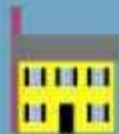




City of Charlotte  
North Carolina

# Subdivision Ordinance



*Adopted by* Charlotte City Council

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## **ARTICLE I. IN GENERAL**

### **Sec. 20-1. - Short title.**

This chapter will be known and may be cited as the "Charlotte Subdivision Ordinance."

(Code 1985, § 20-1)

### **Sec. 20-2. - Purpose.**

This chapter is adopted pursuant to the authority conferred by G.S. 160A-371 et seq., the Charter, and certain special legislation for the city and the county (ch. 203, Sess. Laws 1961) and for the purpose of promoting the orderly development of the city and county and for the purpose of coordinating streets within subdivisions with existing or planned streets or with public facilities; to secure adequate rights-of-way or easements for street or utility purposes; to secure adequate spaces for recreation and school sites; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding; to protect and enhance environmental quality; and to create conditions essential to health, safety, convenience and the general welfare.

(Code 1985, § 20-2)

### **Sec. 20-3. - Jurisdiction.**

This chapter applies to all subdivision activities for which approval under this chapter is required in the city.

(Code 1985, § 20-3)

### **Sec. 20-4. - Compliance.**

All plats for the subdivision of land must conform to the requirements of this chapter and be submitted in accordance with the procedures and specifications established in this chapter. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will not exempt the transaction from compliance with this chapter.

(Code 1985, § 20-5)

### **Sec. 20-5. - Modification of certain standards.**

(a) Certain development standards regulated by this chapter and specifically as follows may be modified under the provisions of the city zoning ordinance:

- (1) Street right-of-way.
- (2) Sidewalks.
- (3) Curb and gutter.
- (4) Type of street (public or private).
- (5) Street pavement width.

- (b) The standards of chapter 19 of this Code, which also regulate the development of streets, sidewalks and other facilities in the city, must be complied with, except as may be varied under article III of this chapter.

(Code 1985, § 20-6)

(c) Any standard regulated by this chapter may be modified by City staff where necessary to ensure public safety.

## **Sec. 20-6. - Definitions.**

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

Alternative Compliance for street design means the process to approve street designs that differ from the design standards prescribed in this chapter.

*Appeal* means an action relating to a dispute involving an administrative interpretation or application of an ordinance standard to a particular parcel of land.

Block face – The distance along a block between two adjacent intersections, measured from centerline to centerline.

*Building envelope* means a three-dimensional area on a lot that remains for placing a structure on a site after setbacks, yard, height, and bulk regulations are observed.

*Charlotte-Mecklenburg Land Development Standards Manual* means the manual of construction standards and details, jointly prepared by the city engineer and the county director of engineering, which regulates and controls the provision and construction of public and private improvements relating to streets, sidewalks, drainage and other facilities. Whenever in this chapter reference is made to "standards" or "manual," it refers to that document.

*Collector street* ~~(class V)~~ means any street which is defined as a collector street in the adopted comprehensive street classification system.

*Commercial arterial street* ~~(class III-C)~~ means a multilane, major roadway connecting ~~class I major or minor thoroughfares~~ class I major or minor thoroughfares with lesser streets in the network. The ~~class III-C commercial arterial road~~ class I major or minor thoroughfare may also connect this region to other regions. ~~It is designed to accommodate large volumes of traffic at moderate speeds, while also providing, as a major part of its function,~~ Commercial arterial streets provide direct access to nonresidential high trip generating land uses. A ~~class III-C commercial arterial street~~ class I major or minor thoroughfare may be part of state primary or secondary highway systems.

*Connectivity* means street or subdivision design which provides for public access, ingress and egress by interconnecting streets, bikepaths, and walkways within a development and with adjoining developments. Connectivity facilitates vehicular, bicycle, and pedestrian transportation ~~without promoting cut-through traffic.~~

*Cul-de-sac* means a street designed with a turnaround, or a street that will not reasonably be extended in the future.

~~Cut through traffic means a route used by vehicles not having an origin or destination in the neighboring area which promotes an unnecessary increase in traffic and adversely impacts existing neighborhoods or communities.~~

~~Department of environmental protection (DEP) means the county department of environmental protection.~~

Development review board means the board appointed by city council to hear and decide applications for alternative compliance for street design.

*Double frontage lot* means a lot with street frontage along two opposite boundaries. A "double frontage lot" may also be referred to as a "through lot" or a "~~reserve~~ reverse frontage lot".

*Freeway or expressway* (~~class I~~) means a multilane, grade-separated, limited-access major road connecting this region, major activity centers or major roads with other regions, major activity centers or major roads. It is designed to accommodate large traffic volumes at high speeds. Such a facility may be part of the interstate, federal or state primary highway system. A ~~class I road~~ freeway or expressway will be built to or approach interstate design standards.

Green zone means the space lying between the sidewalk and back of curb, or edge of pavement where no curb-and-gutter is present (typically a planting strip or hardscaped amenity zone) which serves as a buffer between pedestrians and vehicles. The green zone typically includes street trees and landscaping, and often includes street furnishings and utilities.

Groundwater and wastewater services means Mecklenburg County Groundwater and Wastewater Services Department.

Half street means a street that lies across a property line between two properties and is partially improved on only one of the properties at a time.

*Hearing committee.* The Charlotte-Mecklenburg Planning Commission can serve as the hearing committee to hear and decide variances and appeals, or it can appoint the zoning committee to serve as the hearing committee.

*Limited-access arterial street* (~~class II~~) means a multilane limited-access major road connecting major activity centers or major roads. ~~It is designed to accommodate large volumes of traffic at moderate speeds.~~ Intersections are at grade with access only at cross streets rather than at individual driveways. ~~All types of land uses are acceptable along this road, with proper consideration to environmental stresses related to the road.~~

*Local street* (~~class VI~~) means a street that provides access to residential, industrial or commercial districts, as well as to mixed use areas.

~~two-lane roadway which provides access directly to adjoining low/medium density land uses. It also conducts traffic to local limited and class V streets which serve the area. The class VI road is designed to accommodate low volumes of traffic at low speeds. A local limited street (class VI-L) serves the same system function as the class VI street but is located in residential environments which have been created through special conditions or design considerations. These unique environments include planned developments and other similar techniques or cul-de-sac streets in conventional subdivisions. A class VI-L street may not provide vehicular access to elementary, junior or senior high schools; colleges; or official sites for such schools or to proposed places of public assembly including public or private parks, recreation facilities or greenways.~~

LUESA means the Mecklenburg County Land Use and Environmental Services Agency

*Major arterial (class III)* means a major thoroughfare on the MUMPO Thoroughfare Plan, multilane major roadway connecting class I, II or III streets with lesser streets in the network. The class III road may also provide connections between this and other regions. It is designed to accommodate large volumes of traffic at moderate speeds, but it is not intended to provide primary access to adjoining high trip generating uses.

*Major streams* means jurisdictional streams which are regulated by state or federal agencies.

*Minor arterial (class IV)* means a minor thoroughfare on the MUMPO Thoroughfare Plan, roadway, frequently two lanes, providing a connection from class II and class III roads to other lesser roads in the system. It is typically designed to accommodate moderate volumes of traffic at moderate speeds. It does not have a significant function in connecting this region to other regions. Therefore, it and usually only handles trips for short to moderate distances.

Mixed use development means one or more buildings that contain more than one type of land use (e.g., retail, office, residential); or, a combination of buildings that contain single uses and buildings that contain more than one type of land use. At least one land use is non-residential. A key characteristic of mixed use development is that the various uses are well integrated in a pedestrian-oriented environment.

Paper street means a right-of-way for a street offered for dedication on a final recorded plat which has not been constructed or accepted by the city for maintenance.

*Parks department* means ~~either the city parks and recreation department or~~ the county parks and recreation department.

*Planned development* means a group of two or more duplex, triplex, quadraplex, or multifamily residential or nonresidential buildings established in a single development tract, under unified control which is to be planned and developed as a whole, either as a single development project or a definitely programmed series of development operations or phases. A planned development includes principal and accessory structures, buildings and uses substantially related to the character and purpose of the planned development, and having a unified design of buildings and coordinated organization of open space, parking and service areas.

Private street means a street which is constructed to private street standards as described in the Charlotte Land Development Standards Manual, and which is privately maintained.

Public street means a street accepted for dedication to the city, county or North Carolina Department of Transportation.

*Reverse frontage.* A "reverse frontage" lot is a through lot or "double frontage" lot, ~~other than a corner lot, where vehicular access is restricted to the abutting federal or state highway, major or minor thoroughfare, or commercial arterial, and where the lots have vehicular access provided by an interior public or private street.~~ A block containing reverse frontage lots is comprised of one tier of lots rather than the standard two tiers. Reverse frontage does not relate to the structure's orientation to the street.

*School board* means the Charlotte-Mecklenburg School Board.

Slow Point means any physical feature constructed in a street designed to moderate vehicle speeds.



Street means a facility (either public or private) designed to accommodate motor vehicle, pedestrian and bicycle travel.

Street Furnishings means physical features included as part of the streetscape, e.g. benches, bike racks, lighting, trash receptacles, and banners

*Street right-of-way* means any public right-of-way set aside for public travel which has been accepted for maintenance by the state or the city or the county if so authorized, or has been dedicated for public travel by the recording of a plat or a subdivision which, prior to the effective date of the ordinance from which this chapter derives, has been approved by either the planning commission, the city council or board of county commissioners or is subsequently approved by the planning staff or the planning commission or has otherwise been established as a public street prior to the adoption of the ordinance from which this chapter derives.

Streetscape means the physical features of the street outside of the travel lanes that typically includes sidewalk, curb, gutter, and street trees.

*Stub street* means a street that is designed to extend to the property line with a temporary barricade and has the intent to be extended to provide for future access and connectivity.

*Subdivision* will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or building development of any type, including both residential and nonresidential multiple building site and multi-site projects even if there is no division of the underlying land into separate parcels which is to be recorded with the register of deeds and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the following will not be included within this definition nor be subject to the requirements of this chapter:

- (1) The combination or recombination of portions of parcels created and recorded prior to January 1, 1988, or portions of lots platted in compliance with this ordinance after January 1, 1988, where the total number of parcels or lots is not increased and the resultant parcels are equal to the standards of the zoning ordinance.
- (2) The division of land into parcels greater than five acres where no street right-of-way dedication is involved.
- (3) The creation of strips of land for the widening or opening of streets or the location of public utility rights-of-way.
- (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 appropriate zoning classification.
- (5) The division of land into plots or lots for use as a cemetery.
- (6) Creation of a separate lot or building site by a less than fee simple instrument, such as a ground lease, when the property interest created is divided from the original parcel for ten years or less, including options to renew.
- (7) The lease of space or other area within a building owned by the landlord.



- (8) Easements for the purposes of utilities, driveways, parking, footpaths, trails or other similar purposes.
- (9) The division of a tract or parcel into separate tracts or parcels, or the creation of interests in lots or parcels, by means of:
  - a. A deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation (including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure), and
  - b. Releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.
- (10) Proceedings to partition interests in lots or parcels pursuant to G.S. ch. 46 (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this chapter.
- (11) Transfers of tracts or parcels by inheritance or bona fide gift.
- (12) Condemnation or deed in lieu of condemnation, by either a public or private condemnor; provided, however, that the condemnor must comply with the requirements of this chapter as to the property acquired, either prior to the commencement of any development of the property acquired, or prior to the issuance of any building permit on the property acquired, or within six months following the date of acquisition, whichever date first occurs.

*Subdivision, limited*, means a subdivision that is not otherwise exempt from this chapter, and where the tract or parcel of land retained by the owner submitting the land for subdivision approval is in excess of ten acres. For such subdivisions, the owner shall be required to plat only the parcel to be transferred or leased, and only that parcel shall be subject to the requirements of this chapter.

*Subdivision, minor*, means a subdivision that is not otherwise exempt from this chapter and that does not involve any of the following:

- (1) The creation of any new public street or street right-of-way or improvements to an existing street.
- (2) The extension of any needed rights-of-way or easements for the water or sewer system operated by the Charlotte-Mecklenburg Utilities.
- (3) The installation of drainage improvements through one or more lots to serve one or more other lots.
- (4) The installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site.

*Thoroughfare* means any street designated on the adopted thoroughfare plan or any street which is an extension of any street on the thoroughfare plan and which extends into the area not covered by the thoroughfare plan. The terms "thoroughfare" and "arterial" are used synonymously ~~and indicate streets which are designated as class I, II, III, III-C or IV.~~

*Thoroughfare plan* means the most recent Map approved by the Mecklenburg-Union Metropolitan Planning Organization ~~city council and the board of county commissioners~~ which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation. ~~The terms "thoroughfare plan" and "arterial street plan" are used synonymously.~~

*Through lot* means a lot other than a corner lot, with a frontage on more than one street. A "through lot" may also be referred to as a "double frontage lot", or a "reverse frontage lot."

