CHAPTER 3. SUBDIVISION/SITE PLAN STANDARDS ORDINANCE*

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*Editor's note:This chapter is derived from Ord. No. 1995-760-TC-122, §1, TC-20A-95, adopted Nov. 21, 1995, as subsequently amended by ordinances listed in history notes accompanying the affected provisions. History notes listing ordinances adopted prior to Nov. 21, 1995, which affected Ch. 3 have been retained to provide a record of previous changes.
In addition, the *following* sections (in particular but not exclusively) were moved by Ord. No. 1995-760-TC-122, TC-20A-95 to the **Street, Sidewalk and Driveway Access Handbook (on file with the *City* Clerk): §10-3025, improvements within slope easements; §10-3041, general street layout; §10-3042(b), block layout; §10-3046, street and service drive dimensions; §10-3047, paving widths; §10-3048, street design; §10-3049(a), (c), (e), (f), (j), (k), street construction; §10-3050, curbs and gutters; §10-3051, sidewalks; §10-3058(a)(1), (2), access points; and §10-3060, additional pavement surfaces to accommodate turning movements. Further, this ordinance deleted §10-3072, which pertained to requirements forunit ownership (condominium) development. Some of the language of the former §10-3072 was moved to §10-2108 and §10-2122 by Ord. No. 1995-760-TC-122, TC-20B-95, §§35--37, adopted Nov. 21, 1995.**

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ARTICLE A. GENERAL PROVISIONS

Sec. 10-3001. SHORT TITLE; ADOPTION OF PROVISIONS; APPLICABILITY.

(a) This chapter*shall* be known as "The Subdivision/Site Plan Standards Ordinance of the *City* of Raleigh, North Carolina."

(b) All ordinances, policies and procedures of the*City* relating to *subdivision* regulation are given extraterritorial effect by Chapter 921 of the 1955 Session Laws of North Carolina, as amended, Chapter 498 of the 1985 Sessions Laws of North Carolina, and other special acts, and by Chapter 160A, Article 19 Chapter 2 and others, of the General Statutes of North Carolina. Chapter 3 of Part 10 of the Raleigh *City* Code, is hereby adopted and re-adopted in its entirety with regard to and effect within the *City* limits, as now established and hereafter modified, and within the area outside the *City* limits comprising the extraterritorial jurisdiction of the *City* as provided in Part 14, §14-1008, of this Code, as amended, from time to time, as provided by law.

(*Code 1959* , §20-1; Ord. No. 1987-31-TC-296, §2, TC-16-87, 8-4-87)

State law reference: Art. 19, Part 2, Chapter 160A General Statutes (*G.S.* 160A-371 et seq.)

Sec. 10-3002. DECLARATION OF PURPOSE.

The procedures and standards for site*development* , *subdivision* of real estate, and the surveying and platting of land adopted and prescribed by this chapter are hereby found by the *City* *Council* to be necessary and appropriate to:

(1) Provide for efficient, adequate and sufficient*streets* and sidewalks with adequate capacities to move pedestrian and vehicular traffic and with proper alignment and grades, and curbs and gutters to promote the public safety and adequate drainage;

(2) Provide for orderly growth and*development* with suitable neighborhoods with adequate transportation networks, drainage and utilities and appropriate building sites;

(3) Save unnecessary expenditures of funds by requiring the initial proper construction of transportation networks, sidewalks, drainage facilities and utilities;

(4) Provide for the coordination of transportation networks, highways, utilities, drainage structures, sidewalks and other infrastructure;

(5) Provide land records for the convenience of the public and for better identification

and permanent location of real estate boundaries.

(*Code 1959* , §20-3; Ord. No. 2005-939-TC-276, §7, 12-6-05)

Sec. 10-3003. DEFINITIONS.

Access point . A point of ingress or egress, or both which *may* be a private driveway, public or private *street* .

(Ord. No. 1983-153-TC-190, §12, TC-233, 7-29-83)

Building envelope . The allowable area of a *lot* within which a single-family dwelling or attached cluster housing unit *may* be constructed in accordance with all applicable yard areas and setbacks.

(Ord. No. 2003-432, §20, TC-1-03, 4-15-03)

Chief Engineer . The administrative head of the Raleigh *City* Department of Engineering.

