



## Ordinance ORD-22-063

Introduced By: Ben Andrea

Date: August 18, 2022

### Ordinance ORD-22-063 Amending Chapters 50 and 66 in the Code of Ordinances

#### Be It Ordained:

1. That the Code of Ordinances, Town of Leland, North Carolina, is amended by modifying the Leland Town Code to read as shown in Exhibits A and B, including the replacement of the entirety of Chapter 50 with the language shown under Chapter 50 in Exhibit B.
2. That if this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.
3. That if it be determined that any other Town Ordinance or any part of any other Town Ordinance is in conflict with this Ordinance, said conflicting Ordinance shall be deemed repealed and of no effect and the provisions of this Ordinance shall prevail.

Adopted by Town Council on this 18th day of August, 2022.

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Brenda Bozeman, Mayor

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Sabrena A. Reinhardt, Town Clerk

Approved as to Form:

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Brian E. Edes, Town Attorney

## Exhibit B

### Chapter 50 – SUBDIVISIONS

#### ARTICLE I. – GENERAL PROVISIONS, REVIEW AND DECISION PROCEDURES, AND DESIGN STANDARDS

##### DIVISION 1 – GENERAL PROVISIONS

###### Sec 50-1. Title.

This Article shall be known and may be cited as the subdivision regulations of the Town, and may be referred to as the subdivision regulations.

###### Sec 50-2. - Purpose.

The purpose of this Article is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the Town. It is further designed to provide for the orderly growth and development of the Town; for the coordination of streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. This Article is designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

###### Sec. 50-3. - Jurisdiction.

The regulations contained herein, as provided in G.S. 160D Article 8, shall govern each and every subdivision within the Town.

###### Sec. 50-4. - Review required before plat recordation

The Subdivision Administrator shall review each individual subdivision plat of land within the Town's jurisdiction in accordance with G.S. 160D-801 et seq., as amended.

No subdivision plat of land within the Town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Subdivision Administrator as set forth in Section 50-59 and said approval is noted in writing on the face of the plat by the Subdivision Administrator.

The County Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the Town that has not been approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section. Any recordation in violation of this Section shall not be valid or acknowledged by the Town.

###### Sec. 50-5. - Penalties for violation.

- (a) No person who, being the owner or agent of the owner of any land located within the jurisdiction of the Town, shall subdivide his land in violation of this Article or transfer or sell land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Chapter and recorded in the office of the County Register of Deeds. 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 the civil penalty described in subsection (b) below. The Town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings,

issue an injunction and order requiring the offending party to comply with this chapter. Building permits required pursuant to G.S. 160D-1108 shall be denied for lots that have been illegally subdivided. In addition to other remedies, the Town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

- (b) The violation of any provision of this Chapter shall subject the offender to a civil penalty in the amount of \$500.00 to be recovered by the Town. Violators shall be issued a written citation, which must be paid within ten days.
- (c) Each day's continuing violation of this Article shall be a separate and distinct offense.
- (d) Nothing in this Section shall be construed to limit or preclude any and all remedies available to the Town. . The Town may seek to enforce this Article by using any one, all, or a combination of remedies available to the Town.

#### Sec. 50-6. - Abrogation.

It is not intended that this Article repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this Article imposes greater restrictions, the provisions of this Article shall govern.

#### Sec. 50-7. - Administrator.

This Article shall be administered and enforced by the Subdivision Administrator. The Subdivision Administrator shall be the Planning and Inspections Director or their designee.

#### Sec 50-8. - Appeals

Appeals may be filed pursuant to Section 66-67.

#### Sec. 50-9 - Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Block* means a piece of land bounded on one or more sides by streets or roads.

*Block length* means the total distance measured along front property lines between intersecting streets.

*Building setback line* means a line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

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

*Easement* means a grant by the property owner of a portion of land for a specified purpose and use by the public, a corporation, or persons.

*Exempt subdivision* means a subdivision that is not included in the definition of subdivision.

*Half street* means a street the centerline of which coincides with a subdivision plat boundary, with half the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

*Lot* means a single contiguous parcel of land in identical ownership throughout, bounded by other lots or streets and used or set aside and available for use as the site of one or more buildings or other purpose as permitted. A lot shall be of legal record and described on a recorded plat or recorded instrument containing a metes and bounds description. Lot types are as follows:

- (1) *Corner lot* means a lot located at the intersection of two or more streets. A lot abutting on a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. A lot located at the intersection of a street and an alley shall not be considered a corner lot.
- (2) *Double-frontage lot* means a continuous (through) lot which is accessible from both streets upon which it fronts.
- (3) *Interior lot* means a lot other than a corner lot with only one frontage on more than one street.
- (4) *Reversed-frontage lot* means a lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A reversed-frontage lot may also be a corner lot, an interior lot or a through lot.
- (5) *Single-tier lot* means a lot which backs upon a limited-access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.
- (6) *Through lot* means a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double-frontage lots.
- (7) *Public utility lot* means a lot created for public water or sewer services.

*Lot of record* means a lot which is part of a lawful subdivision, a plat of which has been recorded in the Office of Register of Deeds of the County prior to September 21, 1995, or a lot described by metes and bounds, the description of which has been so recorded prior to September 21, 1995.

*Major subdivision* means a subdivision that does not qualify as a minor subdivision.

*Minor subdivision* means a subdivision involving no new public or private streets or roads, or right-of-way dedication, no utility extension, where the entire tract to be subdivided is five acres or less in size, and where four or fewer lots result after the subdivision is completed.

*Multi-use path* means a paved or asphalt path a minimum of eight-foot in width.

*Official maps or plans* means any maps or plans officially adopted by the Leland Town Council.

*Open space* means an area (land and/or water) dedicated for passive or active recreational use.

*Plat* means a map or plan of a parcel of land which is to be or has been subdivided or is exempt from the definition of subdivision.

*Private driveway* means a roadway serving two or fewer lots, building sites or other divisions of land and not intended to be public ingress or egress.

*Private street* means an undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. 136-102.6.

*Public or community sewer system* means an approved sewage disposal system serving two or more connections, including private, municipal and sanitary district sewer systems designated to serve

particular subdivisions at full development and constructed to all applicable local, state, and federal regulations and specifications.

*Public recreation facility* means a park or recreation area owned and operated by the Town to provide for active or passive recreation.

*Public water system* means an approved water supply system serving 15 or more connections, including county, municipal, and sanitary district water systems designed to serve particular subdivisions at full development and constructed to all applicable local, state, and federal regulations and specifications.

*Reservation* means an obligation to keep property free from development for a stated period of time. A reservation of land does not involve any transfer of property rights.

*Septic tank system* means a ground absorption sewage treatment and disposal system consisting of a septic tank and a nitrification field, necessary pipelines, conduits, pump stations, and other appurtenances required for proper collection, distribution, treatment, disposal, operation and performance, or any other system approved by the County Health Department.

*Street* means a dedicated right-of-way for vehicular traffic (or a private road only if permitted by this Article). The following classifications shall apply:

(1) *Urban streets* include the following:

- a. *Local street* is any link not part of a higher order urban system which serves primarily to provide direct access to abutting land and access to higher systems.
- b. *Major thoroughfares* consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.
- c. *Minor thoroughfares* are important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through traffic movement and may also connect to abutting property.

(2) *Specific type rural or urban streets*:

- a. *Freeway, expressway and parkway* mean a divided multilane roadway designed to carry large volumes of traffic at relatively high speeds. A freeway is a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An expressway is a divided highway with full or partial control of access and generally with grade separations at major intersections. A parkway is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like development.
- b. *Residential collector street* means a local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.
- c. *Local residential street* means a cul-de-sac, loop street less than 2,500 feet in length, or street less than one mile in length that does not connect thoroughfares or serve major traffic generators, and does not collect traffic from more than 100 dwelling units.
- d. *Cul-de-sac* means a short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

- e. *Frontage road* means a local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.
- f. *Alley* means a strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

*Subdivider* means any person who subdivides or develops any land deemed to be a lawful subdivision.

*Subdivision*, for the purposes of this Article, means all lawful divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all lawful 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 authorized by this Article:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in its subdivision regulations.
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town as shown in its subdivision regulations.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under G.S. Chapter 29.

*Substantial improvement*. For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur:

- (1) Installation and approval of on-site infrastructure, or
- (2) Approval of an inspection of a building foundation for which a building permit was obtained.

*Townhouse development* means a subdivision containing only townhouses as defined in Section 66-4 of this Code.

## DIVISION 2. - SUBMISSION, REVIEW, AND DECISION PROCEDURES

### Sec. 50-10 - Major subdivisions

#### (a) Preliminary plats

##### (1) General

- a. A preliminary plat must be approved by the Subdivision Administrator before the installation or performance guarantee of any infrastructure including utilities, streets and roads, curb and gutter, sidewalks, or stormwater management features.
- b. Preliminary plat approval is required prior to submission of a final plat for consideration of approval.

##### (2) Recommended pre-submission steps

- a. Pre-application discussion. A pre-application discussion is strongly encouraged between the applicant, the site designer, and the Subdivision Administrator. The purpose of this informal meeting is to introduce the applicant and the site designer to the Town's zoning and subdivision regulations and procedures and to discuss the applicant's objectives in relation to the Town's official policies and ordinance requirements.
- b. On-site inspection/walk through. After the pre-application discussion has been completed, the Subdivision Administrator may schedule a mutually convenient date to walk the property with the applicant and his site designer. The purpose of this visit is to familiarize the Subdivision Administrator with the property's special features, and to provide him an informal opportunity to offer guidance to the applicant regarding the potential house locations, street alignments, and the tentative location of conservation areas. If an on-site walkabout is applicable, the Subdivision Administrator may combine the pre-application discussion and the on-site walkabout as one step in the submittal process of the preliminary plan.
- c. Sketch plan.

