the jurisdiction of this Ordinance, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure within the distances shown on the Table below of the outside boundary line of the subdivision or the Town indicates its commitment to extend such a water line within the distances shown on the Table below 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. In the event there are phases to the subdivision or else 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 water service shall be deemed to be available if an existing or proposed public water system line extends or will be extended within the distances shown on the Table below to the larger tract of land.

- D. In any case where a public drinking water system and/or supply system intended to serve more than two (2) 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 Section regardless of whether such a system is an extension of the Town 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.

<u>Available Water System Lines</u>	
Water is available if the subdivision contains the number of lots listed in column one and public lines are within the distance shown in column two.	
LOTS	DISTANCE
2-10	200 feet
11-20	300 feet
21-50	600 feet
51-100	1000 feet
101 +	1500 feet

4.3.6 Sanitary Sewerage Improvements

- A. Any Subdivision which has public 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, clean outs, taps and service to the property line of each lot as required by the standards of the Town.
- B. For subdivisions within or partially within the Town, 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 Town 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 Town, but within the jurisdiction of the Ordinance the term "available" shall mean that there is an existing sewer line of adequate size and flow within the distances shown on the Table below of the outside boundary line of the subdivision or the Town indicates its commitment to extend such a sewer line to within the distances shown on the Table below 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 connection onto and extending the existing system to the subdivision. In the event there are phases to the subdivision or else 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 the distance shown on the Table below of the larger tract of land.
- D. In the event the Town elects not to extend a sewer line of sufficient size and flow, to the subdivision (if in the Town) or within the distance shown on the Table below of the subdivision boundary (if outside the Town) because of topographic features, legal obstacles, or financial reasons, then, the subdivider shall not be required to extend sewer lines to each lot nor provide sewer service to the

subdivision.

- E. In any case where a sanitary sewerage system and/or treatment system intended to serve more than two (2) 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" with the context of this Section regardless of whether such system is an extension of the Town 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.

<u>Available Sewer System Lines</u>	
Sewer is available if the subdivision contains the number of lots listed in column one and public lines are within the distance shown in column two.	
LOTS	DISTANCE
2-10	200 feet
11-20	300 feet
21-50	600 feet
51-100	1000 feet
101 +	1500 feet

4.3.7 Fire Hydrants

- A. Residential areas and subdivisions (single family and/or duplex) shall require fire hydrants located such that each structure or portion thereof will be within five hundred feet (500') of a hydrant.
- B. Multi-family residency areas and subdivisions (apartments, townhouses, condominiums, etc.) shall require fire hydrants located such that each structure or portion thereof will be within five hundred feet (500') of a hydrant.
- C. Non-residential areas and subdivisions shall require fire hydrants to be located such that each structure or portion thereof will be within five hundred feet (500') of a hydrant. This determination shall be made via vehicle access routes, (roadways, fire lanes, etc.) and by hose placement from the firefighting equipment in lieu of linear measurements. Fire hydrants shall be located at the right-of-way and the hydrant shall be located as not to exceed six hundred feet (600") between hydrants. When practical hydrants shall be located at street intersections, with intermediate hydrants between intersections, and at entrance drives to the property.
- D. For any structures that has a sprinkler system or a standpipe system a fire hydrant shall be located no more than 100' from the fire department connection. This hydrant shall be dedicated to the fire department connection and shall be in addition to the hydrants required above.
- E. When possible, fire hydrants shall be located a minimum of fifty feet (50') from any structure.
- F. In proposed subdivisions, where all structures have not been constructed, hydrant spacing shall be measured along the street right-of-way with spacing provided as shown above.

- G. Dead end water mains shall be provided with a fire hydrant. Water mains serving fire hydrants shall be six inch (6") diameter minimum. Each phase of a project shall be designed and constructed to provide the minimum number of hydrants necessary to conform with the above requirements upon completion of the phase.
- H. The determination of distance shall be made via vehicle access routes (roadways, fire lanes, etc.) and by hose placement from the firefighting equipment located adjacent to the fire hydrant in lieu of direct measurements. The distances specified above are meant to reflect the actual length of fire hose which would be laid by the fire department to reach the structure in the event of a fire at or in that structure. Distances shall be measured beginning at the point of the structure farthest from the hydrant, thence along an Unobstructed Pathway to a point in the centerline of the street, thence along the centerline of the street to a point opposite the hydrant. Unobstructed Pathway means a route which may be taken by firemen in laying fire hose. The Unobstructed Pathway shall be, and remain, free of trees and shrubs, walls, fences, wells, structures, or other obstacles to the passage of firefighters, hose and equipment for a width of ten feet (10') and a minimum vertical distance of thirteen feet six inches (13' 6") and shall not be through, under, or over any portion of any structure, ditch or waterway.
- I. The developer of any new subdivision, subdivision or project, or development, whether it be single or multiple, or whether residential or commercial, is responsible for funding and installing the required fire hydrant (s) and water main to comply with the above requirements.