City standards . Those standards prescribed for the construction of *streets* , sidewalks, curbs, gutters and drains set out in Part 10, chapters 3 and 7 of this Code, and also in the Street, Sidewalk and Driveway Access Handbook published by the Transportation Department, the administrative **Public Utilities Handbook** published by the Public Utilities Department, **Sedimentation and Erosion Control Handbook published by the Inspections Department, and *City* Standards and Detail Drawings, published by the Central Engineering Department.**

Cluster unit development . A planned residential *development* which *may* include townhouses, residential *unit ownership (condominiums), group housing* and multi-family *developments* ; congregate care and congregate living structures, life care communities, single-family dwellings, attached cluster housing and manufactured homes. It permits recreational uses related to residential *developments* and residential related services. It allows for transfer of allowable dwelling unit densities, placement of dwelling units, creation of residential *lots* , and installation of private *streets* that are not otherwise permitted by this Code.

Editor's note: This definition is set forth in §10-2002 and is repeated here for the convenience of the reader.

(Ord. No. 1983-95-TC-179, §6, TC-189, 5-3-83; Ord. No. 1988-291-TC-327, §10, TC-23-88, 12-18-88; Ord. No. 1991-879B-TC-385, §1, TC-12B-91, 1-1-92; Ord. No. 2000-734-TC-189, TC-2-00, §2, 2-15-00; Ord. No. 2003-504-TC-240, TC-8-03, §10, 9-16-03)

Collector street . A *street* which:

(a) Collects traffic from:

(1) More than three hundred fifty (350) dwelling units; or

(2) Schools, public museums, libraries, art galleries or other residential institutions with similar average daily traffic volumes or peak loading characteristics of over three hundred fifty (350) dwelling units.

(b) Provides continuity of more than one-half (1/2) mile in length, or provides a connection between*thoroughfares* , or provides a connection between major traffic generators which would encourage through traffic on any *street* not classified as a *thoroughfare.*

A*street* designated as a *collector street* within the *Comprehensive Plan* , unless otherwise specified in the Plan, is either a collector *street* or a *residential collector street* depending on whether the *street* complies with the definition of this chapter.

(Ord. No. 1993-204-TC-57, §1, TC-11-93, 6-6-93; Ord. No. 1987-31-TC-296, §4, TC-16-87, 12-1-87)

Commercial street . A non- *thoroughfare street* , the predominant use of which is to provide access to abutting commercial, industrial or other nonresidential *properties* .

Common areas . *Property* intended for the use and benefit of the residents of a particular *development* ; *common areas* include: (1) any private *street* and private walkways (not intended for the sole benefit of a single *lot*), (2) stormwater control measures, including without limitation, detention facilities, retention facilities, wet ponds, sand filters, dry detention basins, permanently protected undisturbed open space areas, wetlands, bio-retention measures, swales and storm pipes that serve more than one (1) *lot* and are located outside of public *street rights-of-way* (excluding those pipes and stormwater control measures serving one (1) *lot*), (3) any utility line serving more than one *lot* and which is located outside public *street rights-of-way* and public utility easements, (4) any site or facility designated a common area, common property, open space common area, open space common property, common area open space, common *property* open space, amenity, or similar designation on any recorded plat or in any declaration of covenant, (5) any *City Code* required shared facility or open space, (6) any public road *right-of-way* dedicated to the public on plats and maps of the *development* recorded in the local *County* Register of Deeds Office but not accepted for public maintenance by the appropriate governmental entity (provided, however, that the fact that a *street* or road was not accepted by the public for maintenance *shall* not relieve the *developer* of the obligation to take such action as is necessary to have it accepted, and the *developer shall* be liable to the homeowners' association for all costs and expenses, including court costs and reasonable attorneys' fees, incurred by the association in connection with such unaccepted *street* improvements and enforcement of its rights against the *developer* with respect thereto), and (7) any object or improvement located on, under, in or over public *property* or public *street right-of-way* which is subject to an encroachment agreement with a governmental entity that is recorded with the local *County* Register of Deeds Office, and *may* include without limitation: *signs* , landscaping, irrigation facilities, drain pipes, decorative surfaces and brick pavers.

(Ord. No. 1999-647-TC-185, §1, TC-7-99, 10-6-99; Ord. No. 2003-432, §19, TC-1-03, 4-15-03; Ord. No. 2005-897-TC-272, §§1--4, TC-12-05, 9-20-05)

Comprehensive plan . A Plan adopted by the *City Council* as a land management tool and guide for the *development* of the *City* and territory surrounding the *City* , consisting of maps, charts and text.

(Ord. No. 1987-31-TC-296, §5, TC-16-87, 12-1-87)

Connective street . A *street* within a particular *development* , other than a *dead-end* or *loop street* , which will allow vehicular and pedestrian circulation to adjoining *developments* to provide for community-wide circulation.

(Ord. No. 1993-204-TC-57, §2, TC-11-93, 6-6-93)

Dead-end street . A local access system *street* opened at one (1) end only with special provisions for a vehicle turn around unless the *street* loops back on itself.