1. A sketch plan may be submitted to illustrate the initial thoughts about a conceptual layout for structure sites, street alignments, and conservation areas, taking into account any special conditions that may exist or are identified in the development. This is the stage where drawings are tentatively illustrated, before heavy engineering costs are incurred in the design of any proposed subdivision layout.
2. The Subdivision Administrator shall review the sketch plan and advise the subdivider, or his authorized agent, of the regulations pertaining to the proposed subdivision, the zoning procedure, and the procedures to be followed in the preparation and submission of the preliminary and final plats
3. The applicant is encouraged to incorporate the recommendations of the Subdivision Administrator into the preliminary plat before submittal. The sketch plan is only a courtesy intended to inform the applicant of the approval criteria prior to submittal of the preliminary plat.

4. A sketch plan approval does not constitute approval of the preliminary plat and may not be substituted for any required Technical Review Committee review or approvals.

(3) Application submission

- a. Applications for review of preliminary plats shall be submitted to the Planning and Inspections Department per the process described in the Administrative Manual.
- b. Applications shall include a copy of the proposed preliminary plat, information to determine whether a Traffic Impact Analysis (TIA) is required per Section 66-316, and the fee per the adopted fee schedule.
- c. When reasonably possible, the Subdivision Administrator shall, within five (5) business days of submission, make a determination whether the application is considered complete per Section 50-11(a)(3)b. If the application is deemed incomplete, the Subdivision Administrator shall notify the applicant in writing stating the additional items necessary to deem the application complete. If the applicant does not submit the omitted items within 60 days, the application shall be deemed withdrawn.

(4) Review and approval process

- a. The Subdivision Administrator shall review a preliminary plat and determine whether it complies with the standards of this chapter, other applicable Sections of the Leland Code of Ordinances, and the plat content requirements in the Administrative Manual.
- b. After review by the Technical Review Committee (TRC) and the Subdivision Administrator, comments shall be provided to the applicant indicating what ordinance provisions have not been met, as well as advisory comments that can improve the site design.
- c. The applicant may revise the preliminary plat and resubmit to the Subdivision Administrator for review. Resubmissions shall follow the same review process described in this Section and shall include a summary of all changes made from the previous version.
- d. If a revised preliminary plat has not been received by the Subdivision Administrator within 180 days of providing written comments per Section 50-10(a)(4)b, or the determination has not been timely appealed, the preliminary plat shall be deemed denied, and the applicant shall be notified in writing.
- e. If the Subdivision Administrator determines the preliminary plat is not approvable after the second resubmission per Section 50-10(a)(4)c, a new application is required per Section 50-10(a)(3).

(5) Preliminary plat approval validity.

A final plat must be recorded within 24 months from the date of preliminary plat approval. Minor changes approved per 50-10(a)6a shall not extend the time by which a final plat must be recorded.

(6) Modifications to approved preliminary plats

- a. Minor modifications to approved preliminary plats
  1. Minor modifications include any changes not considered major modifications change per Section 50-10(a)(6)b.1.



2. Application submission
  - a. Applications for review of preliminary plats shall be submitted to the Planning and Inspections Department per the process described in the Administrative Manual.
  - b. Applications shall include a copy of the proposed modified preliminary plat, a summary of the proposed changes, and the fee per the adopted fee schedule.
  - c. When reasonably possible, within 5 business days of submission, the Subdivision Administrator shall make a determination whether the application is considered complete per Section 50-10(a)(6)a.2.b. If the application is deemed incomplete, Subdivision Administrator shall notify the applicant in writing stating the additional items necessary to deem the application complete. If the applicant does not submit the omitted items within 60 days, the application shall be deemed withdrawn.
3. Review and approval process
  - a. The Subdivision Administrator shall review a preliminary plat minor modification and determine whether it complies with the standards of this Chapter and other applicable sections of the Leland Code of Ordinances and the plat content requirements in the Administrative Manual.
  - b. After review by the necessary members of the Technical Review Committee (TRC) and the Subdivision Administrator, comments shall be provided to the applicant indicating what ordinance provisions have not been met, as well as advisory comments that can improve the site design.
  - c. The applicant may revise the preliminary plat minor modification and resubmit to the Subdivision Administrator for review. Resubmissions shall follow the same review process described in this Section and shall include a summary of all changes made from the previous version.
  - d. If a revised preliminary plat minor modification has not been received by the Subdivision Administrator within 180 days of providing written comments per Section 50-10(a)(6)a.3.b, the preliminary plat minor modification shall be deemed denied, and the applicant shall be notified in writing.
  - e. If the Subdivision Administrator determines the preliminary plat minor modification is not approvable after the second resubmission per Section 50-10(a)(6)a.3.c, a minor modification new application is required per Section 50-10(a)(6)a.2.
- b. Major modifications to approved preliminary plats
  1. Major modifications include, without limitation, any of the following:
    - a. An increase in density or number of units
    - b. A decrease in passive or active open space area

- a. Any changes to the location of or the addition or removal of any road connectivity to adjacent parcels
  - b. Any changes to the location of ingress and egress points
  - c. Any changes in unit types
  - d. Changes in any street designation (public or private) or classification (collector vs. local residential, etc.)
2. A major modification to an approved preliminary plat shall be considered a new preliminary plat application and follow the submission and review procedures as set forth in Section 50-10(a).

(b) Final Plats

(1) Prerequisites to Final Plat Approval

- a. Upon approval of the preliminary plat, the subdivider may proceed with the preparation of the final plat and the installation of required improvements in accordance with the approved preliminary plat and the requirements of this Article, and/or the approval of a performance guarantee agreement in accordance with Section 50-10(b)(1)b.
- b. Performance guarantees
  1. In lieu of requiring the completion and installation of all required improvements prior to final plat approval, the Town Council may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the Subdivision Administrator may approve the final plat, if all other requirements of this Article are met.
  2. To secure the agreement, the subdivider shall provide either one, or a combination of the following performance guarantees:
    - i. A surety bond issued by any company authorized to do business in the state.
    - ii. A letter of credit issued by any financial institution licensed to do business in the state.
    - iii. Another form of guarantee that provides equivalent security to a surety bond or letter of credit.
      1. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the Town Council an agreement between the financial institution and himself guaranteeing the following: That said escrow account shall be held in trust until released by the Town Council and may not be used or pledged by the subdivider in any other matter during the term of the escrow.
  3. The amount of the performance guarantee shall be based upon the reasonable estimated cost of labor and materials for the Town to complete the incomplete improvements.

- i. Such estimated costs shall be submitted by engineer sealed estimates provided by the subdivider.
  - ii. The submission of estimated costs of labor and materials shall be reviewed by the Town to determine if the amount provided is sufficient.
  - iii. The amount of the performance guarantee shall be 125 percent of the reasonably estimated cost of completion for the Town to install any incomplete improvements at the time the performance guarantee is issued.
4. The subdivider shall choose the duration of the performance guarantee with the minimum duration being one year. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete.
  - i. The expiration of a performance surety does not constitute satisfactory installation of improvements.
  - ii. An extension with or without a reduction in estimated quantities in a performance guarantee required by this Section may be approved by the Subdivision Administrator.
  - iii. The form of an extension shall remain at the election of the subdivider, but any change in performance guarantee will require a new agreement with the Town Council.
  - iv. Any extension of a performance guarantee necessary to complete required improvements shall be 125 percent of the reasonably estimated cost of completion for the Town to install any incomplete improvements of the remaining incomplete improvements still outstanding at the time the extension is obtained, provided however, said requirement does not obligate the Town to install any incomplete improvements under any circumstances.
  - v. Any extension with a change of estimated quantities of the performance guarantee shall provide a reasonable estimated cost in the same manner indicated in Section 50-10(b)(1)b.3.
  - vi. Unit pricing shall be of current market rate of materials and labor which the Town would be able to complete the improvements if the guarantee is defaulted.
5. A subdivider shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance guarantee agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the Town Council, pay all or any portion of the bond

or escrow fund to the Town up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Town Council, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the subdivider any funds not spent in completing the improvements.

6. The performance guarantee shall be returned or released in a timely manner upon the acknowledgement by the Town Council that the improvements for which the performance guarantee is being required are complete. Further, the Subdivision Administrator shall provide written acknowledgment that the improvements are complete.

## (2) Application Submission

- a. Applications for review of final plats shall be submitted to the Planning and Inspections Department per the process described in the Administrative Manual.
- b. Applications shall include a copy of the proposed final plat and the fee per the adopted fee schedule.
- c. When reasonably possible, within 5 business days of submission, the Subdivision Administrator shall make a determination whether the application is considered complete per Section 50-10(b)(2)b. If the application is deemed incomplete, the Subdivision Administrator shall notify the applicant in writing stating the additional items necessary to deem the application complete. If the applicant does not submit the omitted items within 60 days, the application shall be deemed withdrawn.

## (3) Review and Approval Process

- a. The Subdivision Administrator shall review the proposed final plat and determine whether it complies with the standards of this Chapter and other applicable Sections of the Leland Code of Ordinances, the plat content requirements in the Administrative Manual, and if the final plat is substantially equivalent to the approved preliminary plat.
- b. When reasonably possible, within ten business days of submission, the Subdivision Administrator shall approve the final plat or inform the applicant that the final plat has been disapproved and provide comments indicating what ordinance provisions or other requirements have not been met. During the review of the final plat, the Subdivision Administrator may appoint an engineer or registered surveyor to confirm the accuracy of the final plat or provide comments on technical data. If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected and fees have been paid.
- c. The applicant may revise the proposed final plat and resubmit to the Subdivision Administrator for review. Resubmissions shall follow the same review process described in this Section and shall include a summary of all changes made from the previous version.
- d. If a revised final plat has not been received by the Subdivision Administrator within 180 days of providing written comments per Section 50-10(b)(3)c, or the

determination has not been timely appealed, the final plat shall be deemed denied, and the applicant shall be notified in writing.