*Traffic calming* means a measure (or measures) that reduce(s) vehicle speeds.

*Variance* means an action requesting consideration for relief from the strict enforcement of the standards of this chapter where special circumstances or unusual considerations may exist on the parcel of land.

*Zoning committee.* The Charlotte-Mecklenburg Planning Commission is divided into two major working committees: the zoning committee and the planning committee.

(Code 1985, § 20-8; Ord. No. 2960, § 1, 5-16-2005; Ord. No. 2961, §§ 1—3, 5-16-2005; Ord. No. 3401, § 1, 10-18-2006)

Cross reference—Definitions generally, § 1-2.

## **Sec. 20-7. - Rules of construction.**

For the purposes of this chapter, the following rules of construction apply:

- (1) This chapter will be construed to achieve the purposes for which it is adopted.
- (2) If a conflict occurs between the text of this chapter and any caption, figure, illustration, table or map, the text of this chapter will control.
- (3) If any conflict occurs in limitations, restrictions or standards applying to a project, the more restrictive provision will apply.
- (4) Reference to "days" will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.

(Code 1985, § 20-9)

## **Sec. 20-8. - Planning staff.**

In addition to any authority granted to the staff of the Charlotte-Mecklenburg Planning ~~Commission-Department~~ (referred to as "planning staff") by other ordinances of the city or the county, the planning director and the employees under his or her control will have the following powers and duties to be carried out in accordance with this chapter:

- (1) Review and approve all subdivisions of land within the authority and jurisdiction of this chapter.
- (2) Maintain the text of this chapter.
- (3) Maintain files and other public records related to the administration and enforcement of this chapter.
- (4) Recommend and comment on proposed amendments to this chapter.

- (5) Interpret the sections of this chapter.
- (6) Work to coordinate all local, state and other appropriate agency reviews and comment on all subdivisions proposed under this chapter.
- (7) Establish such rules of procedure as necessary and proper for the administration of their responsibilities under this chapter.

(Code 1985, § 20-10)

### **Sec. 20-9. - Planning commission.**

- (a) In addition to any authority granted to the Charlotte-Mecklenburg Planning Commission (hereinafter "planning commission) by other ordinances of the city or Mecklenburg County, and in accordance with the provisions of the interlocal agreement regarding the structure and responsibilities of the planning commission, the planning commission will have the following powers and duties to be carried out in accordance with these regulations.
  - (1) To hear appeals filed regarding the action of the planning staff in the approval or disapproval of any subdivision proposed under these regulations.
  - (2) To hear and decide requests for variances from the standards of this chapter in accordance with the provisions of article III. The planning commission may appoint the zoning committee to serve as the hearing committee to hear and decide requests for variances.
  - (3) To hear and decide appeals from the interpretation of any provisions of this ordinance from the planning staff. The planning commission may appoint the zoning committee to serve as the hearing committee to hear and decide appeals.
- (b) In all of these matters, the planning commission, or the hearing committee, may approve the request, deny the request, or approve the request with conditions relating to the intent and standards of this chapter.

(Code 1985, § 20-11; Ord. No. 2960, § 2, 5-16-2005)

### **Sec. 20-10. – Development Review Board.**

A Development Review Board will hear and decide requests for alternative compliance with the standards of this chapter. The board shall be composed of nine members according to the following disciplines:

Architect

Bicycle Advocate

Civil Engineer

Landscape Architect

Planning Commissioner

Public Health Professional

Real Estate Attorney

Real Estate Development Industry Representative

Transportation Planner or Urban Planner

Members and officers of the Development Review Board will be appointed and removed by Charlotte City Council in accordance with the City Council procedures. Members shall serve for a period of two years. No member shall serve for more than two terms.

### **Sec. 20-1~~10~~. - Amendments.**

- (a) The planning staff may, from time to time, and must at the request of the city council, board of county commissioners or planning commission, prepare certain improvements to the text of this chapter to correct errors, update or modify the requirements, or otherwise improve the operation of this chapter in regulating the subdivision of land.
- (b) Amendments to this chapter may only be enacted pursuant to the public notice and public hearing requirements established by law. All text amendments must be referred to the planning commission for a recommendation prior to final action by the elected officials. Failure of the planning commission to act on such a recommendation within 30 days following the public hearing will be deemed to constitute an affirmative recommendation on the proposed amendment. An action to defer a recommendation for cause will constitute an action for the purposes of this section.

(Code 1985, § 20-12)

### **Sec. 20-1~~2~~1. - Compliance required.**

After the effective date of the ordinance from which this chapter derives, no plat of a subdivision of land, subject to the jurisdiction of this chapter, will be filed or recorded by the county register of deeds until it has been submitted to and approved by the planning commission staff. This includes all divisions of land as defined in section 20-6.

(Code 1985, § 20-13)

### **Sec. 20-13. – Intent**

- (a) Consistency with adopted public plan and policies. All subdivision of land approved under this chapter should be consistent with the most recently adopted public plans and policies for the area in which it is located. This includes general policies regarding development objectives for the area, as well as specific policies or plans for public facilities, such as streets, parks and open space, schools and other similar facilities. Plans and policies for the community are on file in the offices of the planning commission.
- (b) Street network goals. The proposed street network should implement the following goals:
  - (1) Support economic development and quality of life – by providing more transportation capacity, while creating more user-friendly streets overall.

- (2) Provide more and safer transportation choices – by creating a better-connected network (route choices) and building streets for a variety of users (mode choices).
- (3) Better integrate land use and transportation – by avoiding mismatches between land uses and streets, and by creating the right combination of land uses and streets to facilitate planned growth.
- (c) Street network design. The street network should be designed to provide interconnected streets so as to facilitate the most advantageous development of the entire neighborhood or area of the city.

## **Sec. 20-142. - General requirements.**

- (a) Scope. The statements in this section provide general requirements and policies to be used in the design, review and approval of any subdivision under the jurisdiction of this chapter. Questions of interpretation of any of these subsections should be discussed with the planning staff at the earliest possible time in the development of a subdivision proposal.
- (b) ~~—Consistency with adopted public plan and policies. All subdivision of land approved under this chapter should be consistent with the most recently adopted public plans and policies for the area in which it is located. This includes general policy regarding development objectives for the area, as well as specific policy or plans for public facilities, such as streets, parks and open space, schools and other similar facilities. Plans and policies for the community are on file in the offices of the planning commission.~~ Residential street design should ensure the creation of a network of low volume, low speed roadways. All new development should provide for more than one access for ingress and egress, where feasible. The proposed street system should extend existing streets on their proper projections. Cul-de-sacs and other permanently dead-end streets should be avoided.
- ~~The proposed street system should extend existing streets on their proper projections. Cul-de-sacs and other permanently dead-end streets should be avoided. All new development should provide for more than one access for ingress and egress, where feasible.~~
- (c) ~~—Conformity. The proposed street system shall be designed to provide a network of interconnected streets so as to facilitate the most advantageous development of the entire neighboring area. Stub streets shall be provided to adjacent properties where feasible. The proposed street system shall extend existing streets on their proper projections. A cul-de-sac shall not be used to avoid connection with an existing street or to avoid future extension. Culs-de-sac and other permanently dead-end streets are permitted where one or more of the following conditions offer no practical alternative for connectivity:~~
  - ~~—(1) Topographical conditions.~~
  - ~~—(2) Environmental conditions.~~
  - ~~—(3) Property shape.~~
  - ~~—(4) Property accessibility.~~
  - ~~—(5) Land use relationships.~~
- (d) ~~Discouragement of cut through traffic. Residential street systems shall be designed to establish circuitous routes to discourage cut through traffic. The street design shall have multiple connections, existing and future, to disperse traffic impacts and reduce speeding.~~

~~Where feasible, all new development shall provide more than one access for ingress and egress at the time of development. Consideration for cut-through traffic shall not apply when a street is designated as a thoroughfare on the adopted thoroughfare plan or is designated as a collector street on the adopted major collector street map.~~

- (c) ~~e~~Relationship to railroad rights-of-way. When a subdivision adjoins a railroad right-of-way, the subdivider may be required to arrange the street pattern to provide for future grade separation of street and railroad crossings, except where no such crossing will be allowed by the railroad.

- (~~d~~f) Half streets. Whenever an existing half street is adjacent to a tract of land to be subdivided, the other half of the street ~~shall~~ould be platted within such tract. New half streets are prohibited in single-family residential development.

- (~~e~~g) Mature trees and natural vegetation. Streets and development sites should be designed to protect and preserve, to the greatest extent practicable, stands of mature trees and other areas of significant natural vegetation.

- (~~h~~f) Access to parks, schools, greenways, etc. Streets ~~should~~shall be designed or walkways dedicated to ensure convenient access to parks, greenways, playgrounds, schools and other places of public assembly.

~~Dedicated walkways may not be less than 15 feet in width and may be required to be large enough to provide vehicular access for maintenance vehicles.~~

- (~~g~~i) Parallel streets along thoroughfares. Where a tract of land to be subdivided adjoins a federal or state highway, major or minor thoroughfare, or commercial arterial, the subdivider may be required to provide a street parallel to the highway or to utilize reverse frontage on an interior street for ~~the lots to be~~ developed adjacent to the highway. Where reverse frontage is established, deed restrictions or other means should be provided to prevent driveways from having direct access to the highway or street.

- (~~h~~i) Public school and public park sites. When a tract of land that appears in any adopted plan or policy document as a future public school, public park, greenway, or open space site falls within an area proposed to be subdivided, the planning staff will notify the appropriate agency of the proposed subdivision and its effect on the future public site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, the subdivision will not be approved without such reservation. The appropriate agency will have 18 months from the date of preliminary plan approval to acquire the site by purchase, by receipt of a dedication or by initiating condemnation proceedings. If, at the end of the 18-month period, none of the actions listed above has commenced, the subdivider may consider the land free of any reservation. The subdivider may choose to dedicate the area to be reserved and may transfer the development rights from the area to the remainder of the site in accordance with the provisions of the zoning ordinance.

- (~~i~~k) Public facilities. When a tract of land that appears in any adopted plan or policy document as a future site for any community service facility, including but not limited to police and fire stations, libraries, public housing or other public use sites, falls within an area proposed to be subdivided, the planning staff will notify the appropriate agency of the proposed

subdivision and its effect on the future public site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, the subdivision will not be approved without such reservation. The appropriate agency will have 18 months from the date of preliminary plan approval to acquire the site by purchase, by receipt of a dedication or by initiating condemnation proceedings. If, at the end of the 18-month period, none of the actions listed above has commenced, the subdivider may consider the land free of any reservation. The subdivider may choose to dedicate the area to be reserved and may transfer the development rights from the area to the remainder of the site in accordance with the provisions of the zoning ordinance.

- | (j) Street names. Proposed street names ~~shall~~<sup>should</sup> not duplicate nor too closely approximate phonetically the name of any street within the county or city. Where proposed streets are extensions of existing streets, the existing street names should be used.
- | (k) Easements. Easements established to the width and in the locations required by the engineering department or the utility department, but in no case less than ten feet wide, should be provided for open or piped storm drainage, sanitary sewers and water lines. This requirement applies to such lines installed at the time of the development of the subdivision and to easements for such lines which may reasonably be expected to be installed in the future.
- | (l) Proposed water and sewer system. The preliminary subdivision plan should be accompanied by satisfactory evidence as to the proposed method of providing potable water and a system of sanitary sewage collection and disposal.
  - (1) Where these systems are to be a part of the public water and sanitary sewer systems owned and operated by the city, the acceptability of the proposed systems should be attested by the approval of the preliminary subdivision plan by the utility department or a letter from the utility department, stating the availability of water and/or sewer service, and that the subdivision will be allowed to connect to the systems upon the completion and dedication of the systems in the development.
  - (2) When the proposed systems to serve more than one structure do not contemplate the use of facilities owned and operated by the city, the proposed systems will be reviewed and approved by the agency with jurisdiction over the approval. Evidence must be provided by the developer prior to the preliminary plan approval of the required discharge permit or perk test for sewage disposal, whichever is applicable. Prior to the approval of the final plat, evidence must be provided that both the sewer and water system designs have been approved for construction. Prior to the issuance of any certificate of occupancy for any structure, evidence must be provided that both the water and sewer systems have been approved and are operational for the structures in question.
  - (3) Where local standards exceed those of state or federal agencies, and where those standards may be enforced over those of state or federal agencies, ~~the department of environmental protection~~<sup>the -Mecklenburg County Land Use and Environmental Services Agency Groundwater and Wastewater Services, or the Charlotte Utility Department</sup> will coordinate all reviews for such standards. However, the approval of the proposed systems remains with the responsible agency, which may include ~~the~~



~~department of environmental protection~~ the -Mecklenburg County Land Use and Environmental Services Agency Groundwater and Wastewater Services, or the Charlotte Utility Department.