Section 4.4 Other Utilities and Services

Electric power, telephone, cable television, natural gas lines and other utilities which are proposed to be installed in the development 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 are 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 these regulations as long as they are installed in the public right-of-way or easement in accordance with Town standards for such installations.

Section 4.5 Monuments and Markers

The developer shall install such property monuments and markers as are required by law and the standards of practice for land surveying in North Carolina.

Section 4.6 Warranty Against Defects

- A. Prior to the approval of the Final Plat or acceptance by the Town of any improvements in any Subdivision, the Subdivider shall furnish to the Town a written warranty against defects which shall guarantee the material and workmanship for a period of not less than one year from the date of such acceptance. Such warranty shall be accompanied by a financial guarantee payable to the Town equal to at least ten percent (10%) of the cost of the installation of such improvements as determined by the Town Board. Such financial guarantee shall be in the form of cash, a certified check or irrevocable letter of credit.
- B. Upon successful performance of the improvements, as determined by the Town Board, for the one-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 Town Board, 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 defect(s), the Town Board shall find the Subdivider in default and may expend said warranty funds as deemed necessary to correct the deficiencies.

ARTICLE VI LEGAL PROVISIONS

Section 5.1 Interpretation, Purpose, Conflict

In interpreting and applying the provisions of this Ordinance, 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 Ordinance to interfere with or abrogate or annul any Easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction or imposes higher standards than those required by other ordinances, rules, regulations, or by Easements, covenants, or agreements the provisions of this Ordinance shall govern so that, in all cases, the most restrictive limitation or requirement, or the requirement causing the highest standard of improvement, shall govern. Provided, 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.

Section 5.2 Repeal and Reenactment of Existing Subdivision Regulations

The rewriting of this Ordinance in part carries forth by reenactment some of the provisions of the existing Subdivision Regulations of the Town of Tryon 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 Regulations which are not reenacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of the Subdivision Regulations 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 Ordinance, but shall be prosecuted to their finality the same as if this Ordinance had not been adopted; and any and all violations of the existing Regulations, prosecutions for which have not been instituted, may be filed and prosecuted; and nothing in this Ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending and/or which may have been instituted or prosecuted.

Section 5.3 Effect Upon Outstanding Preliminary Plats

- A. Nothing herein contained shall require any change in any Preliminary Plat which has received approval by the Town of Tryon prior to the time of the adoption of this Ordinance provided that such Preliminary Plat has been prosecuted to completion and a Final Plat recorded in the Office of the Register of Deed within twelve (12) months after the time of the adoption of this Ordinance. 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 twelve (12) months after the time of the adoption of this Ordinance, such non-recorded area shall be subject to all the provisions of this Ordinance.
- B. After the effective date of this Ordinance, any Final Plat to be recorded based upon any outstanding Preliminary Plat shall follow the Final Plat approval procedures of this Ordinance.
- C. In addition, nothing herein contained shall require any change in any Final Plat which has received approval by the Town of Tryon prior to the time of the adoption of this Ordinance 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 Town of Tryon may, at its option, take lawful action pursuant to the Subdivision Ordinance in existence at the time of the Final Plat approval or this Ordinance.

Section 5.4 Effect Upon New Territory Added to Jurisdiction

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

- A. 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 Town may not accept the Dedication of any Street or Street improvements unless such Street and Street improvements meet the standards of this Ordinance and the Town's Policy for Acceptance of Streets for use and maintenance by the Town.
- B. All other Subdivisions shall meet all of the requirements of this Ordinance 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 Ordinance 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.

Section 5.5 Modifications

The Town Board may modify the requirements of this Ordinance wherein the Board's opinion equal or better performance will result. In modifying any standard or requirement the evaluation shall be made with regard to the overall performance in carrying out the purpose of this Ordinance. In granting Modifications, the Town Board may require such conditions as will secure, insofar as practicable, the objectives or requirements modified. In no case however, shall the Town Board, acting pursuant to this Section, modify the terms or requirements of the Zoning Ordinance or the Flood Damage Prevention Ordinance. Violation of any condition shall constitute a violation of this Ordinance. A Modification granted as part of a plan approval shall have the same duration as the plan approval.