- e. The subdivider shall record the approved final plat with the Register of Deeds of the County within 30 days of the Subdivision Administrator's approval; otherwise such approval shall be null and void.

(4) Effect of plat approval on dedications.

- a. Pursuant to G.S. 160D-806, the approval of a plat does not constitute or effect the acceptance by the Town or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat and shall not be construed to do so.
- b. Pursuant to G.S. 160D-806, the Town Council, by resolution, may accept the dedication of any lands and facilities for streets, parks, stormwater systems or other public purposes for public dedication when the lands or facilities are located within its subdivision regulation jurisdiction and meets the Town's requirements. The Town shall not accept the dedication of such lands and facilities until it determines, based upon recommendation of the Subdivision Administrator, that:
  - i. All lands and facilities have been properly dedicated through recorded plats, deeds, or deeds of easements;
  - ii. All lands and facilities meet Town standards and have been inspected and approved by the Subdivision Administrator and/or affected departments of the Town;
  - iii. The subdivider has requested that the lands and facilities be accepted as public; and
  - iv. The subdivider has provided a valuation of all lands and facilities to be dedicated to the Town.
- c. The acceptance of any lands and facilities by the Town shall be subject to the following terms and conditions:
  - i. The subdivider shall guarantee all materials and workmanship for a period of 12 months from the date of official acceptance by an affirmative vote to accept by the Town Council and the recordation of the final plat;
  - ii. The acceptance by the Town shall not be interpreted in any way to relieve any developer, subdivider, contractor, subcontractor, insurance company, owner, or other person of his individual or several obligations under any ordinance, policy, or contract or to his individual or several obligations under any ordinance, policy, or contract or to otherwise reduce or eliminate the rights of the Town, its agents and employees against any other party connected with or in any way related to the development of the subdivision and facilities. The acceptance shall not be interpreted as a waiver of any defense or immunities which the Town, its agencies or employees may assert or be entitled to;
  - iii. All rights, privileges and warranties of whatsoever nature and kind, for equipment, supplies, materials, goods, and services shall be assigned to the Town and any and all benefits derived there from shall inure to the

Town, its agents, and employees. The acceptance of the lands and facilities shall be conditioned upon the owners covenanting and warranting that they are lawfully seized and possessed of all the lands and facilities dedicated to the public; that they have good and lawful authority to dedicate the same to the public for the stated purpose; that the lands and facilities are free and clear of any deed of trust, mortgage, lien or assessments; and that the dedicators for their heirs, successors, executors, administrators, and assigns, covenant that they will warrant and defend the dedication of such land and facilities against any and all claims and demands whatsoever;

- iv. Acceptance of dedication of lands and facilities shall not obligate the Town to construct, maintain, repair, replace, extend, improve, build or operate any public facilities or utilities, which are not in existence as of the date of the acceptance of the lands and facilities. Such acceptance shall not obligate the Town to construct any main, line, pipe, lateral, or other extension or permit connection to the Town's storm sewer, drainage or other public utilities systems.
- v. Acceptance of dedication of lands and facilities shall be contingent on the conveyance of said lands and facilities in fee simple to the Town.

## Sec. 50-11 - Minor subdivisions

### (a) General

#### (1) Recommended pre-submission steps

- a. Applicants for minor subdivisions may utilize the optional pre-submission steps for major subdivisions in Section 50-10(a)(2).

#### (2) Application Submission

- a. Applications for review of minor subdivision plats shall be submitted to the Planning and Inspections Department per the process described in the Administrative Manual.
- b. Applications shall include a copy of the proposed minor subdivision plat and the fee per the adopted fee schedule.
- c. When reasonably possible, within 5 business days of submission, the Subdivision Administrator shall make a determination whether the application is considered complete per Section 50-11(a)(2)b. If the application is deemed incomplete, Subdivision Administrator shall notify the applicant in writing stating the additional items necessary to deem the application complete. If the applicant does not submit the omitted items within 60 days, the application shall be deemed withdrawn.

#### (3) Review and Approval Process

- a. The Subdivision Administrator shall review the minor subdivision plat and determine whether it complies with the standards of this chapter, other applicable sections of the Leland Code of Ordinances, and the plat content requirements in the Administrative Manual.

- b. When reasonably possible, within ten business days of submission, the Subdivision Administrator shall approve the minor subdivision plat or inform the applicant that the minor subdivision plat has been disapproved and provide comments indicating what ordinance provisions or other requirements have not been met. During the review of the minor subdivision plat, the Subdivision Administrator may appoint an engineer or registered surveyor to confirm the accuracy of the minor subdivision plat or provide comments on technical data. If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected and fees have been paid.
- c. The applicant may revise the minor subdivision plat and resubmit to the Subdivision Administrator for review. Resubmissions shall follow the same review process described in this Section and shall include a summary of all changes made from the previous version.
- d. If a revised minor subdivision plat has not been received by the Subdivision Administrator within 180 days of providing written comments per Section 50-11(a)(3)b, or the determination has not been timely appealed, the minor subdivision plat shall be deemed denied, and the applicant shall be notified in writing.
- e. The subdivider shall record the approved minor subdivision plat with the Register of Deeds of the County within 30 days of the Subdivision Administrator's approval; failure to timely record such approval shall render the approval null and void.

#### Sec. 50-12 – Exempt plats

##### (a) General

##### (1) Recommended pre-submission steps

- a. Applicants for exempt plats may utilize the optional pre-submission steps for major subdivisions in Section 50-10(a)(2).

##### (2) Application Submission

- d. Applications for review of exempt plats shall be submitted to the Planning and Inspections Department per the process described in the Administrative Manual.
- e. Applications shall include a copy of the proposed exempt plat and the fee per the adopted fee schedule.
- f. When reasonably possible, within 5 business days of submission, the Subdivision Administrator shall make a determination whether the application is considered complete per Section 50-12(a)(2)b. If the application is deemed incomplete, Subdivision Administrator shall notify the applicant in writing stating the additional items necessary to deem the application complete. If the applicant does not submit the omitted items within 60 days, the application shall be deemed withdrawn.

##### (3) Review and Approval Process

- a. The Subdivision Administrator shall review the exempt plat and determine any applicable sections of the Leland Code of Ordinances and the plat content requirements in the Administrative Manual.

- b. When reasonably possible, within ten business days of submission, the Subdivision Administrator shall approve the exempt plat or inform the applicant that the exempt plat has been disapproved and provide comments indicating what ordinance provisions or other requirements have not been met. During the review of the exempt plat, the Subdivision Administrator may appoint an engineer or registered surveyor to confirm the accuracy of the minor subdivision plat or provide comments on technical data. If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected and fees have been paid.
- c. The applicant may revise the exempt plat and resubmit to the Subdivision Administrator for review. Resubmissions shall follow the same review process described in this Section and shall include a summary of all changes made from the previous version.
- d. If a revised exempt plat has not been received by the Subdivision Administrator within 180 days of providing written comments per Section 50-12(a)(3)b, or the determination has not been timely appealed, the exempt plat shall be deemed denied, and the applicant shall be notified in writing.
- e. The subdivider shall record the approved exempt plat with the Register of Deeds of the County within 30 days of the Subdivision Administrator's approval; failure to timely record such approval shall render the approval null and void.

### DIVISION 3. – DESIGN STANDARDS

#### Sec. 50-13. - Compliance with zoning regulations.

Proposed subdivisions must comply with the requirements of the zoning ordinance in effect in the area to be subdivided.

#### Sec. 50-14. - Adopted plans.

Proposed subdivisions must comply with any plans adopted by the Town of Leland, including but not limited to plans related to transportation network improvements, bicycle and pedestrian facilities, parks and recreation facilities, future growth patterns, and economic development.

#### Sec. 50-15. - General improvement requirements.

Each major subdivision shall contain the improvements specified in this division, which shall be installed in accordance with the requirements of this Article and paid for by the subdivider unless other means of financing is specifically stated in this Article. Land shall be dedicated and reserved in each major subdivision as specified in this division. Each subdivision shall adhere to the minimum standards of design in Section 50-145.

#### Sec. 50-16. - Name duplication.

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the County. The name of streets shall not duplicate nor closely approximate the name of any existing street within the County.



Sec. 50-17. - Subdivision design.

(a) *In general.*

- (1) The lengths, widths and shapes of blocks and block lengths shall be determined with due regard to:
  - a. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
  - b. Zoning requirements;
  - c. Needs for vehicular and pedestrian circulation;
  - d. Control and safety of street traffic; and
  - e. Limitations and opportunities of topography.
- (2) Block length. Block lengths shall not be less than 400 feet or more than 1,800 feet. Block lengths in the C-2 zoning district shall include the total distance measured along front property lines between intersecting public streets or approved private streets, rights-of-way, or easements leading directly to a public street, as regulated in Section 50-18(a) subdivision design, types of streets required.
- (3) Blocks shall have sufficient width to allow two tiers of residential lots except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.
- (4) Block numbers shall conform to the Town street numbering system if applicable.

(b) *Lots.*

- (1) All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of Chapter 66. It is not sufficient merely for the average lot to meet zoning requirements.
- (2) Lots shall meet any applicable County health department requirements.
- (3) Double-frontage lots shall be avoided wherever possible.
- (4) Side lot lines shall be substantially at right angles to radial street lines.
- (5) To promote energy conservation, lots in the subdivision shall, to the extent possible in light of topographic and other considerations, face streets which run in an east-west direction, to provide greater opportunity for south orientation of windows in buildings. In manufactured home subdivisions, if units will be sited with the long axis perpendicular to the street, lots shall, to the extent possible, face streets which run in a north-south direction.
- (6) New townhouse developments shall meet the requirements of Section 50-18 except as follows:
  - a. Townhouse developments shall abut a public street but individual townhouse lots within the townhouse development are not required to abut a public street so long as they meet the requirements of Subsection (b) below.
  - b. Individual townhouse lots need not abut a public street provided every individual townhouse lot has deeded access to a public street.