- (~~me~~) Restrictions on subdivision of land subject to flooding. Lots that are subject to flooding should not be established in subdivisions, except as provided in section 20-~~24(f)~~21(f).
- (~~np~~) Water access lots. Where a subdivision which adjoins the Catawba River or its impounded waters contains interior lots, parcels or tracts of land which do not adjoin the water's edge, but any part of which is within 450 feet of the water's edge, one or more lots which adjoin the water's edge should be reserved to provide water access for the owners of interior properties. Such lots will be called water access lots (see section 20-~~24(g)~~21(g)). If the property which is in the same ownership adjoins the subdivision, this property will be construed as being part of the subdivision for purposes of determining requirements of water access lots.

(Code 1985, § 20-14)

### **Sec. 20-~~15~~3 - Sketch plan.**

- (a) Encouraged for subdivisions. Prior to the filing of an application for approval of the subdivision preliminary plan, it is strongly encouraged, but not required, that a sketch plan be submitted to the planning staff for review and recommendation. When submitted, this sketch plan should be drawn to a scale no smaller than one inch equals 100 feet on a topographical survey and should show in simple sketch form the proposed layout of streets, lots and other features in relation to existing conditions. It should include the following information:
  - (1) The boundary lines of the property being subdivided.
  - (2) Watercourses on the land to be subdivided.
  - (3) The location, names and right-of-way widths of any existing streets, paper streets, or half streets on or within 300 feet of the land to be subdivided.
  - (4) The location of all property lines which intersect the boundaries of the property being subdivided.
- (b) Required for minor subdivisions. In order to facilitate the review and approval of a minor subdivision, a sketch plan must be submitted to the planning staff. The staff will advise the applicant of any deficiencies that must be corrected prior to submission of the final plat.

(Code 1985, § 20-15)

### **Sec. 20-~~16~~4 - Preliminary plan requirements.**

The preliminary subdivision plan must be drawn to the following specifications and must contain or be accompanied by the information listed. No processing or review of a preliminary plan will proceed without all of the information listed. Detailed standards and specifications for construction are contained in the Charlotte L~~and~~ d~~evelopment~~ s~~tandards~~ m~~anual~~ available from the city ~~or county~~ engineer:

- (1) The boundary of the area to be subdivided and the location within the area, or contiguous to it, of any existing streets, railroad lines, watercourses, easements or other significant features of the tract.
- (2) The location, sizes and elevations of existing sanitary sewers, storm drains and culverts within the tract and immediately adjacent thereto.
- (3) Original contours at intervals of not less than four feet for the entire area to be subdivided and extended into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property. These contours shall be referenced to mean sea level datum established by the U.S. Coastal and Geodetic Survey and as extended by the city through its primary control system or to a benchmark that is within 2,000 feet of the subdivision. Proposed contours for the full width of all street rights-of-way along open drainage channels and in all other portions of the subdivision where extensive grading is proposed must be shown. These requirements shall not apply where the size of the subdivision and the topography make such information unnecessary.
- (4) The location of proposed streets, alleys, easements, lots, parks or other open spaces, reservations, other property lines and building setback lines with street dimensions, tentative lot dimensions, other property lines and the location of any ~~building restriction~~ floodlines-storm water elevation line required by section 20-~~2421~~25 (f).
- (5) The location of all proposed storm drains and appurtenances with grades, inverts and sizes indicated, together with a map of the drainage areas tributary to the proposed storm drains, a copy of the data used in determining the sizes of drainage pipes and structures, use the ~~building restriction~~stormwater elevation floodline-line and ~~flood~~stormwater protection elevation for each lot subject to flooding as defined in section 20-~~24~~2125 (f).
- (6) The name of the subdivision; the name and signature of the owner or the owner's duly authorized agent; the name of the surveyor, engineer or designer; the names of proposed streets; the names of adjoining subdivisions or property owners. The name assigned to the subdivision and the names assigned to streets at this time will be used throughout the review and approval process for preliminary and final plats and may not be changed without approval of the planning staff.
- (7) The scale of the plan, which shall not be smaller than 100 feet to the inch; north point; date.
- (8) Typical cross sections of proposed streets, showing widths and proposed construction of roadways.
- (9) Proposed profiles of roadways. Where a proposed street is an extension of an existing street, the profile shall be extended to include 300 feet of the existing roadway and storm drains if present, and a cross section of the existing street shall be shown. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where the street may be expected to extend into the adjoining tract of land, the profile shall be extended to include 300 feet of the adjoining tract.
- (10) The proposed method of water supply and sewage disposal; the number of housing units.
- (11) A small-scale vicinity map showing the location of the subdivision with respect to adjacent streets and properties.

- (12) The location of any existing demolition landfill on the site and the location of any proposed demolition landfill sites if such information is available.
- (13) A timetable for estimated project completion of the area covered by the preliminary plan.
- (Code 1985, § 20-16)

### **Sec. 20-175. - Procedures for approval.**

- (a) Preliminary plan. A preliminary plan of the proposed subdivision, developed in accordance with the specifications set forth in section 20-146, must be submitted to the planning staff. The plan must be accompanied by an application in duplicate, signed by the owner and/or his or her duly authorized agent for approval of the plans, on application forms to be furnished by the planning staff. At the time of submission, the applicant will be advised as to the number of copies of the plan and related data required in section 20-146 that must be submitted with the application.

- (b) Time limits. Time limits for reviewing complete applications are as follows:

<b>Action</b>	<b>Staff Time</b>
Initial review of preliminary plan—red line drawings	30 days
Review of plans with corrections and/or changes	20 days
Approval of completed and correct plan	10 days

The time limits do not apply to plans for which no sketch plan has been prepared and submitted to the planning staff or to plans which contain any proposed school, park, greenway or other public facility for which reservation is required. The applicant may consent to an extension of any of the time limits in this subsection. Should the staff fail to respond within the time limits set out, the application will be considered to be denied, and the applicant may appeal the denial to the planning commission. If the application is denied by the planning staff, the staff will furnish a written notice of the denial and the reasons for the denial upon request of the applicant.

- (c) Waiver. The required preliminary plan may be waived by the planning staff for certain subdivisions, including metes and bounds subdivisions. Such applications will be designated "minor subdivisions," provided:
- (1) Such land abuts a street of required width and is so situated that no new streets are proposed, and no improvements are required to be installed by the subdivider according to this chapter.
  - (2) A plat of the tract being subdivided, accompanied by two applications signed by the owner/developer and/or his or her duly authorized agent, has been filed with the planning staff.
  - (3) The subdivider may be required to submit topographic information to determine flood elevations whenever the property proposed to be subdivided or resubdivided is traversed by or adjacent to a known watercourse. However, a final plat must be prepared and recorded as provided in section 20-~~16~~18.

- (4) The required preliminary plan may also be waived by the planning staff for limited subdivisions and/or those subdivisions which do not involve the dedication of a new street.
- (d) Final plats. Upon tentative approval of the preliminary subdivision plan by the planning staff, the subdivider may proceed to comply with the other requirements of this chapter and the preparation of the final subdivision plat. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plan, provided that all required improvements to any existing or new street shown on the preliminary plan within the boundaries of the final plat have been provided for or been assured by the posting of a surety as provided for in section 20-58 prior to any final plat approval. The final subdivision plat must be developed in accordance with the specifications set forth in section 20-~~16~~18. When the final plat is submitted to the planning staff for approval, it must be accompanied by an application in duplicate, signed by the owner and/or his or her duly authorized agent for final plat approval, on an application form to be supplied by the planning staff. The official plat for recording, together with a sufficient number of copies for distribution, must be presented for approval. The planning staff will approve final plats which comply with the requirements of this chapter within 30 days after complete submission.
- (e) Disapproval. If the planning staff disapproves a preliminary plan or final plat of a subdivision, the grounds for such disapproval will be stated in writing to the applicant. After such disapproval, an appeal from the decisions of the planning staff may be taken to the planning commission, in accordance with article III of this chapter. The planning commission may approve, disapprove in whole or in part, or otherwise modify the action of the planning staff. A final plat of a subdivision approved by the planning commission upon appeal from the decision of the planning staff will be eligible for recording by the register of deeds of the county.
- (f) Effect of approval of preliminary plan. A preliminary plan approved under this chapter will be valid for a period of three years from the date of approval. If no work on the site in furtherance of the plan has commenced within the three-year period, the preliminary plan approval will become null and void, and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced, that involves any utility installations or street improvements except grading, the plan will remain valid and in force, and the subdivision may be completed in accordance with the approved plan.
- (g) Release of grading permit. Preliminary plan approval is required for the issuance of a grading permit for any grading work on the site for the installation of any improvements in furtherance of the development. The release of the grading permit may be authorized by the planning staff prior to the approval of the preliminary plan, if the matters staying the approval are not related to nor will have an effect on the need for grading on the site. Once the preliminary plan is approved, further approvals under this subsection are not required for granting permits for individual sites within the development.

(Code 1985, § 20-17)

## **Sec. 20-186. - Final plat requirements.**

The final subdivision plat will be prepared by a registered surveyor and must be drawn to a scale of not smaller than 100 feet equal to one inch and must contain the following information:

- (1) The exact boundary of the tract of land being subdivided, showing clearly the disposition of all portions of the tract.
- (2) The lines and names of all streets, alley lines, lot lines, lot and block numbers, building setback lines, easements, reservations, on-site demolition landfills and areas dedicated to public purpose, with notes stating their purposes. Also, the plat for all lots subject to flooding shall include a statement as follows: "This lot is subject to flooding during heavy rainfall, and the construction of buildings or structures below the stormwater flood-protection elevation of \_\_\_\_\_ is prohibited, as further described by section 20-24(f) of the Charlotte Subdivision Ordinance." Plats for multiple lots may include the stormwater flood-protection elevations in tabular form. In areas where the floodway regulations are applicable, the following statement shall be inscribed on the plat: "Any construction or use within the areas delineated as floodway fringe district boundary line and floodway district encroachment line is subject to the restrictions imposed by the floodway regulations." Any amendment to a previously approved final plat must note in writing on the amended plat the nature and extent of the changes and the deed or plat book and page number where previously recorded.
- (3) Sufficient data to determine readily and reproduce accurately on the ground the location, bearing and length of every street and alley line, lot line, building line, easements required under this chapter or of record in the county or ascertainable by physical inspection of the property, and boundary lines of reserved or dedicated areas. All linear dimensions shall be in feet and hundredths thereof. The maximum allowable error of linear closure shall not be in excess of 1:10,000. In closed traverses, the sum of the measured angles shall vary with the theoretical sum by a difference not greater than an average of 7.5 seconds per angle, or the sum of the total shall not differ from the theoretical sum by more than 90 seconds, whichever is smaller.
- (4) As-built drawings and plans of all water system, sewer system, and storm drainage system facilities. Such plans should show all easements and/or rights-of-way to demonstrate that the facilities are properly placed. These drawings need not be placed on the final plat but must be submitted at the time of the request for final plat approval or release of any surety for required improvements, whichever comes later.
- (5) The name of the township in which the subdivision is located, the name of the subdivision, the name of the owner, the name, registration number and seal of the registered surveyor under whose supervision the plat was prepared, the date of the plat and a north point oriented as per state statutes, and a small vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
- (6) The accurate location of monuments which must be established along the rear property lines of lots with a minimum of two per map including coordinates computed from the North Carolina Plane Rectangular Coordinate System as extended there from. Design and materials shall be in accordance with the standard detail contained in the Charlotte-Mecklenburg Land Development Standards Manual.

- (7) A certificate signed by the surveyor meeting the requirements of G.S. 47-30 for proof upon oath that the plat is in all respects correct, written as follows: "The undersigned surveyor, being duly sworn, deposes and says that the plat upon which this certificate appears was prepared in accordance with G.S. 47-30 as amended, is in all respects correct according to the best of his or her knowledge and belief, and was prepared from an actual survey made by him on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, with maximum linear error of closure of \_\_\_\_\_, and a maximum field error of angular closure of \_\_\_\_\_."

Final written approval by the planning staff must be entered on the plat for recording. Changes or amendments to an approved final plat which already bears the written approval prior to recording the plat constitutes a violation of this section. The final plat shall be recorded within 120 days of the final approval date. A copy of the sealed and recorded final plat must be delivered to the planning staff within five days of recording.

- (8) If the subdivision is wholly or partially located in the airport noise disclosure overlay district, the following statement shall be inscribed on the plat: "Noise Warning—This property, either partially or wholly, is zoned Airport Noise Disclosure Overlay District and lies within or near the Noise Exposure Map Areas of Charlotte/Douglas International Airport and may be subject to noise that may be objectionable."