Section 5.6 Amendments

The Town Board may from time to time amend the terms of this Ordinance after a public hearing has been held and notice given as required by North Carolina General Statutes 160A-364. However, any proposed Amendment shall be submitted to the Planning Board for review and recommendation prior to Town Board action. The Planning Board shall have forty-five (45) days from the date such Amendment is first submitted for review to the Board to make its recommendation. If the Planning Board fails to make its recommendation within the specified time, it shall be deemed to have recommended in favor of the Amendment.

Section 5.7 No Liability

Acceptance of dedication of lands or facilities located within the Jurisdiction of this Ordinance but outside the Town limits shall not place on the Town any duty to open, operate, repair or maintain any Street, utility line, or other land or facility and the Town 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.

Section 5.8 Violations; Penalties and Remedies

- A. After the effective date of this Ordinance, no Subdivision Plat of land within the Jurisdiction of this Ordinance shall be filed or recorded until it shall have been submitted to and approved by the appropriate approval authority.
- B. The Review Officer shall not certify for recording a Plat of Subdivision of land subject to this Ordinance that has not been approved in accordance with this Ordinance 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 Ordinance.
- C. After the effective date of this Ordinance, any person who, being the owner or agent of the owner of any land within the Jurisdiction of this Ordinance, thereafter subdivides his 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 subject the violators to the penalties and remedies in this Ordinance. 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 penalties and remedies.
- D. Violations of this Ordinance shall constitute either a misdemeanor, with a fine not exceeding fifty (50) Dollars or imprisonment not exceeding thirty (30) days, or, at the election of the Town, shall subject the offender to a civil penalty upon the issuance of a citation for said violation as hereinafter provided. The civil penalty, if not paid to the Town within fifteen days of the issuance of a citation, may be recovered by the Town in a civil action in the nature of debt. Said civil penalties shall be in the amount of \$50.00 (fifty dollars) for each violation and each day any single violation continues shall be a separate violation.
- E. In addition to the civil penalties set out above, any provision of this Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.
- F. In addition to the civil penalties set out above, any provision of this Ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by General Court of Justice. When a violation of such a provision occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.
- G. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that abandoned or junked vehicles be removed; that improvements or

repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

- H. The provision of this Ordinance may be enforced by one, all or a combination of the remedies authorized and prescribed by this section.
- I. Upon determination of a violation of any section of this Ordinance, the penalty for which is a civil penalty, the Subdivision Administrator shall cause a warning citation to be issued to the violator. Such citation shall set out the nature of the violation, the section violated, the date of the violation, and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated.
- J. An appeal from a warning citation shall be taken within ten (10) days from the date of said warning citation and the Board of Adjustment, in considering such appeal, shall, notwithstanding other powers as may be granted, have power only in the manner of administrative review and interpretation where it is alleged that the Enforcement Officer has made an error in the application of the Ordinance, in the factual situation as it relates to the application of the Ordinance, or both.
- K. Where the Subdivision Administration determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or Consent Agreement, the Subdivision Administrator may amend the warning citation to provide for additional time. The warning citation shall specify that a second citation shall incur a civil penalty, together with costs, and attorney fees.
- L. Upon failure of the violator to obey the warning citation a civil citation shall be issued by the Subdivision Administrator and either served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the Town or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to pay the civil assessment within fifteen days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid, otherwise further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.
- M. If the violator fails to respond to a citation within fifteen days of its issuance, and pay the penalty

prescribed therein, the Town may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law.

Section 5.9 Validity

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Board hereby declares that it would have passed this Ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 5.10 Effective Date

This Ordinance shall become effective upon its adoption by the Town Board of Commissioners of the Town of Tryon, North Carolina.

ADOPTED the 18th day of June, 2006, by the Town Board of Commissioners of the Town of Tryon, North Carolina.

As **AMENDED** the 21st day of August, 2007, by the Town Board of Commissioners of the Town of Tryon, North Carolina.

Attest:

Town Clerk

Mayor

MAPPING STANDARDS

The following are the Standards of Maps to be submitted as part of the subdivision process. These standards are intended to be general and the subdivider may be required to file fewer or more maps or provide less or more information depending upon the circumstances of the particular case.