- c. Prior to final plat approval, an incorporated property owners association shall be established that has control over common areas, internal traffic circulation and parking areas.

(c) *Easements.* Easements shall be provided as follows:

- (1) *Utility easements.* Easements shall be provided in accordance with the requirements of utility providers for underground or above-ground utilities where necessary.
- (2) *Drainage easements.* Easements shall be provided in accordance with the stormwater permitting authority's requirements. Provisions for the future maintenance and upkeep of all drainage easements shall be approved by the stormwater permitting authority prior to final plat approval, and such provisions shall be included with the final plat.

Sec. 50-18. – Streets and connections.

- (a) *Types of streets required.* All subdivision lots shall abut on a public street, with the exception of commercial uses located within the C-2 zoning district which shall abut on a public street or an approved private street, right-of-way or easement leading directly to a public street. All subdivision streets shall be dedicated to the Town. All public streets shall be built to the standards of this Article and all other applicable standards of the Town and the State Department of Transportation. Public streets shall be constructed to the standards necessary to be put on the state highway system or the standards in this Article, whichever is stricter in regard to each particular item, and shall be put on such system. A written maintenance agreement with provisions for maintenance of the street until it is put on the Town's system shall be included with the final plat. Private streets, rights-of-way and easements shall be subject to approval and shall be constructed in accordance with the Town's parking, loading, driveway and sidewalk requirements as well as the applicable street design standards.
- (b) *Subdivision street disclosure statement.* All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or state system, before lots are sold, a statement explaining the status of the street shall be included with the final plat. The provisions outlined in Subsection (a) of this Section will apply.
- (c) *Half streets.* The dedication of half streets of less than 60 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than 60 feet of right-of-way is required, a partial width right-of-way, not less than 60 feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider; provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.
- (d) *Marginal-access streets.* Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal-access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.
- (e) *Connections and number of dwelling units.*

- (1) Any proposed development with up to 90 residential units shall be required to provide:
    - a. A minimum of one connection to the existing public street network; and
    - b. A minimum of one connection (or stub-out if adjacent property has not been developed) to adjacent properties or an additional connection to the public network.
  - (2) Any proposed development with 90 or more residential units shall be required to provide a minimum of two connections to the existing public street network.
- (e) *Access to adjacent properties.* Roadway interconnections will be provided between the development site and its adjacent properties as specified for the zoning district classification.
- (1) *R-20, RMH, C-3.*
    - a. *Local street (minor).* Development properties zoned R-20, RMH, or C-3 shall provide roadway interconnections between the development site and its adjacent properties with a minimum of at least one residential local subdivision road interconnection every 2,500 linear foot increment for each direction (north, south, east, west) in which the development property abuts, with at least 750 linear feet between interconnections. A residential collector street may be substituted in place of a residential local subdivision road.
    - b. *Minor thoroughfare (collector).* Development properties zoned R-20, RMH, or C-3 shall provide roadway interconnections between the development site and its adjacent properties with a minimum of at least one residential collector road interconnection every 8,000 linear feet for each direction (north, south, east, west) in which the development property abuts.
  - (2) *R-15, C-1, C-2, O&I.*
    - a. *Local street (minor).* Development properties zoned R-15, C-1, C-2, or O&I shall provide roadway interconnections between the development site and its adjacent properties with a minimum of at least one residential local subdivision road interconnection every 2,000 linear foot increment for each direction (north, south, east, west) in which the development property abuts, with at least 1,000 linear feet between interconnections. A residential collector street may be substituted in place of a residential local subdivision road.
    - b. *Minor thoroughfare (collector).* Development properties zoned R-15, C-1, C-2, or O&I shall provide roadway interconnections between the development site and its adjacent properties with a minimum of at least one residential collector street interconnection every 5,000 linear feet for each direction (north, south, east, west) in which the development property abuts.
  - (3) *R-6, MF, PUD.*
    - a. *Local street (minor).* Development properties zoned R-6, MF, or PUD shall provide roadway interconnections between the development site and its adjacent properties with a minimum of at least one residential local subdivision road interconnection every 1,000 linear foot increment for each direction (north, south, east, west) in which the development property abuts with at least 500 linear feet between interconnections. A residential collector street may be substituted in place of a residential local subdivision road.
    - b. *Minor thoroughfare (collector).* Development properties zoned R-6, MF, or PUD shall provide roadway interconnections between the development site and its adjacent properties with a minimum of at least one residential collector street interconnection every

3,000 linear feet for each direction (north, south, east, west) in which the development property abuts.

- (5) *Signs required for future street connections.* When a street or road is required to stub to an adjacent property that may be developed in the future, the developer shall install a four-square-foot sign that reads "Future Street Connection" adjacent to the terminus of the street stub, facing oncoming traffic, and measuring five to six feet in height from the ground. The sign shall comply with any applicable Town of Leland, NCDOT, and MUTCD standards.
- (6) *Administrative Adjustments for required street connections.* When two or more connections are required along a project boundary, the second and additional connections may be waived when the presence of wetlands and/or waters under jurisdiction of Sections 401 and 404 of the Clean Water Act or a controlled-access highway or interstate along the project boundary make connections impractical. At least one connection in each direction is required unless a variance is granted from the Board of Adjustment or the portion of the project boundary where a connection would otherwise be required abuts any of the following:
  - a. A surface water body with a classification from NC Department of Water Quality Division of Water Resources
  - b. A controlled-access highway or interstate
  - c. An existing development where street stub(s) to the subject project boundary were not included on the approved plan or plat
- (f) *Nonresidential streets.* The subdivider of a nonresidential subdivision shall provide street in accordance with the standards contained in the most current edition of the North Carolina Roads, Minimum Construction Standards booklet, and the standards in this Article, whichever are stricter in regard to each particular item.
- (g) *Design standards.* The design of all streets and roads within the jurisdiction of this Article shall be in accordance with the accepted policies of the state department of transportation, division of highways, as taken or modified from the American Association of State Highway Officials (AASHO) manuals. The most current edition of the state department of transportation, division of highways subdivision roads minimum construction standards, shall apply for any items not included in this Article, or where stricter than this Article.
- (h) *Right-of-way widths* of all streets and roads within the jurisdiction of this Article shall conform to the most current edition of the state department of transportation, division of highways subdivision roads minimum construction standards. All other restrictions on such right-of-way widths as set forth in said standards shall apply.
- (i) *Street paving widths.* Paving widths for street and road classifications shall be as required by the mutually adopted thoroughfare plan, where applicable, and according to the minimum standards adopted by the state department of transportation.
- (j) *Minimum sight distances.* In the interest of public safety, no less than the minimum sight distance applicable (for roads), according to the state department of transportation, shall be provided in every instance.
- (k) *Intersections.*
  - (1) Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than 60 degrees.

- (2) Property lines at intersections should be set so that the distance from the edge of pavement, of the street turnout, to the property line will be at least as great as the distance from the edge of pavement to the property line along the intersecting streets. This property line can be established as a radius or as a sight triangle. Greater offsets from the edge of pavement to the property line will be required, if necessary, to provide sight distance for the vehicle on the side street.
  - (3) Offset intersections are to be avoided unless exception is granted by the state division of highways. Intersections which cannot be aligned should be separated by a minimum length of 200 feet between survey centerlines.
  - (4) Intersections with arterials, collectors and thoroughfares shall be at least 1,000 feet from centerline to centerline, or more if required by the state department of transportation.
- (l) *Cul-de-sacs.* Permanent dead-end streets should not exceed 500 feet in length unless necessitated by topography or property accessibility and in no case shall be permitted to be over 900 feet. Measurements shall be from the point where the centerline of the dead-end street intersects with the center of the turnaround of the cul-de-sac. Where one cul-de-sac intersects with another cul-de-sac, the end of each cul-de-sac shall be no more than 500 feet to 900 feet from a through street, measured as stated in this Subsection. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to right-of-way line on the street approaching the turnaround. Cul-de-sacs should not be used to avoid connection with an existing street or an existing or approved street stub.
- (m) *Alleys.*
- (1) Alleys shall be required to serve lots used for commercial and industrial purposes, except that this requirement may be waived where other definite and ensured provision is made for service access.
  - (2) Alleys shall not be provided in residential subdivisions unless necessitated by unusual circumstances.
  - (3) The width of an alley shall be at least 20 feet.
  - (4) Dead-end alleys shall be avoided where possible but if unavoidable, shall be provided with adequate turnaround facilities at the dead-end as may be approved by the Subdivision Administrator.
  - (5) Sharp changes in alignment and grade shall be avoided.
  - (6) All alleys shall be designed in accordance with state department of transportation standards.
- (n) *Through traffic discouraged on residential collector and local streets.* Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to ensure convenient access to parks, playgrounds, schools or other places of public assembly.
- (o) *Multimodal design provisions.*
- (1) Sidewalks or similar walkways, and multi-use paths as appearing in the officially adopted plans of the Town found in Section 50-62, shall be required along all new public and private streets and all existing streets on which the parcel(s) to be subdivided have frontage.
  - (2) Sidewalks shall be a minimum width of five feet on both sides of the street or eight feet on one side of the street and consist of a minimum thickness of four inches of concrete. Sidewalks shall

consist of a minimum of six inches of concrete at driveway crossings. Sidewalks shall extend around the circumference of cul-de-sac. Where a sidewalk terminates in a crosswalk or access to an off-street parking area, the terminus shall be ADA compliant and have detectable warning pads.