(Code 1985, § 20-18; Ord. No. 2288, § 1, 4-21-2003; Ord. No. 2961, §§ 4, 5, 5-16-2005; Ord. No. 3401, § 1, 10-18-06)

#### **Sec. 20-197. - Plats already established by survey.**

- (a) Plans for subdivisions of land previously approved by the city planning board or the Charlotte-Mecklenburg Planning Commission, but not recorded by the county register of deeds prior to February 29, 1956, will be approved for recording without complying with the requirements of this chapter if the plat conforms to the previously approved plan.
- (b) Plats already established by survey and recorded in the office of the county register of deeds prior to the effective date of the ordinance from which this chapter derives will be eligible for development and other administrative permits without complying with the requirements of this chapter, but must be developed in accordance with the provisions of the subdivision ordinance in effect at the time of its approval.

(Code 1985, § 20-19)

#### **Sec. 20-20.~~Sec. 20-18.~~ - Planned developments.**

- (a) The requirements of this section will apply for the preparation, submission and approval of preliminary site plans for planned ~~unit~~ developments, ~~cluster developments~~, ~~subdivisions~~ involving one-family attached dwellings and planned multifamily developments.
- (b) A pre-preliminary site plan conference will be arranged by the developer with designated members of the planning staff prior to the submission of a preliminary site plan for a planned ~~unit~~ development ~~or a cluster development~~.
- (c) The developer must submit to the planning staff a preliminary site plan and supplemental documents for review and approval. The preliminary site plan must be prepared in



accordance with the requirements of section 20-~~14~~16 and must include the following additional information:

- (~~41~~) The use, approximate height, bulk and location of all buildings and structures other than one-family detached and semidetached dwellings, except that one-family detached dwellings using a zero side yard shall be shown.
- (~~22~~) All proposed land use and dwelling unit densities.
- (~~33~~) For plans which call for development over a period of years, a schedule showing the time within which application for final approval of all parts of the development are intended to be filed.
- (~~44~~) The proposed location, use, improvements, ownership and manner of maintenance of common open space areas.
- (~~5~~) ~~Final drafts of legal documents dedicating and restricting the common areas and establishing a homeowners' association or similar organization.~~
- (~~65~~) Proposed off-street parking and circulation plan showing the location and arrangement of parking spaces and any driveways for ingress and egress to and from adjacent streets and highways.

~~(d) The planning staff will review the preliminary site plan to ensure conformance with the requirements of the zoning ordinance in appendix A to this Code and with this chapter. In addition, the planning staff will evaluate the plan in accordance with the following standards:~~

- ~~(1) The character, amount and arrangement of common open space areas must adequately serve the needs of the residents.~~
- ~~(2) Proposed means of dedication, ownership and maintenance of all common areas, the restrictions of its uses, and the organization and authority of such homeowners' associations as may be established for ownership and maintenance of the common area ensure the continuance of such space for its designed purpose.~~
- ~~(3) Site planning for the overall development provides protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the development.~~
- ~~(4) The terms and conditions proposed for development over a period of years sufficient to protect the interests of the public and the residents of the development.~~
- ~~(5) Deviation from conventional requirements is justified by the high quality of design of the development.~~

~~(d)~~ The planning staff action may be approval, ~~tentative approval with conditions~~, or denial of the preliminary site plan. ~~When granted tentative approval with conditions, the developer must submit a revised plan that is in conformance with those conditions.~~

- (1) If the planning staff disapproves a preliminary site plan, the applicant will be notified of the grounds for such disapproval. After such disapproval, an appeal from the decision of the staff may be taken to the planning commission. The planning



commission may disapprove in whole or in part or otherwise modify the action of the planning staff.

- (2) The final plat for planned ~~unit~~-developments, ~~cluster developments, and subdivisions~~ involving one-family attached dwellings ~~and planned multifamily developments~~ shall be prepared in accordance with the requirements of section 20-~~1846~~ and shall contain the following additional information:

- a. The use, bulk, and location of all buildings and structures other than one-family detached and semidetached dwellings.
- b. All land uses.
- c. The location, use, improvements, ownership and manner of maintenance of all common areas.

(e) The planning staff will review the preliminary site plan to ensure conformance with the requirements of the zoning ordinance in appendix A to this Code and with this chapter.

~~(f) The planning staff action may be approval or denial of the preliminary site plan.~~ (Code 1985, § 20-20)

## **Sec. 20-~~2149~~. - Development standards for nonresidential development.**

Subdivisions for nonresidential development must conform to this chapter and to the provisions of the applicable zoning district.

(Code 1985, § 20-21)

## **Sec. 20-~~220~~. - Design standards for streets.**

- (a) Scope. This section contains specifications for streets which must be followed in the subdivision process. Construction details for streets are available in the Charlotte Land Development Standards Manual. Cross-sections should be consistent for complete blocks based on the highest intensity of use, and transition between types only at intersections.
- (b) Right-of-way. A proposed street right-of-way must be of sufficient width to accommodate the required cross section. However, in no case will the dedicated and reserved right-of-way be proposed to be less than the following standards, unless the city engineer certifies that special circumstances exist which make the dedication of reservation of the full right-of-way unnecessary or impractical.
- (c) Non-local street right-of-way

Street Type	Minimum Right-of-Way (in feet)
Freeway or Expressway <del>(Class I)</del> other than U.S. 74 from Briar Creek southeast	350

to the City Limits	
U.S. 74 between Briar Creek and W.T. Harris Boulevard	250
U.S. 74 from W.T. Harris Boulevard southeast to the City limits	280
Limited-access Arterial <del>(Class II)</del>	200
Commercial Arterial <del>(Class III-C)</del>	150
Major Arterial <del>(Class III)</del>	100*
Minor Arterial <del>(Class IV)</del>	70*
Collector <del>(Class V)</del>	60

\*The right-of-way widths for ~~urban class III and IV major and minor~~ thoroughfares located within the area bounded by Route 4 and I-85 shall be a minimum width of 80 feet for ~~Class III major thoroughfares streets~~ and 60 feet for ~~Class IV streets minor thoroughfares~~ and as provided for in Section 12.103 of the zoning ordinance in appendix A to this Code.

- (1) Along existing local streets less than ~~60~~77 feet wide, there is no requirement that right-of-way greater than ~~30~~38.5 feet on each side of the centerline be dedicated. Along all other existing streets, there is no requirement that any right-of-way be dedicated or reserved.
- (2) City staff, after consulting applicable plans and programs and after consulting with the appropriate city, county, state and/or federal officials will be responsible for the determination of the classifications of streets or segments of streets. These standards represent the normally required rights-of-way. Additional right-of-way may be necessary in the area of interchanges, intersections, cut/fill areas, or areas where horizontal or vertical alignments must be improved and will be determined on a case by case basis.
- (3) Whenever a tract of land to be subdivided includes any part of a thoroughfare shown on the thoroughfare plan approved by the Mecklenburg-Union Metropolitan Planning Organization and whenever such a right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the thoroughfare must be platted in the location and to the width specified in the plan.
- (4) The subdivider is responsible for the dedication of the rights-of-way up to 100 feet (50 feet on either side of the centerline) or the reservation of the right-of-way in accordance with Section 20-52. The remainder of the minimum right-of-way over 100 feet must be reserved for future right-of-way use and must be shown as such on the final plat.
- (5) Freeways. Whenever a tract of land is to be subdivided includes any part of the proposed right-of-way for a freeway, as shown on the thoroughfare plan approved by the Mecklenburg-Union Metropolitan Planning Organization and whenever such a right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, the right-of-way for the freeway must be reserved and remain undeveloped, pending future acquisition by the state or other governmental unit. The subdivider must reserve the proposed right-of-way in accordance with the requirements in subsection (2) above.

(d) Local street right-of-way

<u>Local Street Type Right-of-Way</u>	<u>Total Right-of-Way</u>	<u>Minimum Right-of-Way</u> <u>(using an easement for the</u> <u>Pedestrian Zone)</u>
<u>Local Residential Streets</u>		
<u>Narrow</u>	<u>50 feet</u>	<u>37 feet</u>
<u>Medium (default)</u>	<u>56 feet</u>	<u>42 feet</u>
<u>Wide</u>	<u>71 feet</u>	<u>51 feet</u>
<u>Local Office/Commercial Streets</u>		
<u>Narrow</u>	<u>55 feet</u>	<u>41 feet</u>
<u>Wide</u>	<u>77 feet</u>	<u>57 feet</u>
<u>Local Industrial Streets</u>		
<u>All local Industrial Streets</u>	<u>65 feet</u>	<u>51 feet</u>
<u>Collector</u>	<u>72 feet</u>	<u>51 feet</u>

(e) Local Street Cross-section Application.

- (1) Local street alternatives may be applied only in accordance with the table below. Cross-sections should be consistent for complete blocks based on the highest intensity of use, and transition between types only at intersections.

<u>Land Use Conditions</u>	<u>USDG Street Type/Cross-Section</u>
<u>Residential Land Uses</u>	
<u>Default: except in conditions 1-4 below, use:</u>	<u>Local Residential Medium</u>
<u>1. If residential use within a mixed use development unless a conditional zoning district or adopted area plan indicates otherwise, or where the separation of the residential uses from the non-residential uses is sufficient to justify the use of residential street type.:</u>	<u>Local Office/Commercial Wide</u>

<u>Land Use Conditions</u>	<u>USDG Street Type/Cross-Section</u>
<u>2. If all lots are greater than 10,000 square feet with all of the following conditions:</u> <u>    Lot frontage greater than 80 feet</u> <u>    More than one street connection</u> <u>    Parallel street located within one connected block</u>	<u>Local Residential Narrow</u>
<u>3. If the street is abutted only by lots fronting adjacent perpendicular streets with the following condition:</u> <u>    More than one street connection</u>	<u>Local Residential Narrow</u>
<u>4. If greater than 8 dwelling units per acre use:</u>	<u>Local Residential Wide</u>

<u>Industrial Land Uses</u>	<u>Local Industrial Street</u>
<u>Office/Commercial/Retail Land Uses</u>	
<u>Default: except in conditions 1-2 below, use:</u>	<u>Local Office/Commercial Wide</u>
<u>1. A conditional zoning district or small area plan prescribes the use of the Local Office/Commercial Narrow</u>	<u>Local Office/Commercial Narrow</u>
<u>2. The developer can reasonably demonstrate to city staff that the anticipated long-term development will not create parking demand on the street.</u>	<u>Local Office/Commercial Narrow</u>

<del>— Freeway or Expressway (Class I) other than U.S. 74 from Briar Creek southeast to the City limits—</del>	<del>350 feet</del>
<del>U.S. 74 between Briar Creek and W.T. Harris Boulevard</del>	<del>250 feet</del>
<del>U.S. 74 from W.T. Harris Boulevard southeast to the City limits</del>	<del>280 feet</del>
<del>Limited Access Arterial (Class II)—</del>	<del>200 feet</del>
<del>Commercial Arterial (Class III-C)—</del>	<del>150 feet</del>
<del>Major Arterial (Class III)—</del>	<del>100 feet*</del>
<del>Minor Arterial (Class IV)—</del>	<del>70feet*</del>
<del>Collector (Class V)</del>	<del>60 feet</del>
<del>Local (Class VI)</del>	<del>50 feet</del>

~~Freeways. Whenever a tract of land to be subdivided includes any part of the proposed right-of-way of a freeway, as shown on a thoroughfare plan approved by the planning commission and adopted by the city council or the board of county commissioners or adopted by the state board of transportation, and whenever such a right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, the right-of-way for the freeway must be reserved and remain undeveloped, pending future acquisition by the state or other governmental unit. The subdivider must reserve the proposed right-of-way in accordance with the requirements in subsection (c) of this section. (i) Street offsets. Where there is an offset in the alignment of a street across an intersection, the offset of the centerlines may not be less than 125 feet. () Block lengths. Block widths must be sufficient to allow two tiers of lots except where single tiers of lots will facilitate nonresidential development and the separation of residential and nonresidential developments or the separation of residential development from thoroughfares. Block lengths shall not be more than 1,000 feet, except as hereinafter provided. The planning staff may authorize block lengths in excess of 1,000 feet where one or more of the following conditions exist:~~

- ~~(1) Topographical conditions.~~
- ~~(2) Environmental conditions.~~
- ~~(3) Property shape.~~
- ~~(4) Property accessibility.~~
- ~~(5) Land use relationships. () Cul-de-sacs. cul-de-sacs or other permanently dead-end streets shall not be longer than 500 feet or ten times the minimum lot width of the zoning classification, whichever is greater. The planning staff may authorize longer cul-de-sac lengths where one or more of the conditions specified in section 20-12(c) exist. The distance of a cul-de-sac shall be measured from the centerline intersection to the centerpoint of the cul-de-sac. The cul-de-sac shall be terminated by a circular right-of-way not less than 80 feet in diameter (100 feet with open ditches in the county). Alternate turnaround designs as accepted by the city or county engineer may be considered. Flag lots along the turnaround portion of the cul-de-sac shall not be used to artificially increase the length of the cul-de-sac. If a vehicular connection is impractical, a pedestrian and/or bicycle connection may be required.~~
- ~~(h) Narrow streets permitted (class VI-L). In certain circumstances, streets may be constructed on a 40-foot right-of-way and with a 22-foot cross section (18-foot pavement plus two-foot roll curb). When a street serves 50 dwelling units or less and is permanently dead ended, this smaller standard may be used. All other appropriate standards of this chapter still apply to the construction of such a street. (Code 1985, § 20-22)~~

## **Sec. 20-23. – Design Standards for Street Network and Blocks**

- (a) Street Network. A network of interconnected streets providing both external and internal connectivity is required for all types of new development. This network can be constructed

with either public streets or private streets as allowed under 20-25. The following uses are exempt from the street network requirements:

- (1) Schools
- (2) Parks
- (3) Places of Worship
- (4) Cemeteries

(b) External Connectivity

(1) Existing Street Stubs

- a. Extend any existing adjacent street stubs into the development on its proper projection
- b. Extend any existing adjacent paper street stub into the development where the city commits to construct the paper portion of the street no later than the time of permit approval.
- c. Complete any existing adjacent half street located along any property line.