A. NUMBER AND TYPE OF MAP TO BE SUBMITTED

<u>MAP</u>	<u>INITIAL REVIEW</u>	<u>PLANNING BOARD/ TOWN COUNCIL REVIEW</u>	<u>TOWN FILE (as approved)</u>
Preliminary Plan			
Major	3 prints (1 reproducible)	10 prints (1 reproducible)	4 prints (1 reproducible)
Construction Plans	4 sets (1 reproducible)		1 set (as-built) mylar*
Final Plat	3 prints	8 prints (1 reproducible)	1 original, 2 reproducibles plus computer disc in Auto CAD 2000 or later file format

* Must be certified by Subdivider's Engineer.

** Consult POLK County Review Officer for Record Map Requirements.

All maps shall be drawn to scale. The scale shall be not less than 1" = 200'. Construction plans shall be at a scale of not less than 1" = 50'. Prints may be blue-line or black-line and map size shall be a minimum of 11" x 17" and a maximum of 24" x 36", except that Final Plats shall not exceed an outside dimension of 18" x 24". ** The Final Plat prints and mylar for Town file shall be copies of the Final Plat as presented for recording. If larger than 8 1/2 by 11 the reproducible may be in the form of a sepia.

B. CONSTRUCTION PLANS

1. Plan and Profile showing Streets with complete design showing all horizontal curve data, vertical curve data, superelevation, etc. and DOT approvals such as driveway permits, DOT street, etc.
2. Storm drainage design and calculations with size, material, grade, length and cover on all pipes, and size, type and location of all catch basins.
3. Location of all flood boundaries and temporary and permanent erosion control methods and proposed fill.
4. Utility system plan and profile to show size, material, cover, and grade on all mains; size, depth and type of all manholes, location of all hydrants and cleanouts, location of all services and meter boxes, and location of Easements.

5. Distribution systems of electric, telephone, natural gas cable, antenna television and other services in right-of-way.
6. A copy of the approved State Erosion Control Plan and approval letter prior to beginning construction.

C. MAP INFORMATION

<u>INFORMATION</u>	<u>PRELIMINARY PLAN</u>	<u>FINAL PLAT</u>
Title Block containing:		
Name of Development	X	X
Name of map or Plan (sketch plan, preliminary plan, etc.)	X	X
Owner's name with address and daytime telephone number	X	X
Location (including address, city, Township City & State) Date (s) map (s) prepared or revised	X	X
Scale of drawing in feet per inch (drawing shall not be at scale of not less than 1 equal to 200')	X	X
Bar Graph Scale	X	X
Name, address , and telephone number of preparer of map	X	X
Developer's name, address, and daytime telephone number(if different form owner's)	X	X
<u>INFORMATION</u>	<u>PRELIMINARY PLAN</u>	<u>FINAL PLAT</u>
Zoning districts within the property and adjacent properties	X	X
Existing land use within the property and adjacent properties	X	
Plat book or deed book references	X	X
Names of adjoining property owners (or subdivision or developments of record with plat book and/or deed book reference)	X	X
Tax map, block and parcel(s) number	X	X
Vicinity map showing location of site relative to surrounding are typically drawn in upper right hand corner, at a scale of 1" = 2000'.	X	X
Corporate limit, City limits, and other jurisdiction line, if any, on the tract	X	X
North arrow and orientation (North arrow	X	X

shall be oriented towards top of map where practicable		
Boundaries of the tract to be subdivided or developed:	<u>PRELIMINARY PLAN</u>	<u>FINAL PLAT</u>
a. Distinctly and accurately represented and showing all distances; show bearings and distances and curve data on outside boundaries and street centerlines on preliminary with street centerline tied to boundary	X	X
b. Tie at least on corner to NC grid and provide grid coordinates where at least one of the two control monuments needed are within 2000 feet of the boundary or tie to nearest street intersection		X
c. Showing locations of intersecting boundary lines of adjoining properties	X	X
d. Locations and descriptions of all monuments, markers, and control corners	X	X
e. Existing property lines on tract to be subdivided. If existing property lines to be changed, label as "old property line" and show dashed lines	X	X
f. Dimensions, location, and use of all existing buildings; distances between building measured at the closest property lines; building to remain on final.	X	X
g. The name and location of any property or building on the National Register of Historic Places or locally designated historic site	X	X
h. Railroad lines and rights-of-way	X	X
i. Water courses, ponds, lakes, or streams	X	X
j. Marshes swamps and other wetland areas to be dedicated or reserved for the public or local jurisdiction	X	X
k. Areas designated as common area or open space under control of an Owner's Association	X	X
l. Existing and proposed topography of tract and 100 feet beyond property showing existing contour intervals of no greater than 5 feet (2 feet where available) and labeling at least two contours per map and all others at 10 foot intervals from sea level	X	
m. Proposed lot line and dimensions; show bearings and distances on final	X	X
n. Square footage of all proposed lots under	X	X