- (3) Multi-use paths shall meet the design and width requirements of the plan in which it is recommended as determined by the Subdivision Administrator in conjunction with the technical review committee. The use of bicycle friendly design treatments (wide outside lanes, sharrows, dedicated routes, bike lanes, shared use paths or other similar facilities) is encouraged.
  - (4) All sidewalks and multi-use paths shall be placed in the right-of-way unless the development is platted as a planned unit or group development. Multi-use paths required in-lieu of street connections by the Subdivision Administrator may be placed in a public access easement.
- (p) *Street names.* Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided; and in no case shall the proposed name be phonetically similar to existing names in the County irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to approval of the Subdivision Administrator.
- (q) *Street name and traffic control signs.* The subdivider shall be required to provide and erect street name and traffic control signs to Town standards at all appropriate locations within the subdivision.
- (r) *Permits for connection to state roads.* An approved permit is required for connection to any existing state road system. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the state division of highways.
- (s) *Wheelchair ramps.* In accordance with G.S. 136-44.14, all street curbs in the state being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities or altered for any reason shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.
- (t) *Horizontal width on bridge deck.*
- (1) The clear roadway widths for new and reconstructed bridges serving two lane, two-way traffic shall be as follows:
    - a. Shoulder section approach.
      1. Under 800 ADT design year, minimum 28 feet width face-to-face of parapets or rails or pavement width plus ten feet, whichever is greater.
      2. Eight hundred to 2,000 ADT design year, minimum 34 feet width face-to-face of parapets or rails or pavement width plus 12 feet, whichever is greater.
      3. Over 2,000 ADT design year, minimum 40 feet. Desirable 44 feet width face-to-face of parapets or rails.
    - b. Curb and gutter approach.
      1. Under 800 ADT design year, minimum 24 feet face-to-face of curbs.
      2. Over 800 ADT design year, width of approach pavement measured face-to-face of curbs. Where curb and gutter sections are used on roadway approaches, curbs on bridges shall match the curbs on approaches in height, in width of face-to-face curbs,

and in crown drop. The distance from face to curb to face of parapet or rail shall be one foot six inches minimum, or greater if sidewalks are required.

- (2) The clear roadway widths for new and reconstructed bridges having four or more lanes serving undivided two-way traffic shall be as follows:
  - a. For shoulder section approach, width of approach pavement plus width of usable shoulders on the approach left and right, minimum eight feet, desirable ten feet.
  - b. For curb and gutter approach, width of approach pavement measured face-to-face of curbs.
- (u) *Dedication of street right-of-way.* If any portion of property to be subdivided is included within a corridor for a street on a plan established and adopted pursuant to G.S. 136-66.2, the subdivider shall be obligated to dedicate a right-of-way for such street within that corridor in accordance with the provisions of G.S. 136-66.10.
- (v) *No restriction prohibiting public use.* Except as provided in Subsection (x) of this Section, streets in a subdivision or PUD shall not be gated or otherwise restricted for public use.
- (w) *Additional requirements for collector streets.* Collector streets shall be designed in a manner that promotes community connectivity while simultaneously promoting appropriate travel speeds within neighborhoods. NCDOT complete streets design standards shall be applied for collector streets with the expressed intent of promoting community mobility. Furthermore, the use of approved traffic calming devices are permitted along existing collector streets. Future collector streets should include a combination of design elements (i.e., active and passive traffic calming techniques) to ensure that new streets do not encourage excessive speeds.
- (x) *Private streets; gated communities.* Notwithstanding anything in this Article to the contrary, subdivisions with exclusively private streets and restricted public access points ("gated communities") may be approved, provided the conditions in this Section are satisfied.
  - (1) Private streets or gated communities shall not obstruct any identified corridor, proposed road connection, or bicycle or pedestrian pathways identified on the approved plans, including, but not limited to, collector street plans, infill maps, bicycle plans, pedestrian plans, or other recognized transportation plans. Streets and connections identified within any of these plans shall be designated as public, shall not be gated, and shall remain open for public use.
  - (2) All pedestrian and bicycle pathways, to include sidewalks, multi-use paths, and on-street bike lanes, shall be recorded on final plats as public easements.
  - (3) Any or all required points of vehicular access in a subdivision may provide access restrictions in the form of an electronically controlled gate, so long as such gate may be opened by emergency responders by way of siren activation or other method approved by the Town. During times of emergency evacuation (such as a natural disaster), gates shall be required to be opened to provide alternative evacuation routes at the discretion of Town officials.
  - (4) All internal streets in a gated community shall be designated private and maintained as such by a private owner or property owners' association. Private streets shall conform to the same standards provided for the design and construction of public streets.
  - (5) Bicycle lanes and sidewalks, or similar walkways, constructed to the standards set out in Subsection (o) of this section, shall be required along all private streets in a gated community. The use of additional or alternative pedestrian and bicycle friendly design treatments, such as wide outside lanes, sharrows, dedicated routes, shared use paths or other similar facilities, may

be permitted with approval of the Subdivision Administrator. Public access for pedestrian and bicycle traffic at required points of access in a gated community shall not be restricted by electronically controlled gates or otherwise.

- (6) All entry gates and their associated control devices shall be constructed a sufficient distance from the public street providing access to the gated community to allow for the stacking of at least 100 feet approaching the entry gate from such public street right-of-way.
- (7) Entry gates shall be designed so as to minimize impact of waiting traffic on public streets. This may include multiple lanes, and or separate lanes designated for residents and for delivery or nonresident traffic.
- (8) Turn lanes along existing streets are required to be shown on preliminary and final plats if they are required by a Traffic Impact Analysis.
- (9) In the case of emergency, as determined by Town officials, all gates shall be locked in the open position so as to allow free flow of traffic.
- (10) A gated community shall comply with all requirements and standards applicable to any other subdivision in the Town except to the extent any such requirement or standard is specifically superseded by this section.
- (11) Private streets/gated communities shall be permitted in all Town zoning districts other than FlexCode Zone (FCZ) or Transect Zones (T1, T2, T3, T4, T4O, T5).

Sec. 50-19. - Utilities.

- (a) *Water and sanitary sewer system.* All lots in subdivisions not connected to a public water system and/or any sewer system must have a suitable source of water supply and sanitary sewage disposal, which complies with the regulations of the appropriate permitting agency. Lots connected to private utility systems shall submit evidence authorizing the connection from the permitting agency. It will be compulsory for all lots to be connected to public or private utility systems where available.
- (b) *Stormwater drainage system.*
  - (1) All subdivision stormwater draining systems shall be designed in accordance with Chapter 26 of this Code.
  - (2) Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967, G.S. 143-215.23 et seq., and 15A NCAC 2K.
  - (3) In all areas of special flood hazard, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage, and shall comply with Chapter 26. Stormwater drainage as it relates to runoff shall be controlled on-site without the benefit of engineered systems which require intensive maintenance by the property owner. Consequently, the maximum lot coverage as provided for in Chapter 66, pertaining to zoning requirements, shall be adhered to in order to contain stormwater runoff.
  - (4) When there is a natural stream traversing property subject to this Article and beavers and/or animals which may cause a problem (flooding) are present, the developer shall take whatever measures necessary to eliminate the animals in accordance with the law.
- (c) *Underground wiring.* All subdivisions shall have underground wiring. Such underground wiring is required without opportunity for waiver. Such underground wiring shall be installed in accordance with the standards of the power-providing company. The subdivider shall be required to pay the



charges for installation of the underground service, which charges will be made in accordance with the effective underground electric service plan as filed with the state utilities commission.

Sec. 50-20. - Street lighting.

(a) *General policies.*

- (1) The Town encourages street lighting on all open, Town-owned and certain state department of transportation public streets within the corporate limits for the purposes of traffic and pedestrian safety. Except for ornamental lighting located in the central business district or areas designated by Town Council, streetlights are the property of Duke Energy Progress, Incorporated (DEP) or Brunswick Electric Membership Corporation (BEMC) and are leased to the Town under a contract. The Town determines the location of all lights to be placed on the public rights-of-way and pays a monthly service charge to DEP or BEMC for operation and maintenance of standard lights. The Town will not pay for lights on private roads, alleys, parking lots or other private property.
- (2) Streetlights shall be selected from the DEP standard light service schedule or the BEMC standard outdoor lighting schedule. The Town will fund streetlights that meet the criteria outlined herein that do not exceed a \$21.00 monthly charge for any one light (including any additional fees or charges associated with the light). The standard streetlight shall be installed on a wooden pole in areas served from overhead facilities and on a fiberglass pole in areas served from underground facilities. No service charge will be made to adjacent property owners for the operation, and maintenance of these fixtures.
- (3) The Town encourages the use of light emitting diode (LED) fixtures in new installations. As of January 1, 2016, all newly installed fixtures shall be LED.
- (4) The Town may, in its sole discretion, fund nonstandard lighting only in areas designated by the Town Council. Incorporated associations desiring street lighting in other areas must comply with the criteria outlined herein.

(b) *Minimum roadway lighting standards.*

- (1) Major thoroughfares. Streetlights shall be 16,000—50,000 lumens or the equivalent LED and spaced approximately 350 feet apart. In areas served by overhead facilities the spacing may be determined by location of existing poles.
- (2) Residential and collector streets. Streetlights shall be 9,500 lumens or the equivalent LED and spaced approximately 300 feet. In areas served by overhead facilities the spacing may be determined by the location of existing power poles.
- (3) State-maintained streets will be lighted according to the above standards or at the state department of transportation standards.
- (4) All open, public streets will have a light at each intersection located outside of the sight triangle.
- (5) The Town Manager or his/her designee may administratively adjust these standards when it is determined that adverse topography, roadway geometrics and design, the presence of natural vegetation, or any other adverse conditions exist. In such instances, the Town Manager or his/her designee may increase or reduce spacing or cluster lights to prevent a hazardous condition.