(2) Additional new local streets shall be required as follows:

- a. Measure the width of each property boundary and divide by the appropriate preferred spacing from the following table to determine the overall number of blocks required along that boundary. Round down to the nearest whole number where a fractional number results. This is the required number of block faces along that boundary. Where the result is less than 2, but the boundary exceeds the maximum block length, one street is required. Where an odd-shaped parcel has a series of boundary segments shorter than the preferred length, but separate blocks would be required if the site is measured across, as opposed to along the boundary segments, then a local street shall be required. Where extension of non-local and adjacent local streets creates a street network that meets the required number of blocks, no additional new streets are required. If the distance from the nearest adjacent street to the parcel boundary exceeds the maximum block length, then a street may be required.

Table 1

<u>Street Spacing</u>		
<u>Location<sup>1</sup> / Land Use</u>		<u>Preferred (Perimeter)</u>
<u>Activity Centers</u>		
	<u>Industrial Centers</u>	<u>600</u>
	<u>Mixed Use Centers</u>	<u>500</u>
<u>Growth Corridors</u>		
	<u>Transit Station Areas<sup>1</sup></u>	<u>400</u>
	<u>Other Corridor Subareas</u>	<u>600</u>

<u>Street Spacing</u>		
<u>Location<sup>1</sup> / Land Use</u>		<u>Preferred (Perimeter)</u>
<u>Wedges (apply uses below)</u>		
	<u>Nonresidential Uses</u>	<u>500</u>
	<u>Residential ≥ 5 du/acre</u>	<u>600</u>
	<u>Residential &lt; 5 du/acre</u>	<u>600</u>

<sup>1</sup> Boundaries for Activity Centers, Growth Corridors, Transit Station Areas and Wedges defined by the official map maintained by the Charlotte-Mecklenburg Planning Department.

EXAMPLE: Where the width of the site at the property boundary is 1,400 feet, and the site is located in a Transit Station Area, then three blocks are required ( $1,400 / 400 = 3.5$ , rounded down to the nearest whole number = 3 new blocks must be created).

- b. Construct new local streets where additional streets are required to create the blocks calculated above, including any required stub streets or half streets. When the property abuts a local street, begin by aligning, where possible, with streets or driveways across the local street to create four-way intersections. The average street spacing, measured from centerline to centerline, for an entire site shall not exceed the maximum spacing shown in the table below, and no individual block face shall exceed 1000 feet. Exceptions as noted in 20-23(d) are allowed, and will be included in the block averaging calculation based on its length, or 1000 feet, whichever is smaller. The following streets shall not be included in the calculation for average block length (see Figure 1):

1. Cul-de-sac streets
2. Stub streets
3. Streets whose length is determined by the depth of back-to-back residential lots

Figure 1 – Example of Streets Eligible for Block Averaging Calculation





**Table 2**

<b>Street Spacing</b>		
<b>Location<sup>1</sup> / Land Use</b>		<b>Maximum</b>
<u>Activity Centers</u>		
	<u>Industrial Centers</u>	<u>1000</u>
	<u>Mixed Use Centers</u>	<u>650</u>
<u>Growth Corridors</u>		
	<u>Transit Station Areas<sup>1</sup></u>	<u>600</u>
	<u>Other Corridor Subareas</u>	<u>650</u>
<u>Wedges (apply uses below)</u>		
	<u>Nonresidential Uses</u>	<u>650</u>
	<u>Residential ≥ 5 du/acre</u>	<u>650</u>
	<u>Residential &lt; 5 du/acre</u>	<u>800</u>

<sup>1</sup> Boundaries for Activity Centers, Growth Corridors, Transit Station Areas and Wedges defined by the official map maintained by the Charlotte-Mecklenburg Planning Department.

### (3) New Street Stubs

- a. New street stubs to adjacent properties are required using the prescribed methodology for creating blocks
- b. New street stubs are not required to existing single family developments, with the following two exceptions:
  1. A street stub may be required to an abutting single family lot that may be further subdivided based on the size and shape of the single family lot making a stub street extension feasible. New street stubs shall be public and connect to the existing public street system. Deed restrictions on the single family lots may be considered in determining whether a lot is likely to be redeveloped and therefore whether a street stub should be provided.
  2. A paper street may be required to single family lots located adjacent to thoroughfares

### (4) Ingress and Egress

- a. All new development should provide for more than one access for ingress and egress at the time of development, if feasible.
- b. New streets and driveways should align with existing streets across intersections to create four-way intersections.

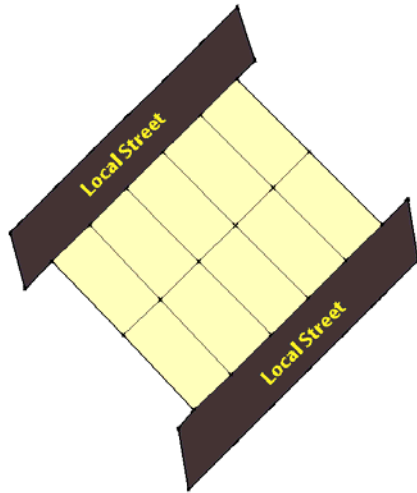
~~(a)~~(c) Internal Connectivity. Once the external streets are created, connect them, and ensure no block lengths exceed 1000 feet and the average of the block lengths for the entire site does not exceed the maximum block spacing shown in Table 2.. Streets eligible for inclusion in the average block length calculation are described in 20-23 (b)(2)b.

(d) The city staff may modify the maximum local street spacing, eliminate the need for a stub or paper street where:

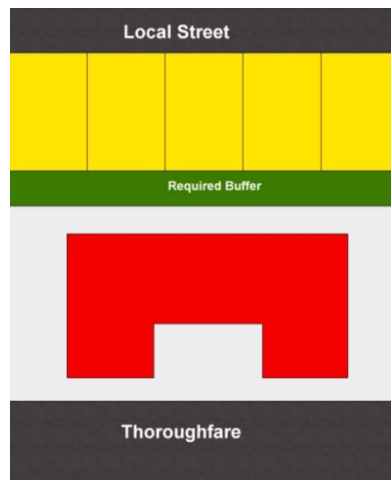
- (1) A physical impedance to a connection exists, such as a freeway, railroad line, rapid transit line, or gas pipeline.
- (2) A natural impedance exists, such as areas of steep slopes, wetlands, floodplain, creeks or streams.
- (3) An industrial use is located adjacent to a proposed residential property, allowing future traffic to the non-residential use to traverse the residential property to reach a non-local street.
- (4) The shape of the property does not allow the requirements to be met.
- (5) There are right-of-way, sight distance, or access constraints to providing the recommended spacing.
- (6) Accessibility to the subject property or an adjacent property requires modification of the requirements.
- (7) Special manufacturing or security functions do not allow the street spacing requirements to be met.
- (8) It is advantageous to the street network to align a new street with an existing street, major driveway, or traffic signal, and therefore not creating smaller than desirable block faces.

(e) Block widths. Block widths must be sufficient to allow two tiers of lots except where single tiers of lots will facilitate nonresidential development, the separation of nonresidential and residential developments, or the separation of residential development from thoroughfares.

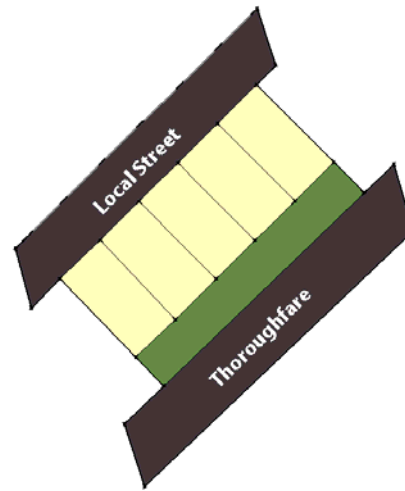
Figure 2 - Acceptable block width configurations



Two-tiers of lots along a local street



One lot for commercial development



One-tier of lots adjacent to a thoroughfare

- (f) Street offsets. Where there is an offset in the alignment of a street across an intersection, the offset of the centerlines may not be less than 125 feet. Staff may reduce this requirement based on analysis of safety and operational conditions.
- (g) Cul-de-sac. Cul-de-sacs and other permanently dead-end streets are allowed only where no feasible alternative has been documented. No cul-de-sacs are permitted in transit station areas. Cul-de-sacs shall not be longer than the preferred local street spacing in Table 1. The distance of a cul-de-sac shall be measured from the centerline intersection to the center point of the cul-de-sac. The cul-de-sac shall be terminated by a circular right-of-way not less than 80 feet in diameter (100 feet with open ditches in the county). Alternate turnaround designs

as accepted by the city engineer may be considered. Flag lots along the turnaround portion of the cul-de-sac shall not be used as a way to minimize the length of the cul-de-sac. Where a vehicular connection is impractical and limited additional connections exist, or when environmental conditions make a vehicular connection impractical, a pedestrian and bicycle connection through the cul-de-sac may be required.

~~(b)~~(h) Half streets. New half streets are allowed only where the dual objectives of achieving a network of streets and ensuring the burden of creating streets is reasonably shared among property owners are achieved. This determination shall be made by city staff based on the configuration of parcel boundaries and the anticipated impact of future extension and completion of the half street on the viability of the adjacent parcels. No new half streets are allowed for single-family residential development. Where a half street (partially improved) exists, adjacent development shall complete the street. A half street must be constructed to a minimum of one half the width of the appropriate local street. Where more than one half of the width is constructed, sufficient right-of-way must be dedicated to contain the constructed portion of the street.

(i) Traffic calming. Wherever a street exceeds the maximum block length, the following conditions shall apply:

(1) For residential wide or office/commercial wide, provide at least one pair of midblock curb extensions, as described in the Charlotte Land Development Standards Manual, or another approved slow point.

(2) For all other street types, the developer must consult with City staff about the possible use of other traffic calming devices as available in the Charlotte Land Development Standards Manual or as approved by the City Engineer.

(k) Parking, pedestrian, green zone design. While a common design for parking, pedestrian, and green zones on both sides of a street is preferred, there may be instances where opposite sides of a street contain significantly different land uses. Where such instances are located parallel to a thoroughfare, city staff may approve the design of each side of the roadway separately with regard to the parking, pedestrian, and green zones. Streets that extend perpendicular to a thoroughfare shall be designed for the most intense adjacent land use.

(l) Collector street designation. If a street is designated on the adopted Collector Street Map dated November 27, 2000, or meets at least two of the criteria, the street will be designated as a collector street and must be built to the appropriate standard.

(1) The street intersects directly with a thoroughfare and provides access to an area with an overall density of one dwelling unit per acre, or provides access to more than 125 dwelling units.

(2) The street by its general configuration, in relationship to the existing development of the area, in effect serves a collector function.

(3) The street serves as a primary access to a significant nonresidential, institutional or recreational land use, as well as access to a residential area.

## **Sec. 20-24 Alternative Compliance for Street Design**

- (1) Purpose and Intent. It is the purpose of this section to provide for the consideration of alternative street designs which differ from the conventional design standards outlined in Sec. 20-22 and 20-23 of this article but which are based upon sound engineering, transportation, and urban design practice. Alternative street design means alternative designs for physical improvements such as street cross-sections, street network, and street block design.
- (2) Authority. The Development Review Board will have the authority to hear and decide applications for alternative compliance.
- (3) Initiation. An application for alternative compliance may be initiated only by the owner of the subject property, an agent authorized in writing to act on the owner's behalf, or a person having written contractual interest in the affected property.