one (1) acre; smallest lot indicated		
o. Acreage for all lots over one (1) acre	X	X
Site calculations including:	<u>PRELIMINARY PLAN</u>	<u>FINAL PLAT</u>
a. Acreage in total tract	X	X
b. Acreage in public greenways and other open space	X	X
c. Total number of lots proposed	X	X
d. Liner feet in streets	X	X
e. Area in newly dedicated right-of-way	X	X
f. Lots sequenced or numbered consecutively	X	X
Street data illustrating existing and proposed rights-of-way within and adjacent to property showing:	<u>PRELIMINARY PLAN</u>	<u>FINAL PLAT</u>
a. Right-of-way lines	X	X
b. Total right-of-way width dimension	X	X
c. Right-of-way width dimension from centerline of existing public streets	X	X
d. Cul-de-sac right-of-way radius from centerpoint	X	X
Existing and proposed streets showing:		
a. Pavement or curb lines	X	
b. Pavement width dimensions	X	
c. Cul-de-sac pavement radius from centerpoint	X	
d. Existing and proposed street names	X	
e. Location, dimension, and type of all easements (existing & proposed)	X	
Utility Layout Plan showing connections to existing systems, line sizes, material of lines, location of fire hydrants, blowoffs, valves, manholes, catch basins, force mains etc. for the following type of utility lines: (not a substitute for Construction Plans)	<u>PRELIMINARY PLAN</u>	<u>FINAL PLAT</u>
a. Sanitary Sewer	X	
b. Water Distribution	X	
c. Stormwater Management	X	
d. Natural gas, electric, cable TV	X	
e. Plan for providing water and sewer service in graphic or narrative form	X	

D. CERTIFICATIONS, NOTES AND APPROVAL BLOCKS

The following Certificates, Notes and Approval Blocks shall appear on the appropriate plans and plats in Substantially the following formats:

A. Preliminary Plan - major:

Planning Board

I hereby certify that this Preliminary Plan was recommended for approval by the Planning Board of the Town of Tryon.

Chairman, Planning Board Date

Town Board

I hereby certify that this Preliminary Plan was approved by the Board of Commissioners of the Town of Tryon.

Chairman, Planning Board Date

B. Final Plat:

1. Certificate of Survey and Accuracy

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____ page _____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____ page _____; that the ratio of precision as calculated is 1 : _____; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____ A.D., 2004.

Seal or Stamp

Surveyor

Registration #

(maximum allowable error: 1:10,000)

2. Review Officer Certification

State of North Carolina
County of Polk

_____, Review Officer of Polk County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

3. Certificate of Ownership and Dedication

I (We) hereby certify that I am (we are) owner(s) of the property shown and described herein, that the property is within the Subdivision Jurisdiction of the Town of Tryon and that I (we) hereby adopt this plan of subdivision with my (our) free consent and hereby establish all lots and dedicate all streets, alleys, walks, parks and other open spaces to public or private use as noted.

Owner(s)

4. Certificate of Final Approval

Approved for recording by the Town Board of the Town of Tryon, N. C. on this the _____ day of _____, 20 _____ pursuant to authority of the Subdivision Ordinance. Must be recorded within thirty (30) days of this date.

Subdivision Administrator

5. NCDOT Construction Standards Certification

Department of Transportation
Division of Highways
Proposed Subdivision Road
Construction Standards Certificate

Approved: _____

District Engineer

Date: _____

6. Onsite Water and/or Sewer Note (where appropriate)

Note:(ALL the LOTS) or (LOTS#_____) as shown on this Plat are proposed to be served with on-site water and/or sewer systems. The lots as shown meet the minimum size prescribed by the Polk County Health Department for such system(s). However, the recording of this Plat does not guarantee that any such lots will meet the requirements for the approval by the Health Department for such on-site system(s).

Engineer/Survey or License or Registration #

7. Register of Deeds Certificate

State of North Carolina, Polk County

This instrument was presented for registration and recorded in Map Book_____,
Page _____, this _____ day of _____, 20_____ at _____ a.m.

Register of Deeds

8. Special Flood Hazard Area Note (word to represent actual situation)

Note: (Part of) this property (does) (does not) lie in a Special Flood Hazard Area

Reference: Floodway Panel # _____

Date: _____ (of Panel)

(If part of the property is in a Special Flood Hazard Area it shall be shown graphically on the Plat.)