(c) *Requests for new or additional streetlights.*

- (1) All requests for new streetlights will be submitted to the Town Manager or his/her designee who shall review and approve any new streetlights meeting the criteria established herein. Approved requests may either be implemented using current funds if available or included in the proposed budget for the forthcoming year.
  - (2) The Town Manager or his/her designee shall submit all requests for streetlights for personal safety or property safety in excess of the guidelines established herein to the Police Chief or designee for review. The Town Manager or designee will not authorize any such lights without the approval of the Police Chief or designee. The Police Chief or designee will support all approvals and requests for street lighting with crime data. Approved requests may either be implemented using current funds if available or included in the proposed budget for the forthcoming year.
  - (3) If new wiring is required to serve a streetlight and the wire crosses private property, the affected property owners must agree to its installation, whether overhead or underground.
- (d) *Street lighting in new subdivisions.*
- (1) Developers shall bear any installation costs associated with streetlights, if applicable. In areas served from underground facilities, the developers shall pay the one-time underground contribution charge, if applicable.
  - (2) Streetlights in new subdivisions will be reviewed through the subdivision process and must meet criteria established herein.
  - (3) The Town Manager or his/her designee will coordinate plaza plantings and streetlight locations to minimize the obstruction of light by vegetation.
- (e) *Nonstandard and ornamental street lighting.*
- (1) Town-funded ornamental lighting will be restricted to areas designated by Town Council.
  - (2) In areas where special conditions indicate the need for nonstandard lighting, the Town Manager or designee may investigate alternate lighting methods and submit a lighting plan and cost estimate to the Town Council. If the plan and funding are approved, Town Staff will coordinate authorization and installation.
  - (3) An incorporated property or unincorporated homeowners' association, corporation, limited liability company or partnership ("property management entity" or "PME") that desires street lighting other than the standard street lighting may enter into a nonstandard street light agreement with the Town.
    - a. For areas served by DEP, the POA/HOA or developer will contract with the DEP for the installation, operation and maintenance of the nonstandard lighting. The street lighting plan must provide lighting at a level that meets the minimum requirements of the Town. Upon right-of-way dedication, the Town will reimburse the association for the monthly service charge the amount it would pay for equivalent standard streetlights meeting the minimum standards established herein. Any unincorporated association shall provide the Town with a copy of its organizational documents. In addition, each association shall provide the Town with a tax identification number prior to any reimbursement under the nonstandard street light agreement. Each association also shall provide the Town a copy of its agreement with DEP for street lighting.

- b. For areas serviced by BEMC, the POA/HOA or developer will contract with the BEMC to pay an upfront fee that will reduce the monthly service charge for the installation, operation and maintenance of the nonstandard lighting to the same monthly fee as the equivalent standard streetlight. Upon right-of-way dedication, the Town will contract with BEMC to pay the monthly rate of the equivalent standard lighting. The association must provide the Town a copy of its agreement with BEMC for street lighting. The street lighting plan must provide lighting at a level that meets the minimum requirements of the Town.

(f) *Outages.* Streetlight outages shall be reported to DEP or BEMC for repair.

Sec. 50-21. - Recreation and open space requirements.

(a) *Recreation and open space.* Every person who subdivides land for residential purposes shall be required to dedicate a portion of such land, as set forth in this Article for the purposes of park, recreation and open space sites to serve the residents of the subdivision. The subdivider shall dedicate land for both passive and active open space. The amount of land required to be dedicated by a subdivider shall be based on a formula. The actual amount of land to be dedicated shall be determined as follows:

- (1) *Active open space.* The minimum amount of land that shall be dedicated for active open space shall be one-half acre or five percent of the gross acreage, whichever is greater.
- (2) *Passive open space.* The minimum amount of land that shall be dedicated for passive open space shall be one-half acre or five percent of the gross acreage, whichever is greater.

(b) *Open space requirements.*

- (1) *Unity and size.* The dedicated land shall consist of parcels of at least 0.25 acres.
- (2) *Location.* The dedicated land shall be located so as to serve the recreation needs of the immediate neighborhood within the subdivision. Active recreation areas shall be located outside of wetland areas under the jurisdiction of state and federal agencies.
- (3) *Accessibility.* Public access to the dedicated land shall be provided either by an abutting street with an adjacent sidewalk, or by a public access easement.

- a. Public access easements to active open space shall be no less than 20 feet in width and shall contain an ADA compliant multi-use path.

- b. Public access easements to passive open space shall be no less than ten feet in width.

(4) *Usability.* The dedicated land shall meet the following standards:

a. *Active open space.*

- 1. Active open space shall be developed with physical improvements to provide for outdoor recreation and feature amenities as found in the National Recreation and Park Association "Park, Recreation, Open Space, and Greenway Guidelines" published in 1996. Alternate amenities or standards shall be reviewed by the Planning and Inspections Director or their designee in consultation with other Town staff as appropriate.
- 2. Unless specified otherwise in Subsection (c)(4)a, slopes within active recreation areas shall be no greater than ten percent.

3. Active open space amenities shall be reviewed and approved per Section 66-255 prior to final plat approval.
  4. Areas including structural BMPs or other stormwater management features shall not be counted toward the required minimum active open space dedication.
  5. Performance multifamily developments as per Section 66-314 shall use the active recreation area standards found in Subsection 66-314(h) to meet these requirements.
- b. *Passive open space.*
1. Passive open space shall meet the following requirements:
    - A. Passive open space shall be undisturbed except for features constructed with minimal disturbance to existing vegetation, including but not limited to walking paths, piers, and kayak launches.
    - B. When passive open space dedication is required and riparian buffers, wetlands under federal or state jurisdiction, or special flood hazard areas exist within the development, such area shall be dedicated as passive open space towards the minimum amount of passive open space required.
  2. Except for low impact development features such as swales, bioretention areas, and constructed wetlands, areas including structural BMPs or other stormwater management features required by Chapter 26, Article III shall not be counted toward the required minimum passive open space dedication.

(5) *Easements.* Conservation and historic preservation easements shall comply with G.S. 121-34—121-42. All facilities and improvements and open spaces which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority.

(6) *Payments in lieu of dedication.*

- a. *General provisions.* The subdivider may make a payment to the Town in lieu of dedication of open space. This may include a combination dedication and partial payment in lieu of dedication. Payments in lieu of dedication shall be made per the following:
  1. *Passive open space.* Payment may be made in lieu of up to 100 percent of the required passive open space dedication.
  2. *Active open space.* When a proposed subdivision has pedestrian access to an existing public recreation facility and such access is not more than one-half mile distance, payment may be made in lieu of up to 50 percent of the required active open space dedication. Such pedestrian access shall be either an existing sidewalk or multi-use path. The subdivider may propose constructing such access as a part of their subdivision.
- b. *Procedure.* The subdivider shall include with the application for preliminary plat approval, a letter requesting approval to make a payment in lieu of dedication.
- c. *Amount of payment.* If the subdivider proposes a payment in lieu of dedication, the amount of such payment shall be the product of the number of acres to be dedicated as outlined in

Subsection (b) above and the value of the land for property tax purposes or a certified appraisal provided by the applicant.

- d. *Use of payments in lieu of dedication.* All monies received by the Town pursuant to this Section shall be used solely for the acquisition or development of recreation, park, or open space areas. Collection and use of monies received by the Town shall be based on the open space sector map, on file at the planning and inspections department.
- e. *Time of payment.* If a payment in lieu of dedication is authorized, such payment shall be made with the application for final plat approval. If a subdivision is developed in phases, a payment relating to each phase must be made prior to the recording of a final plat for each phase.

Sec. 50-22. - Other requirements.

- (a) *Placement of monuments.* Unless otherwise specified by this Article , the Manual of Practice for Land Surveying as adopted by the state board of registration for professional engineers and land surveyors, under the provisions of 21 NCAC 56, shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers and property corner ties; to determine the location, design and material of monuments, markers, control corners and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.
- (b) *Construction procedures.*
  - (1) No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved and all plans and specifications have been approved by the appropriate authorities.
  - (2) No building, zoning or other permits shall be issued for erection of a structure on any lot not of record on September 21, 1995, until all requirements of this Article have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Subdivision Administrator of this Article to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.
- (c) *Oversized improvements.* The Town may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the Town requires the installation of improvements in excess of the standards required in this Article, including all standards adopted by reference, the Town shall pay the cost differential between the improvement required and the standards in this Article. The Town may recoup this cost through acreage fees as set forth in the applicable Town ordinance.
- (d) *Planned unit development or planned residential development.* Planned unit development or planned residential development shall meet the zoning requirements in Chapter 66.

ARTICLE III. - BOARD OF ADJUSTMENT<sup>[2]</sup>

Sec. 66-59. - Created.

A Board of Adjustment is hereby created. The term "Board," when used in this Article, shall be construed to mean the Board of Adjustment.

Sec. 66-60. - Membership and term.

The Board shall consist of five regular members and two alternate members, each to be appointed by the Town Council for a term of three years or until a successor is appointed. No member shall serve more than two consecutive terms. Any person appointed to fill an unexpired term shall be deemed to have served one of the two consecutive terms that such member may serve if the unexpired term is for two years or more. No later than 90 days preceding the expiration of a member's term, members who have served only one term may apply in writing to the Town Council to be reappointed for a second term. At the expiration of one year from a former member's second term, such member shall be eligible for reappointment to the Board. Each alternate member while attending any Regular or Special Meeting of the Board and serving on behalf of any regular member shall have and may exercise all the powers and duties of a regular member. All regular members and alternate members shall be citizens and residents of the Town.

Sec. 66-61. - Conflicts of interest.

A member of the Board or any other body exercising the functions of a Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed *ex parte* communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself, the remaining members shall by majority vote rule on the objection.

Sec. 66-62. - Vacancies.

Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

Sec. 66-63. - Compensation.

The Town Council is authorized to compensate the members of the Board of Adjustment for their services subject to the following terms and conditions:

- (1) The compensation to be paid to members of the Board of Adjustment shall be established in the annual budget adopted by the Town Council.
- (2) Members of the Board of Adjustment shall be compensated on a per meeting basis and such compensation shall only be paid if a member of the Board of Adjustment attends the entire Board of Adjustment meeting for which compensation is authorized.
- (3) Members of the Board of Adjustment may choose not to receive compensation for their service. In such event the member shall submit written notice to the Town Clerk of his intention not to be compensated for such service. This notice shall be on forms approved by the Town Manager and must be submitted to the Town Clerk no later than July 31 of each fiscal year.