  - (a) An applicant requesting alternative compliance shall schedule a pre-application conference with staff to discuss the procedures, standards, and regulations.
  - (b) An application, in a form prescribed by the Planning Director, must be filed with the planning department accompanied by a nonrefundable filing fee as established by city council. The application shall include an explanation of why the development proposal is not allowed by the ordinance standards.
- (4) Determination of completeness.

  - (a) Within ten days of receiving an application for alternative compliance, the Planning Director will determine whether the application is complete. If the Planning Director determines that the application is not complete, he or she will notify the applicant or specifying the application's deficiencies. The planning director will take no further action on the application until the deficiencies are remedied. If the planning director fails to notify the applicant, the application will be deemed complete. If the application is deemed complete, the planning director will schedule the application for consideration at a hearing before the Development Review Board within 30 days.
  - (b) A determination of completeness will not constitute a determination of compliance with the substantive requirements of these regulations but will only allow review of the application to proceed under this section. In the event that the application is automatically deemed complete due to the failure of the planning director to notify the applicant of any deficiencies in the application, the deficiency of information may result in rejection of the application by the Development Review Board.
- (5) Staff review.

  - (a) After receipt of a complete application for alternative compliance, the planning director will review the application and send a written recommendation to the Development Review Board setting forth whether the application for alternative compliance should be granted or denied and the reasons for such recommendation. In making such recommendation, the planning director may consult with other city and county agencies and may allow them to review the application for alternative compliance. The

- recommendation of the planning director will be submitted to the Development Review Board and mailed to the applicant at least five days prior to the scheduled public hearing
- (6) Notice and hearing.
- (a) The Development Review Board will hold hearings on any application for alternative compliance which comes before it in accordance with rules adopted by it for such purpose.
- (b) The planning staff will mail written notice of the time, place, and subject of the hearing to the person or persons filing the application, to the owners of the subject property, and to the owners of property which adjoins or is directly across a street or alley from the subject property at least 15 days prior to the hearing.
- (7) Action by the Development Review Board. The Development Review Board will grant or deny the application for alternative compliance. The board must state the reasons used to reach its decision.
- (8) Approval criteria. Before granting approval of an application for alternative compliance, the Development Review Board must determine that:
- (a) The proposed alternative design meets the intent of the adopted Urban Street Design Guidelines, and
- (b) The proposed alternative design will have the same or higher level of service or adequacy as the standard required improvements. It is not the intent of the alternative compliance procedure to allow an inferior improvement design to the standards required by this chapter for the purpose of reducing cost.
- (c) The departure from the standard is the minimum necessary, given the specific circumstances of the request.
- (d) The proposed alternative design will not materially endanger the public health or safety if constructed where proposed and developed according to the plan as submitted and approved
- ~~(4)~~(9) Rehearing. The Development Review Board may refuse to hear an application for alternative compliance which is substantially similar to an application that has been previously denied.
- ~~(2)~~(10) Appeal from Development Review Board. Any appeal of a decision rendered by the Development Review Board under this section must be to the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court must be filed with the clerk of superior court within 30 days after the decision of the Development Review Board is filed in the office of the planning director or after a written copy thereof is mailed to every aggrieved party who has filed a written request for such copy with the planning director at the time of the hearing, whichever is later.
- (11) Effect of grant of application for alternative compliance. After the approval of a application for alternative compliance, the applicant will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject

property. All decisions made by administrative officers under those procedures will comply with the alternative compliance to the regulations granted to the applicant by the Development Review Board or court.

## **Sec. 20-254. - Design standards for lots.**

### **(a) Frontage on street.**

- (1) Each lot in a subdivision must have frontage on a public or private street, except that all single-family detached lots shall front on a public street. Private streets may be allowed in place of public streets with approval by staff.
- (2) Where lots or building sites that are part of a multifamily development exceed the maximum local street spacing in Sec. 20-23(b)(2)b. above, at least one street extending through the development in either direction shall be a public street. The location of the required public street shall be determined based on the location with the greatest value for connectivity to the existing roadway network. Where no extension of a multifamily public street into adjacent sites is possible, the applicant may construct such a street as a private street.
- (3) However, Lots designed for certain planned multifamily dwellings need not front on a street, provided that all portions of the dwelling unit proposed for such lots are located within 400 feet of a public street or private street that furnishes direct access to the property, and that access to each such lot be made available via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership.
- (4) In addition to provisions 1-3, all other lots must be designed in accordance with Appendix A of the City Code. Lots designed for certain one-family, semidetached dwellings need not front on a street, provided that at least one unit of each dwelling group has frontage on a street and that access to each dwelling unit is made available via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership.
- (5) Lots or building sites which are part of a larger nonresidential development, such as a shopping center, need not abut a street so long as the overall site abuts a street in such a way that access is furnished to all interior lots or building sites.

- (b) Sidelines.** Side lot lines shall, as nearly as practicable, be at right angles or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than 60 degrees.
- (c) Maximum density and minimum lot requirements.** Density controls the maximum number of lots that can be created when subdividing property. Once the maximum density is established, lots must meet all the development standards of the underlying zoning district in which the proposed subdivision is located. Larger lots may be required to accommodate on-site sewer disposal systems.
- (d) Building lines.** Building lines shall be established on all lots in accordance with the appropriate zoning classification. For residential subdivisions on **arterial streets**



thoroughfares, the building line may not be less than the required setback for the zoning district and shall regulate the placement of any structure relative to the ~~arterial~~ thoroughfare street right-of-way including all front, side and rear yards.

- (e) Driveway connections. Prior to the construction of any driveway or other connection within the right-of-way of a public street, a permit must be secured in accordance with the zoning ordinance and other applicable codes and ordinances.
- (f) Lots subject to flooding. The city engineer shall determine which lots are subject to significant flooding, which will include those lots along any significant water course, whether or not the stream is enclosed with pipes or culverts, and may also include areas where it can reasonably be expected that significant overland flow of stormwater or flooding will occur. If any part of a proposed lot is subject to flooding, subdivider shall make a determination of the crest elevation of the flood expected to be equaled or exceeded, on the average, of one time in one hundred years (the "100-year flood") in accordance with generally accepted engineering practice, which is to be submitted with the seal and signature of a professional engineer to the city or county engineer. This determination must reflect the actual conditions imposed by the completed subdivision, and must give due consideration to the effects of urbanization and obstructions. Upon request and subject to available staff and any applicable fees, the city engineer will make the necessary determination of the 100-year flood crest if the necessary existing and proposed conditions are provided by the subdivider. No proposed building lot that is wholly or partly subject to flooding shall be approved unless there is established on the final plat a line representing an actual contour as determined by field survey, at an elevation one foot above the 100-year flood crest. Such line shall be known and identified on the final plat as the "stormwater elevation line." in addition, a "stormwater protection elevation" for each lot subject to flooding shall be noted on the lot plan as determined by the county engineer based on the stormwater elevation line, or for lots upstream of street crossings, the low elevation of the street plus one foot, whichever is greater. All habitable buildings or structures shall be located outside the stormwater elevation line or the lowest usable and functional part of the structure shall not be below the stormwater protection elevation. "Usable and functional part of the structure" shall be defined as being inclusive of living areas, basements, sunken dens, basement utility rooms, crawlspaces, attached carports, and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits and wiring, but shall not include water lines or sanitary sewer traps, piping and clean-outs; provided, openings serving the structure are above the stormwater protection elevation. Where only a portion of a proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than 1,200 square feet. The usable lot area shall be determined by deducting from the total lot area the area of all yards and setbacks required by the applicable zoning district regulations and any remaining area of the lot lying below the stormwater elevation line. During the construction of a subdivision, the developer shall maintain the streambed of each stream, creek or backwash channel contiguous to the subdivision in an unobstructed state and shall remove from the channel and banks of the stream all debris, logs, timber, junk and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized stormwater drains, culverts, bridges or erosion control devices will not be construed as obstructions in the stream. In areas of the county that are covered by the provisions of the floodway regulations, the floodway regulations

will supersede the provisions of this chapter regarding land within the regulatory floodplain.

- (g) Water access lots. The water access lots must equal at least ten percent of the area, exclusive of streets, of all the interior property which lies within 450 feet of the water's edge. However, where the ten percent would equal less than 20,000 square feet, the subdivider will not be required to provide any water access lots. All water access lots shall have a minimum frontage at the water's edge of 100 feet. The water access lots must either be dedicated to the county parks department, but only if the board of county commissioners agrees to accept such dedication, or be transferred in fee simple title to a homeowners' association of the interior lot owners of the subdivision. Before approval of the final plat can be given, the subdivider must submit to the planning staff a covenant stating either that:
  - (1) He or she will dedicate the required amount of water access lots to the county; or
  - (2) He or she will convey title of the water access lots to a homeowners' association of the purchasers of each interior lot.

If the subdivider chooses to dedicate the water access lots to the county, the board of county commissioners must have agreed to accept the final responsibility of maintaining the lots, and the preliminary plan and final plat must show the dedication. If the title is transferred to a homeowners' association of the interior lot owners, the preliminary plan and final plat must designate the lots covered by the homeowners' association for each water access lot.

- (h) New subdivisions within watershed protection overlay zoning district. New subdivisions within a watershed protection overlay zoning district must submit a buffer plan in accordance with appendix B of Ordinance No. 1963. The buffer plan will be submitted with the subdivision preliminary plan application to the planning commission.
- (i) Building envelope. All residential lots shall have a building envelope sufficient to meet the minimum requirements of the Minimum Housing Code.

(Code 1985, § 20-23; Ord. No. 2961, § 6, 5-16-05; Ord. No. 3141, § 1, 11-21-2005; Ord. No. 3401, § 1, 10-18-2006)

Editor's note—Ord. No. 3401, § 1, adopted October 18, 2006, added provisions intended for use as subsection (5). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsection (i).

## **Sec. 20-262. - Enforcement.**

- (a) After the effective date of the ordinance from which this chapter derives, a plat of a subdivision filed or recorded in the office of the register of deeds of the county, without the approval of the planning staff or the Charlotte-Mecklenburg Planning Commission as required by this chapter, will be null and void for the purposes of this chapter.
- (b) Any person who, being the owner or the agent of the owner of any land located within the area of jurisdiction of this chapter, subdivides land in violation of this chapter or transfers or sells land by reference to, exhibition of or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this chapter and recorded in the office of the register of deeds of the county shall, upon conviction, be guilty of a misdemeanor and punished in accordance with section 2-21. The county, through the

county attorney, or the city, through the city attorney, may enjoin such transfer or sale by action for injunction. All administrative actions relating to such land, including the issuance of any grading, construction, building or occupancy permit, will be suspended. This chapter will not affect the sale or transfer of any land, a plat of which was recorded prior to the effective date of this chapter (January 1, 1966, for Mecklenburg County; February 29, 1956, for the City of Charlotte).

- (c) In order to properly enforce the provisions of the subdivision regulations as stated in this section prior to the beginning of any construction, reconstruction, use, or alteration of any land, building, or structure, the appropriate permits must be obtained from the Mecklenburg County Land Use and Environmental Services Agency (LUESA), engineering and property management, and neighborhood development. No permit will be issued unless there has been a determination made that the proposed use, building, or structure complies with the requirements of this section.

(Code 1985, § 20-24; Ord. No. 3018, § 1A, 6-20-2005)

### **Sec. 20-273. - Application and processing fees.**

Fees for the processing of applications for subdivision approval are established by ordinance by the city council and will be collected at the time of initial application.

(Code 1985, § 20-25)

### **Secs. 20-284—20-50. - Reserved.**

## ARTICLE II. REQUIRED IMPROVEMENTS

### Sec. 20-51. - Standards and specifications.

- (a) Unless specifically noted, before any final plat of a subdivision is eligible for final approval, and before any street is accepted for maintenance by the city or the state department of transportation, minimum improvements, including drainage and soil erosion, must have been completed by the developer and approved by the city or county engineer in accordance with the standards and specifications of the Charlotte H and dDevelopment sStandards manual or bonded in accordance with section 20-58(c).
- (b) The intent of the specifications set out in this chapter is to prescribe minimum requirements for storm drainage and street improvements to be undertaken by the developer. Satisfactory completion of these improvements, attested by approval of the city or county engineering department, will qualify streets in the city to be accepted for maintenance by the city and streets in the county to be considered for maintenance by the state.