Sec. 66-64. - Officers; rules and regulations; public record.

- (a) The Board members shall designate one of the members as chair, and one member as vice-chair, and they shall serve terms of one year.
- (b) The Board shall adopt such rules and regulations for its own government as it deems necessary to carry out the provisions of this Article.

- (c) A complete listing of all officers, terms of office, and rules and regulations shall be maintained for public record by the Town Clerk and a copy shall be kept on file in the office of the Town Clerk.

Sec. 66-65. - Meetings and voting.

All hearings of the Board shall be open to the public. The Board shall designate a clerk to keep minutes of its proceedings, showing the vote of each member upon each question, and the absence or failure of any member to vote, and a copy of the minutes shall be maintained on file for public record in the office of the Town Clerk. The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this section, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

Sec. 66-66. - Disposition of appeals.

The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the Board. The quasi-judicial decision is effective upon filing the written decision with the clerk to the Board. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The Planning Director shall certify that proper notice has been made and a copy of such written certification shall be made a part of the record of the proceedings.

Sec. 66-67. - Appeals of administrative decisions.

- (a) An appeal of an administrative decision related to development ordinances may be taken to the Board of Adjustment by any person who has standing under G.S. 160D-1402.
- (b) The appellant shall file a Notice of Appeal stating the grounds for the appeal with the Director of Planning and Inspections within 30 days of receipt of either written notice of the determination administrative decision or receipt of actual or constructive notice of the decision per G.S. 160D-403.
- (c) The official who made the decision shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. Such official shall also provide a copy of the record to the appealing party and to the owner of the property that is the subject of the appeal if such owner is not the appealing party.

Sec. 66-68. - Appeals and the stay of proceedings.

- (a) An appeal of a Notice of Violation or other enforcement order stays further enforcement of the determination that is being appealed, subject to Subsections 1 and 2 below:
  - (1) The official who made the decision may certify to the Board of Adjustment, after the Notice of Appeal is filed, that because of the facts stated in the affidavit:
    - (i) A stay would cause imminent peril to life or property, or

(ii) A stay would seriously interfere with the enforcement of this Ordinance because the violation is transitory in nature.

(2) If a certification is made in accordance with Subsection 1 above, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court.

(b) If enforcement proceedings are not stayed in accordance with Subsection (a) above, the appellant may file with the Planning and Inspections Director a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after the request is filed.

(c) Decisions granting a permit or otherwise affirming that a proposed use of property is consistent with this ordinance shall not stay the further review of applications for development proposals or permits for the property. In such cases, the appellant may request, and the Board may grant, a stay of a final decision of permit applications or building permits affected by the issue being appealed.

Sec. 66-69. - Powers.

The Board shall have the following powers:

- (1) *Hear appeals.* The Board of Adjustment shall hear and decide appeals from decisions of administrative officials charged with enforcement of the zoning ordinances or FlexCode and may hear appeals arising out of any other ordinance that regulates land use or development that includes a provision for granting variances in accordance with the provisions of this chapter.
- (2) *Authorize variances.* When unnecessary hardships would result from carrying out the strict letter of the zoning ordinance, FlexCode, or subdivision ordinance, the Board of Adjustment shall vary any of the provisions of such ordinances upon a showing of all of the following:
  - a. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
  - c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
  - d. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- (3) *Change in permitted uses and conditions.* No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.
- (4) *Oaths.* The Chair of the Board or any member acting as chair and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board.
- (5) *Subpoenas.* The Board of Adjustment through the Chair, or in the Chair's absence anyone acting as Chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160D-1402 may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair



shall issue requested subpoenas he determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this Subsection, the Board of Adjustment or the party seeking the subpoena may apply to Superior Court of Brunswick County for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Sec. 66-70. - Rehearings.

The Board shall refuse to hear an appeal or application previously denied if it finds there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

Sec. 66-71. - Review by certiorari.

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. A petition for review shall be filed with the Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with Section 66-66. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

Sec. 66-313. - Planned unit developments.

- (a) *Minimum size.* A planned unit development (PUD) shall be located on a site containing at least ten contiguous acres.
- (b) *Phases of development.* The planned unit development may be developed in phases or sections as long as the phases are shown on the master land use plan and assurance is provided of continuity of development and completion of the planned unit development.
- (c) *Design standards.* Planned unit developments are exempt from the Town's subdivision regulations unless specifically referenced in this section, and shall comply with the following standards:
  - (1) *Maximum ground coverage.* Maximum ground coverage by all structures shall not exceed 40 percent of the gross site area. The term "gross site area" means the total land area as shown on the master land use plan (referred to in this Section as the "LUP"). If the scope of the project is of a magnitude that it requires that the PUD be completed in phases, then the maximum ground coverage standard shall not apply to the individual phases, but only to the total land area as shown on the LUP.
  - (2) *Reserved.*
  - (3) *Reserved.*
  - (4) *Streets/internal trafficways.*
    - a. A basic characteristic of a PUD is that the internal circulation paths or streets do not follow fixed linear geometric lines as do most streets, but instead are curvilinear and of a meandering character for protection of tree and landscape specimens by going around them and for deliberate slower paced traffic movements, making generous use of such features as private restrictions for extremely low speed limits.
    - b. Creative design of trafficways is encouraged. Planned unit developments must adhere to the subdivision design standards for drainage and paving as set forth in Chapter 50 of this Code. Street widths and rights-of-way must adhere to the design standards set forth in Chapter 50 of this Code.
  - (5) *Recreation/open space.*
    - a. In any PUD district, a minimum of five percent of the total land area shall be reserved as open space. Any area or segment of land less than eight feet in width may not be included in calculating the minimum open space reservation unless such land is clearly a part of an open space system, such as a pedestrian walkway. No parcels containing less than one-half acre shall be accepted. All land so ensured shall have at least 20 feet of access upon a public street or walkway; and the size, shape, topography and sub-soils of the dedicated land shall be such as to be usable for active recreation.
    - b. A minimum of 25 percent of the required open space shall be developed for active recreational purposes, such as tennis courts, ballfields, or playgrounds. Special considerations shall be given for golf courses. Ten percent of the golf course area may be computed as active recreational area and count towards the fulfillment of the active recreational area requirements. In order for a golf course to qualify as an active recreational area, it must be open to the general public. User fees may be charged, but golf courses with exclusive memberships (those that require initiation fees, dues and/or member sponsorship) will not be computed as an active recreational area. Such recreation area shall

be conveniently and centrally located to the housing units. Building areas for recreational facilities may be computed as open space.

- c. Provisions for continuous maintenance of open space, specifically including that developed for active recreational purposes, shall be made by the developer either through proposed dedication to the Town, if acceptable, or through the establishment of a private homeowners' association.
- d. Criteria for evaluating suitability of proposed recreation, parks and open space areas shall include, but are not limited to, the following as determined by the Planning Board:
  - 1. *Unity*. The dedicated land shall consist of parcels of at least 0.25 acres.
  - 2. *Location*. The ensured land shall be located so as to serve the recreation needs of the immediate neighborhood within the subdivision.
  - 3. *Accessibility*. Public access to the dedicated land shall be provided either by an abutting street or public easement. Such easement may be required to be up to 60 feet in width and shall in no case be less than 30 feet in width.
  - 4. *Usability*. The ensured land shall be usable for active recreation (play areas, ballfields, tennis courts, or similar recreation uses). Lakes may be included in computing the amount of land to be dedicated if they are not part of the PUD's stormwater management system.
  - 5. *Adjustments authorized*. In cases of unusual or exceptional nature, the Planning Board may recommend, and the Town Council may allow adjustments in the recreation, parks, and open space requirements established in or required by this section.
  - 6. *Easements*. Conservation and historic preservation easements shall comply with G.S. 121-34 et seq. All facilities and improvements and open spaces which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority.

(6) *Transitional use area.*

- a. In order to ensure compatibility with adjoining land uses and districts, a transitional use area, 50 feet in depth, shall be required in areas where residential uses abut commercial or industrial uses.
  - 1. Where the exterior property lines of a PUD district are adjacent to residential uses, only residential uses may be permitted within the transitional use area.
  - 2. Where residential uses abut commercial uses, the transitional use area shall be a buffer zone and meet the standards for buffer zones as defined by this chapter.
- b. A transitional use area shall not be required when the abutting uses are both commercial in nature or commercial abutting industrial zoned properties.

(7) *Signs*. Signs shall be governed by Chapter 66 of this Code.

(8) *Reserved*.

(9) *Utilities*.

- a. Water and sewer systems meeting state and local requirements are to be provided.

- b. Provision of service to each housing unit, or nonresidential unit or structure by public utilities for electric and telephone shall be exhibited on the site-specific plan and certified by the provider. Adequate easements for ingress and egress for maintenance of the utilities shall be provided. All utilities shall be underground.
- c. Package treatment systems. Where a municipal wastewater treatment system is not available according to Town policies, package wastewater treatment plants, approved by the state department of environment and natural resources, may be considered for approval under the following conditions:
  - 1. The proposed plant is located within a planned unit development (PUD) greater than 1,000 acres in size.
  - 2. The owner/operator can demonstrate to the satisfaction of the Town that the plant is designed and operated in a manner that results in no degradation of surface water or groundwater quality.
  - 3. The collection system meets the material and installation standards of the Town.
  - 4. The system shall be operated and maintained according to Town policy.
  - 5. The system may be inspected at any time deemed necessary by the Town.

(10) *Off-street parking.* In residential areas, off-street parking shall be provided at a ratio of two spaces per dwelling unit, except multifamily which shall be provided per Section 66-276. Commercial areas shall adhere to the off-street parking requirements set forth in Article VIII of this Chapter except civic operations centers, as defined in Section 66-4, are subject to the provisions listed in Section 66-162, note 22.

(11) *Density limitation.*

- a. Average development density shall be chosen prior to application for rezoning and shall be designated on a LUP for the project. The maximum density shall not exceed six dwelling units per acre. In computing the dwelling units per acre, the total land area shall be used, minus any areas that are to be designated as commercial, recreational, or open space uses.
- b. Ecologically sensitive lands, such as marsh, Carolina bays, pocosins and swamps, when in the ownership of the owner/applicant, are to be preserved, whenever possible, for the public interest. For such lands, full density credit is to be applied as long as such areas are left undisturbed. If the lands are developed, then only half of the density credit will be given.

(12) *Commercial use.* Commercial use within a planned unit development is permitted as long as the PUD contains at least 20 acres. The developer may designate an area not greater than five percent of the total acreage for commercial use. Commercial use must be designed and located to serve primarily the planned unit development. Commercial uses shall not access directly on a street outside the planned unit development without approval from the Technical Review Committee (TRC), and other applicable local, state, and federal agencies.

(d) *Procedural requirements for establishment of PUD districts and projects.*

(1) *Master land use plan (LUP).*

- a. *Purpose.* The LUP is intended to be the primary supporting proof, and shall demonstrate, when considered in its entirety or by its separate components, if the proposed PUD district is established and developed, that the purposes of this Chapter and this Section are met.

- b. *Criteria for review by the Planning Board and Town Council.* In reviewing the LUP and making recommendations thereon, the Planning Board and Town Council shall consider and be guided by the following criteria:
1. The compatibility of the proposed project with the surrounding districts and land uses;
  2. The effectiveness of the proposed project in providing more economical and efficient use of land;
  3. The effect of the proposed project on the ability of the Town to provide public facilities or services;
  4. The effectiveness of the proposed project in providing and preserving open space, the scenic quality of the site and recreational opportunities; and
  5. The degree to which the project will provide a more desirable development and living environment than would be possible under conventional district requirements.
- c. *Application submittal.*
1. A preapplication conference between the applicant and the Planning staff shall occur prior to any presentation to the Planning Board. Any effort to secure the conference is the sole responsibility of the owner/applicant. The primary purpose of the conference is to provide assistance and guidance to the applicant for the swift and most comprehensive review of the proposed planned unit development. To ensure an equal understanding, the conference will provide a mutual exchange of basic information that is needed to facilitate and clarify the requested review process for all planned unit developments.
  2. Once the preapplication conference is complete, the applicant will prepare a LUP of the entire planned unit development.
- d. *Contents.* In addition to the information required in the application for rezoning, the LUP shall include the following:
1. A map, drawn to a scale of not less than one inch equals 100 feet, showing the approximate location, size and arrangement of existing and proposed:
    - (i) Open space areas, and active and passive recreational areas;
    - (ii) Buffer zones and transitional use areas;
    - (iii) Neighboring land uses and zoning districts;
    - (iv) Systems and easements for water, sewer and drainage;
    - (v) Streets, sidewalks and parking lots;
    - (vi) Vehicular, bicycle, and pedestrian circulation systems;
    - (vii) Roads, easements and land uses;
    - (viii) Existing vegetation, approximate wetlands, buffers, streams, and special flood hazard area;
    - (ix) Nonresidential land uses;
    - (x) Residential land uses and proposed number of units;

- (xi) Commercial areas.
  - 2. Any covenants creating a homeowners' association. The covenants shall be filed with the Town Clerk's office. The Town will not be responsible for any enforcement, regulation, review or endorsement of covenants that create a homeowners' association or any of the subsequent regulations created by the homeowners' association.
  - e. *Approval and rezoning application.* A PUD district may be established only after amendment to the official zoning map under the same procedural requirements and standards of review as any other rezoning application; provided, however, that the following additional standards and procedures shall apply to PUD district applications:
    - 1. A digital copy of the proposed LUP, as described in Subsection (e)(1)d. of this section, shall be submitted to the Planning Staff with the rezoning application;
    - 2. The Planning Board, after review of the LUP and application, shall submit its recommendation to the Town Council;
    - 3. The Town Council shall, after consideration of the application, the LUP, the recommendations of the Planning Board and the criteria set out in this section, either approve or disapprove the plan and application.
  - f. *Amendments to LUP.* Any and all amendments to an approved LUP for the planned unit development shall be subject to the following review procedures:
    - 1. Approval by the Planning Staff is required for the following:
      - a. Changes which result in a decrease in assigned density for a specific parcel, either residential or nonresidential.
      - b. Change in land use designation from multifamily to single-family or a change from any other use to open space/passive recreation.
      - c. Changes in vehicular access or circulation, if reviewed and approved by the TRC.
    - 2. Review by the Planning Board and approval by Town Council is required for the following:
      - a. A change in the boundaries of the site approved by the Town Council;
      - b. Changes in land use designation (except as allowed per Subsection (e)(1)b above) or an increase in total project density for the LUP;
      - c. Changes that result in reducing the total open areas approved by the Town Council.
- (2) *Site specific plan (SSP).*
- a. *Purpose.*
    - 1. If the planned unit development is of a size that it must be completed in phases, it is the responsibility of the applicant or owner to obtain approval of an SSP for each phase, prior to development of the phase. A SSP is intended to ensure that a proposed PUD development is actually constructed and developed in accordance with the approved LUP.
  - b. *General requirements.* SSP shall indicate the following:

1. The boundary of the property by courses and distances, area and present zoning of the tract.
  2. The names of abutting recorded subdivisions, and owners and present uses of all abutting properties.
  3. Widths and names of abutting streets and alleys.
  4. All tracts of land (lots) and an average lot, indicating the average lot size, building position and driveway connection. All streets, alleys, public easements and private easements shall be shown. Parcel dimensions, both linear and angular, for locating boundaries of the tract are not necessary at this stage because they will be required to be shown on the final plat that is to be recorded at the County Register of Deeds.
  5. Date, north arrow, scale and number of sheets.
  6. Name and address of the owner of the tract and the name of the applicant.
  7. All building restriction lines, highway setback lines, easements, covenants, reservations and rights-of-way.
  8. Existing topography, with a maximum of two-foot contour intervals.
  9. Soil types and geology of the site.
  10. Name, address, signature and registration number of the professional preparing the plan.
- c. *Existing improvements and features.* The following existing improvements and features shall be shown on SSP:
1. Sidewalks, streets, alleys and easements.
  2. Buildings and structures.
  3. Driveways, entrances, exits, parking areas and loading spaces.
  4. Sanitary sewer systems.
  5. Water mains and fire hydrants.
  6. Gas, power, telecable and telephone lines.
  7. Recreation areas.
  8. Storm drainage systems, including natural and artificial watercourses.
  9. Limits of floodplains.
- d. *Proposed improvements and features.* The following proposed improvements and features shall be shown on the SSP:
1. Proposed buildings and structures
  2. Number of dwelling units
  3. Driveways, entrances, exits, parking areas and loading spaces, including the total number of parking and loading spaces at all commercial buildings.
  4. Sanitary sewer systems
  5. Water mains and fire hydrants

6. Gas, power, telecable and telephone lines
7. Stormwater management features
8. Easements and rights-of-way
9. Streets and alleys
10. Sidewalks, multi-use paths, bike lanes, and any other bicycle and pedestrian facilities
11. Required buffers and landscaping
12. Driveways, entrances, exits, parking areas and loading spaces, including the total number of parking and loading spaces at all commercial buildings
13. Recreation and open space areas

(3) *Approval of SSP and issuance of building permits.*

- a. No construction, excavation or clearing shall be commenced or any building permit issued within any PUD district which does not conform to an approved SSP.
- b. An SSP shall be reviewed following the same processes for Major Subdivisions in Section 50-10.
- c. Before SSP approval is issued, a property owners' association and/or declaration of condominium, guaranteeing adequate maintenance and continued operation of all ensured open space and other private service facilities, shall be filed with the Town Clerk's Office .
- d. An approval of a SSP shall be deemed an update to the LUP. An updated LUP reflecting the approved SSP shall be submitted within 30 days of approval of the SSP.

(e) *Planned unit developments approved prior to September, 2015.* Notwithstanding anything to the contrary in Subsection (e)(3) of this section, the following shall apply to planned unit developments approved prior to September, 2015, in accordance with Section 66-313:

- (1) Existing PUD districts with master land use plans approved prior to September, 2015 in accordance with Section 66-313 shall provide roadway interconnections between the development site and adjacent properties as shown on the most recently adopted PUD master land use plan or applicable site-specific plan. In approving any amendment to, placing any condition on or making any modification to the PUD master land use plan or any site-specific plan for such a PUD district, the Town Council may reduce but shall not have the authority to increase the number or vary the location of such roadway interconnections shown on the most recently adopted master land use plan or applicable site-specific plan and shall consider the following criteria in making any amendment:
  - a. Connections identified on the adopted Collector Street Plan map;
  - b. Connections identified on the Town's adopted Street Infill map;
  - c. Potential impacts on surrounding properties and existing neighborhoods;
  - d. Jurisdiction of adjacent properties; and
  - e. Environmental conditions.
- (2) Provided that nothing contained herein shall prevent the Town Council from approving new additional roadway interconnections to adjacent properties or relocating existing roadway



interconnections to adjacent properties if requested to do so by the PUD district developer or owner.

Sec. 66-317. Recreational vehicle parks.

(a) *Design standards.*

(5) *Recreation and open space.* RV parks shall include active and passive open space as described in Subsections 50-21(b) and 50-21

Sec. 66-349. Definitions. (Signs Section)

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Sight distance triangle* means the area to be clear of obstruction for safe turning movements. Reference the town requirements in Section 50-18.