(Code 1985, § 20-36)

### Sec. 20-52. - Improvement responsibility.

- (a) In order to facilitate the provision of street rights-of-way and necessary improvements, the following establish responsibilities for the installation of streets and related improvements for each class of street. Any area of right-of-way which must be reserved for future acquisition may be dedicated at the option of the developer or property owner for development rights transfer purposes as provided for in section 20-20(c) of this chapter and related provisions in the zoning ordinance in appendix A to this Code:
  - (1) Class I (Freeway-expressway): right-of-way: entire width reserved for future acquisition.
  - (2) Class II (Limited-access arterial):
    - a. Right-of-way: entire width reserved for future acquisition.
    - b. Improvements: installed by the public.
  - (3) Class III-C (Commercial arterial):
    - a. Right-of-way: Up to 100 feet or required width dedicated, whichever is less, and the remainder reserved for future acquisition (50 feet half of right-of-way located on each side of the centerline). Any development along a class III-C commercial arterial street which requires specific improvements of the street to meet traffic demands of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
    - b. Improvements: installed by the public in accordance with a schedule of public street improvements, except that the developer is responsible for sidewalk construction along his or her project frontage on existing thoroughfares at the time of his or her development. Other specific improvements may be required to the thoroughfare to meet traffic demands of the particular development, in which case the developer must install the necessary improvements at the time of

development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the city or county engineer and the planning staff, to construct all or a portion of the street if the developer wants to make use of the street for access to the development. Development along new class III-C commercial arterials or extensions of class III-C streets-commercial arterials must utilize reverse frontage with the only access points being public streets or specifically approved street-type entrances.

**(4) Local Streets:**

- a. Right-of-way: Entire right-of-way width dedicated (half of right-of-way located on each side of the centerline), except where a half street has been approved by city staff.
- b. All streets must be constructed to comply with the minimum standards of the Charlotte Land Development Standards Manual and all appropriate applicable city or county requirements. Public improvements will be made in accordance with adopted plans, programs and budgets. It should not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector, unless those improvements are scheduled and funded in accordance with public policies and programs.

**(5) Class III (major arterial)Major thoroughfare:**

- a. Right-of-way: The developer is responsible for the dedication of up to 100 feet (50 feet each side of the centerline) as provided for in section 20-~~20(b)~~22(c)(4). Any development along a class III-street-major thoroughfare which requires specific improvements of the street to meet traffic demands of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- b. Improvements: installed by the public in accordance with a schedule of public street improvements, except that the developer is responsible for sidewalk construction along his or her project frontage on existing thoroughfares at the time of his or her development. Other specific improvements may be required to the thoroughfare to meet traffic demands of the particular development, in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but the developer remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the city or county engineer and the planning staff, to construct all or a portion of the street if the developer wants to make use of the street for access to the development. Development along new class III streets major thoroughfares or extensions of class III streets must utilize reverse frontage with the only access points being public streets or specifically approved street-type entrances.

(6) ~~Class IV (minor arterial)~~ Minor thoroughfare:

- a. Right-of-way: The developer is responsible for the dedication of up to 70 feet (35 feet each side of the centerline) as provided for in section 20-~~20(b)~~22(c)(4). Additional right-of-way which may be required for improvements to meet specific traffic demands of the development must be dedicated by the developer.
- b. Improvements: installed by the public in accordance with a schedule of public street improvements, except that the developer is responsible for sidewalk construction along his or her project frontage on existing thoroughfares at the time of his or her development. Other specific improvements may be required to the thoroughfare to meet traffic demands of the particular development, in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but the developer remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the city or county engineer and the planning staff, to construct all or a portion of the street if the developer wants to make use of the street for access to the development. ~~Development along new class IV streets or extensions of class IV streets must utilize reverse frontage with the only access points being public streets or specifically approved street-type entrances.~~

(7) ~~Class V (e~~Collector):

- a. Right-of-way: dedicated by the developer.
- b. Improvements: constructed by the developer.

~~(8) Class VI (local):~~

- ~~a. Right-of-way: dedicated by the developer.~~
- ~~b. Improvements: constructed by the developer.~~

- (b) All streets must be constructed to comply with the minimum standards of the Charlotte-Mecklenburg Land Development Standards Manual and all appropriate applicable city or county requirements. Public improvements will be made in accordance with adopted plans, programs and budgets. It should not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector, unless those improvements are scheduled and funded in accordance with public policies and programs. The standards in this chapter for the reservation and dedication of rights-of-way will not apply to any project which had a site plan not requiring any additional right-of-way approved prior to January 1, 2011 either:

(1) By the planning commission and/or planning staff; or

(2) Conditional zoning district and/or special use permit zoning processes of the zoning ordinance in appendix A to this Code. However, any change in the site plan requiring a public hearing or the creation of a new parcel of land may subject the project for which the site plan was revised or the newly created parcel of land to this chapter.



~~any development meeting one or more of the following circumstances:~~

- ~~(1) Any multibuilding site or multisite project that had at least one building built or under construction or had a valid, unexpired building permit issued for at least one building prior to May 1, 1989.~~
- ~~(2) Any project which had a site plan not requiring any additional right-of-way approved prior to May 1, 1989 either:
  - ~~a. By the planning commission and/or planning staff; or~~
  - ~~b. Unconditional zoning district and/or special use permit zoning processes of the zoning ordinance in appendix A to this Code. However, any change in the site plan requiring a public hearing or the creation of a new parcel of land may subject the project for which the site plan was revised or the newly created parcel of land to this chapter.~~~~

- (c) No dedication or reservation of right-of-way for a street or highway within a corridor for a street or highway on a plan established and adopted pursuant to G.S. 136-66.2 for a street or highway that is included in the department of transportation's Transportation Improvement Program will be required by this chapter, unless and until the planning staff has determined and certified in writing (i) that the dedication or reservation does not result in the deprivation of a reasonable use of the original tract and (ii) that the dedication or reservation is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land, or the impact of the dedication or reservation is mitigated by measures provided in this chapter. For these purposes, the term "original tract" will mean all contiguous land owned by the applicant. The ability of the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant is deemed to be a measure which mitigates the impact of the dedication or reservation.

(Code 1985, § 20-37)

## **Sec. 20-53. - Drainage.**

- (a) Storm drainage adequate to accommodate a ten-year storm must be provided throughout the subdivision by means of storm drainage pipe or properly graded channels or natural drainage. Where adequate storm drainage has been provided by means of approved storm drainage pipe and the necessary easements to provide access to the drainage facilities, in accordance with city or county standards, and has been dedicated and accepted or otherwise conveyed to the city or county, the city or county will assume the responsibility for maintenance of the drainage pipe. Where adequate storm drainage has been provided by means of properly graded channels or ditches, the maintenance thereof will remain the responsibility of the property owner and must be so noted on the final plat and the deed for the affected lots.
- (b) In addition to the drainage improvements as required by this section, the subdivider may provide for stormwater retention, at a minimum standard as provided in the applicable zoning ordinance, to serve the entire subdivision as part of the drainage plan to be approved by the city or county engineer. For the purposes of the subsection, the subdivision shall



include the streets, sidewalks, driveways, rooftops and other impervious covers as proposed by the subdivider.

- (c) ~~Reserved~~ Street construction involving the crossing of a stream or other drainageway within the city will be reviewed and approved in accordance with the following standards:
- (1) ~~On major or minor arterial streets, the subdivider is responsible for the cost of up to a 48-inch drainage structure and normal street improvements. If a drainage structure larger than 48 inches is required, the additional cost will be the responsibility of the city. On streets other than arterials, the subdivider is responsible for the full cost of the drainage structure and normal street improvements.~~
  - (2) ~~Where adjacent properties are separated by a drainageway, the property owner subdividing first must deposit with the city an amount equal to 50 percent of the estimated cost of the drainage structure and street improvements as determined by subsection (c)(1) of this section to be the subdivider's responsibility. The second subdivider must also deposit 50 percent of the estimated cost at the time the adjacent property is developed. If significant time has elapsed between the two subdivision activities, an updated cost estimate will be made at the time the second property is subdivided.~~
  - (3) ~~If subdivision of property had occurred on one side of a drainageway as of October 15, 1973, and a determination has been made as stipulated in subsection (c)(10) of this section that a stream crossing is necessary, the owner of the remaining unsubdivided property will deposit his share of the cost at the time that the property is developed in accordance with subsections (c)(1) and (2) of this section.~~
  - (4) ~~The city will assume the responsibility of providing the funds to complete a drainage structure when a deficiency has resulted from applying subsections (c)(1), (2) and (3) of this section. The city will not be committed to build a structure according to the time schedule of the subdivider but will build it according to the approved capital improvement budget schedule. An earlier schedule will be at the option of the subdivider by assuming the full cost of the facility.~~
  - (5) ~~Whenever a deposit of funds is required by the application of this section, such deposit must be in the form of cash, which will be placed in escrow for the specific use for which the deposit has been required. Any interest which accrues to the account will be used to defray any cost increases which occur between the time of the original estimate and the construction of the facility. If the amount of the accrued interest exceeds the proportion of the cost to be borne by each subdivider, the excess will be refunded to the subdivider when the facility is built. If the second subdivider, as referred to in subsection (c)(2) of this section, wishes to build a structure before the city is prepared to participate, the city will make available to the subdivider any funds on deposit for the purpose of building the structure, provided the amount of money made available does not exceed 50 percent of the total cost of the facility. If, however, the city has not committed budget funds to building within five years, or if a construction contract has not been let within six years of the date of the final deposit of private development funds, all deposits and any accrued interest will be returned to the subdivider. All refunds will be made on the basis of an audited claim filed by the subdivider seeking reimbursement.~~

- ~~(6) Where street improvements are being installed to a drainageway but not crossing it, the street profile must be prepared in anticipation of the future crossing. Improvements will normally be installed in such instances to the edge of a 2:1 slope area extending back from the bank of the drainageway. The exact location for stopping the improvements will be determined by the city engineer.~~
- ~~(7) In all instances, the city engineer will determine the size of the drainage area, determine the size and design of the drainage structure, prepare the necessary detailed cost estimates and, when necessary, let and administer the construction contract. When the total cost of a stream crossing is the responsibility of a single subdivider, the city engineer will not let nor administer the construction contract. Detailed cost estimates must include accurate quantities and unit prices. If the developer contests the detailed cost estimate and can produce statements, from two contractors acceptable to the city engineer and licensed to perform the type of construction involved, which clearly indicate why specific quantities and/or unit prices contained in the detailed cost estimate are excessive and what the quantities and/or unit prices should be, he may elect to deposit the required amount based on the average of the two reduced estimates.~~
- ~~(8) The final subdivision plat will not be approved until the appropriate deposit of funds has been made or improvements completed. If the city engineer cannot prepare a design and a detailed cost estimate by the time the developer desires final subdivision plat approval, the engineer will prepare a preliminary cost estimate. In lieu of the required deposit, the developer may post a bond based on the preliminary cost estimate and guaranteeing that the required deposit will be made within 30 days after the completion of the detailed cost estimate or the taking of construction bids. The city engineer will then be obligated to provide a detailed cost estimate or actual construction bids within a 12-month period following the posting of the bond.~~
- ~~(9) Whenever final approval is sought for any area within 200 feet of a proposed drainageway crossing, construction of or the required deposit for that crossing must be provided for. In addition, construction of or the required deposit for all drainageway crossings within a subdivision must be provided for prior to final approval of any of the last 25 percent of the total number of lots within that subdivision. In all cases, the final subdivision plat will show easements necessary for the construction of the drainage structure and appurtenances.~~
- ~~(10) Streets will be required to cross drainageways only where it has been determined by the planning staff, after recommendation from the city engineer, that a street is needed to provide an adequate circulation system. The intent of this statement is to indicate that unnecessary crossings, particularly those involving the crossing of a major stream with a minor street, will be discouraged and the total number will be kept to a minimum. Alternative street patterns, such as the use of cul-de-sacs, will be encouraged in order to decrease the number of crossings.~~

(Code 1985, § 20-38)

## **Sec. 20-54. - Curb and gutter.**

- (a) Curb and gutter shall be installed in accordance with the Charlotte Land Development Standards Manual for the specific street type. Standard curbs and gutters must be constructed on all arterial and commercial streets and streets within or abutting multifamily

or other planned developments. Rolled curbs and gutters or standard curbs and gutters must be constructed on all local and collector streets.

(Code 1985, § 20-39)

## **Sec. 20-55. - Sidewalks.**

(a) Sidewalks are required in all subdivisions as follows:

- (1) Sidewalks are required on both sides of all new or existing ~~class III and IV~~ major and minor thoroughfares streets in accordance with other improvement requirements of this section.
- (2) Sidewalks are required on both sides of all new or existing ~~class V (collectors)~~ streets in accordance with other improvement requirements of this section.
- (3) Sidewalks are required on both sides of all new or existing ~~class VI (local residential)~~ streets in accordance with other improvement requirements of this section.

~~4. Sidewalks are required on both sides of all new or existing class VI-L (local limited residential) streets in accordance with other improvement requirements of this section, except that, for streets accessing less than ten lots or less than 250 feet in length, sidewalks will only be required on one side of the street and not along the cul-de-sac "bulb."~~

(b) Location. Approval of sidewalk construction plans must be obtained as part of the subdivision review process. Except in unusual circumstances, sidewalks must be located ~~a minimum of four feet from the back of the curb or at the back of the right-of-way when no curb and gutter is required~~ where specified by the Charlotte Land Development Standards Manual and Appendix A of this code the Zoning Ordinance (where applicable), or any adopted Streetscape Plan or Area Plan. If existing public street right-of-way is not available, the developer will be required to construct the sidewalk outside the street right-of-way on a permanent easement.

- (1) Sidewalks may be located on private property, thereby reducing the width of the required right-of-way, where an easement for access, utilities, and other required functions acceptable to the city is proposed and accepted.
- (2) Location of sidewalks. Where nonresidential or multifamily development occurs, sidewalks shall be placed in their conforming locations, and a transition to any adjacent existing sidewalks shall be made. All other residential development shall place sidewalks in their conforming location to the maximum extent determined feasible by city staff. In cases where the sidewalk is not located in its conforming location, an easement shall be granted for future location of the sidewalk, and all street tree and other landscape planting shall respect the location of the future sidewalk.

(Code 1985, § 20-40)

### **Sec. 20-56. - Street markers and barricades.**

- (a) Standard street markers must be installed at one corner of all street intersections in a subdivision, including private streets, before any certificates of occupancy may be issued for buildings or residences along those streets. The design, material, location and installation of the signs must be in accordance with standards specified by the [Charlotte Land Development Standards Manual](#).
- (b) Barricades must be installed at the end of all dead-end streets, except cul-de-sac streets which have been improved with a permanent turnaround as required by this chapter. Design, material and installation of the barricades must be in accordance with the [Charlotte Land Development Standards Manual](#).

(Code 1985, § 20-41)

### **Sec. 20-57. - No service unless street accepted or tentatively approved.**

- (a) No department, officer or employee of the city or county will accept for maintenance, lay out, open, improve, grade, pave or light any streets or authorize the laying of water mains, sewers, connections or other facilities or utilities in any street within the city or county unless:
  - (1) Such street has been accepted or opened as, or has otherwise received the legal status of, a public street prior to the effective date of the ordinance from which this chapter derives;
  - (2) For any new street, such street corresponds in its location and lines with a street shown on a preliminary subdivision plat, tentatively approved by the planning staff or Charlotte-Mecklenburg Planning Commission;
  - (3) Such street has been accepted as a public street by a vote of a majority of all the members of the city council or by the state; or
  - (4) Such street is an approved private street built in conformance with the provisions of all applicable ordinances.
- (b) The state department of transportation will accept subdivision streets for state maintenance purposes which meet all the requirements of this chapter and meet the uniform statewide standards adopted by the state department of transportation.

(Code 1985, § 20-42)

### **Sec. 20-58. - Modification of requirements; bond.**

- (a) In subdivisions adjoining already established streets that have been accepted for maintenance by the city or the state department of transportation, the requirements of this article will apply as follows:
  - (1) Those requirements that would necessitate the general removal and reconstruction of established permanent pavements will not be applicable;
  - (2) Where the adjoining established street is a part of the city's or the state department of transportation's street system, the adjoining street must be improved in accordance

with either the requirements of this article and the requirements of the city or the state department of transportation, whichever establishes the higher standard.

- (b) Plats for new lots fronting on already dedicated or established streets or roads that have not been accepted for maintenance by the city council or the state department of transportation, or which have been accepted for maintenance by the state department of transportation but have not been improved with a paved roadway, will be eligible for final approval when the requirements of this article have been complied with as closely as may reasonably be required considering the existing condition of the road, the extent of area to be platted and the cost of required improvements in relation to the comparative benefits to accrue to the subdivider and the other owners of property on both sides of the street or road.
- (c) Where the improvements required by this chapter have not been completed prior to the submission of the final subdivision plat for approval, the approval of the plat will be subject to the owner filing a surety bond or an irrevocable letter of credit with the engineering department, in an amount to be determined by the city engineering department in consultation with other affected agencies, such as the department of environmental health, with sureties satisfactory to the city guaranteeing the installation of the required improvements allowing credit for improvements completed prior to the submission of the final plat. Upon completion of the improvements and the submission of as-built drawings, as required by this chapter, written notice thereof must be given by the subdivider to the appropriate engineering department. The engineering department will arrange for an inspection of the improvements and, if found satisfactory, will, within 30 days of the date of the notice, authorize in writing the release of the security given, subject to the warranty requirement.

(Code 1985, § 20-44)

### **Sec. 20-59. - Inspection.**

- (a) The city or county must be notified two days in advance of the work to be started in a subdivision so that an authorized representative of the city or county engineer or other responsible agency may be assigned to make any and all necessary inspections of the work performed.
- (b) The inspector must be allowed access to all parts of the work and must be furnished with every reasonable facility to ascertain whether or not the work as performed is in accordance with the specifications.
- (c) No material may be placed nor any work performed except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.
- (d) If any disputes arises as to the material furnished or the manner of performing the work, the inspector will have authority to reject materials or suspend work until the question or issue can be referred to and decided by the appropriate agency. The contractor must remove any work or material condemned as unsatisfactory by the inspector and must rebuild and replace the work or material to the standard required by the specifications, all at his or her own expense.

(Code 1985, § 20-45)

**Secs. 20-60—20-85. - Reserved.**

## **ARTICLE III. APPEALS AND VARIANCES**

### **Sec. 20-86. - Authority of planning commission.**

- (a) The planning commission will have the authority to hear and decide appeals from any order, decision, determination, or interpretation made by any administrative officer pursuant to or regarding these regulations. The planning commission may appoint the zoning committee to serve as the hearing committee to hear and decide appeals.
- (b) The planning commission will have the authority to hear and decide petitions for variances from the requirements of these regulations, which relate to subdivision of land or any development standards and requirements of this chapter not inconsistent with other codes or ordinance. The planning commission may appoint the zoning committee to serve as the hearing committee to hear and decide appeals.

(Code 1985, § 20-56; Ord. No. 2960, § 3, 5-16-2005)

### **Sec. 20-87. - Initiation.**

- (a) An appeal of a decision on a subdivision preliminary plan may be initiated by any person aggrieved or by any officer, department, board or bureau of the city or the county. However, only the applicant has the right to appeal from the disapproval of a final plat as required by section 20-~~16~~18.
- (b) A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

(Code 1985, § 20-57)

### **Sec. 20-88. - Filing of notice of appeal.**

- (a) A notice of appeal in the form prescribed by the planning commission must be filed with the planning director within ten days of the day a subdivision preliminary plan approval is issued or denied by the planning staff. The notice filed with the planning director must be accompanied by a nonrefundable filing fee as established by the city council and/or board of commissioners. Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this section.
- (b) The filing of such notice will require the officer whose action is appealed to transmit to the planning commission all administrative papers, records, and other information regarding the subject matter of the appeal.
- (c) Except as provided in this article, the filing of such notice shall stay any proceedings in furtherance of the contested action.

(Code 1985, § 20-58)

### **Sec. 20-89. - Standards for granting appeal.**

- (a) The planning commission, or the hearing committee, may reverse or modify the order, decision, determination, or interpretation under appeal upon finding an error in the



application of these regulations on the part of the officer rendering the order, decision, determination, or interpretation.

- (b) In modifying the order, decision, determination, or interpretation, the planning commission, or the hearing committee, will have all the powers of the officer from whom the appeal is taken.

(Code 1985, § 20-59; Ord. No. 2960, § 4, 5-16-2005)

### **Sec. 20-90. - Filing of variance petition.**

A petition for a variance from this chapter, in the form prescribed by the planning commission, must be filed with the planning director accompanied by a nonrefundable filing fee as established by the city council or board of commissioners.

(Code 1985, § 20-60)

### **Sec. 20-91. - Standards for granting variance.**

Before granting a variance, the planning commission, or the hearing committee, must determine that:

- (1) The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property; or
- (2) The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties used for the same purposes; or
- (3) The relationship of the property to natural topography or to the nature of adjoining properties warrants relief from the standard in question; or
- (4) The difficulty or hardship from the application of these regulations would prevent the owner from making a reasonable use of the property. The fact that the property could be utilized more profitably with the variance than without the variance will not be considered as grounds for granting the variance; or
- (5) The granting of a variance would permit the preservation of an historic structure or site.

(Code 1985, § 20-61; Ord. No. 2960, § 5, 5-16-2005)

### **Sec. 20-92. - Determination of completeness.**

- (a) Within ten days of receiving a notice of appeal or a variance petition, the planning director will determine whether the notice or petition is complete. If the planning director determines that the notice or petition is not complete, he or she will notify the appellant or petitioner specifying the notice's or petition's deficiencies. The planning director will take no further action on the petition until the deficiencies are remedied. If the planning director fails to notify the appellant or petitioner, the notice or petition will be deemed complete. If the notice or petition is deemed complete, the planning director will schedule the appeal or variance for consideration at a hearing before the planning commission, or the hearing committee, within 30 days.
- (b) A determination of completeness will not constitute a determination of compliance with the substantive requirements of these regulations but will only allow review of the appeal of variance to proceed under this section. In the event that the notice or petition is

automatically deemed complete due to the failure of the planning director to notify the appellant or petitioner of any deficiencies in the notice or petition, the deficiency of information may result in rejection of the appeal or variance by the planning commission, or the hearing committee.

(Code 1985, § 20-62; Ord. No. 2960, § 6, 5-16-2005)

#### **Sec. 20-93. - Staff review.**

After receipt of a complete variance petition or notice of appeal from an action taken, the planning director will review the notice or petition and send a written recommendation to the planning commission, or the hearing committee, setting forth whether the appeal or variance should be granted or denied and the reasons for such recommendation. In making such recommendation, the planning director may consult with other city and county agencies and may allow them to review the notice of appeal or variance petition. The recommendation of the planning director will be submitted to the planning commission and mailed to the appellant or petitioner at least five days prior to the scheduled public hearing.

(Code 1985, § 20-63; Ord. No. 2960, § 7, 5-16-2005)

#### **Sec. 20-94. - Notice and hearing.**

- (a) The planning commission, or the hearing committee, will hold public hearings on any appeal or variance petition which comes before it in accordance with rules adopted by it for such purpose.
- (b) The planning commission will mail written notice of the time, place, and subject of the hearing to the person or persons filing the notice of appeal or variance petition, to the owners of the subject property, and to the owners of property which adjoins or is directly across a street or alley from the subject property at least 15 days prior to the hearing.

(Code 1985, § 20-64; Ord. No. 2960, § 8, 5-16-2005)

#### **Sec. 20-95. - Action by planning commission.**

The planning commission, or the hearing committee, will grant or deny the variance or will reverse, affirm, or modify the order, decision, determination, or interpretation under appeal by adopting a resolution and placing the resolution in the minutes of the meeting. The resolution must state the reasons that the planning commission used to reach its decision.

(Code 1985, § 20-65; Ord. No. 2960, § 9, 5-16-2005)

#### **Sec. 20-96. - Rehearing.**

The planning commission, or hearing committee, will refuse to hear an appeal or variance petition which has been previously denied unless it finds that there have been substantial changes in the conditions or circumstances relating to the matter.

(Code 1985, § 20-66; Ord. No. 2960, § 10, 5-16-2005)

#### **Sec. 20-97. - Appeal from planning commission.**

- (a) Any appeal of a decision rendered by the planning commission, or the hearing committee under this section must be to the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court must be filed with the clerk of superior court

within 30 days after the decision of the planning commission, or the hearing committee is filed in the office of the planning director or after a written copy thereof is mailed to every aggrieved party who has filed a written request for such copy with the planning director at the time of the hearing, whichever is later.

- (b) If there is an appeal from the decision of the planning staff taken to the planning commission, or the hearing committee, then the person filing the appeal may not file a revised preliminary plan or revised final plat for the portion of the subject site affected by the appeal until the completion of the appeal, or any final judicial determination. The planning staff may approve a preliminary plan or final plat for that portion of the property not affected by the action of the appeal.

(Code 1985, § 20-67; Ord. No. 2960, §§ 11, 12, 5-16-2005)

#### **Sec. 20-98. - Effect of grant of variance.**

After the approval of a variance by the planning commission, or the hearing committee, the petitioner will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject property. All decisions made by administrative officers under those procedures will comply with the variation in these regulations granted to the petitioner by the planning commission, hearing committee, or court.

(Code 1985, § 20-68; Ord. No. 2960, § 13, 5-16-2005)