(Ord. No. 1993-223-TC-61, §6, TC-15-93, 8-1-93; Ord. No. 1977-649-TC-73, §1, TC-107, 11-30-77)

Developer . A *site planner* or a *subdivider.*

(Ord. No. 1987-31-TC-296, §3, TC-16-87, 12-1-87)

Development . Any site plan or *subdivision.*

(Ord. No. 1987-31-TC-296, §3, TC-16-87, 12-1-87)

Development-related improvements . Capital improvements, including land dedications, which are required by public authority to advance the purposes of *G.S.* 160A-372 and §10-3002, and because of the nature and extent of specific demands placed on public infrastructure or natural ecological systems, or both, by site plan or *subdivision development* . Development-related improvements include but are not limited to the *following* :

(1) Turn lanes into and out of the*development* on existing roads;

(2) Acceleration and deceleration lanes to leave or enter the*development* ;

(3) Pavement and curb and gutter, including extra pavement widths;

(4) Pavement tapers;

(5) Sidewalks;

(6) Storm drainage;

(7) Utilities;

(8) *Streets.*

(Ord. No. 1987-31-TC-296, §3, TC-16-87, 12-1-87)

Flood storage area . An area where flood waters are stored and where buildings, encroachments, manufactured homes and structures as defined by the North Carolina Building Code are prohibited and the area in all other respects is regulated as a floodway under Part 10 Chapter 4 of this Code.

Front or ***frontage*** . That side of a *lot* which abuts and can gain direct access, upon approval by the *City* , from a public *street* , private *street* or open space *common areas* approved as part of a *cluster unit development* or *townhouse development.*

Greenway . An interest in real *property* to the *City* which provides for continuous public access and preservation of open space. Members of the general public have free access to and use of the *greenway* . *Greenway* uses *may* include: walking, fishing, nature studies, bicycling, canoeing, jogging, and picnicking, but use and access of the *greenway* , including that of the *property owner* , *shall* always be subject to the laws, ordinances and regulations of the *City* . Within *greenways* , grading; excavation; dredging; the addition or removal of soil or other materials; the erection of buildings, signs, fences, drainage devices or structures; the removal, destruction or cutting of vegetation, trees or shrubs is prohibited except when authorized by the *City* . The *City may* erect paved or unpaved trails, trail markers, place litter receptacles and other convenience facilities within the *greenway* boundaries.

(Ord. No. 1987-31-TC-296, §3, TC-16-87, 12-1-87; Ord. No. 1990-474-TC-348, §16, TC-12-89, 1-7-90)

Group housing development . Two (2) or more dwellings, each containing three (3) or more dwelling units whether a condominium, cooperative, or containing dwellings for rent or lease. A *group housing development* is a type of planned residential *development* , approved in accordance with §10-2103.

(Ord. No. 1983-75-TC-179, §5, TC-189, 5-3-83)

Impervious surface . Any material that significantly reduces and prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, patios, balconies, decks, *streets* , parking areas, driveways, sidewalks, and any concrete, stone, brick, asphalt, or compacted gravel surfaces. For the purposes of this chapter, the effective impervious covers for certain surfaces listed below are as follows:

(a) Asphalt, concrete, crusher-run gravel, masonry, marl, wood and other impermeable surfaces which prevent land area from infiltrating stormwater are one hundred (100) per cent impervious;

(b) Porous surfaces which permit direct infiltration of unconcentrated stormwater into ground areas which are prepared in accordance with plans approved by the Inspections Department of the*City* so that the first one-half (1/2) inch of stormwater infiltrates into the ground are seventy (70) per cent through ten (10) per cent impervious, depending on:

(1) Compaction;

(2) Condition of subgrade;

(3) Extent of land disturbance;

(4) Extent of porous openings;

(5) Protection from siltation and clogging;

(6) Slope of the ground area;

(7) Volume of stormwater stored.

(c) Slatted wood decks that allow the drainage of water through the slats to an unpaved surface below are fifty (50) per cent impervious. If the area covered by the deck is washed gravel, the deck is thirty (30) per cent impervious.

(d) Ungraveled natural footpaths, water surfaces of swimming pools, and drainfields are zero (0) per cent impervious.

All other necessary determinations for the above impervious surfaces will be based on hydrological tests based on existing subgrade soils, slope, rainfall intensity and rainfall duration.

(Ord. No. 1985-511-TC-232, §8, TC-270, 3-26-85; Ord. No. 1988-133-TC-305, §1, TC-27-87, 3-1-88; Ord. No.1993-218-TC-60, §27,TC-10-93, 6-20-93)

Infill lots or infill project. A recombination of tracts of land or the *subdivision* of land where all of the *following* conditions exist:

(1) The total area subject to the recombination or*subdivision* is five (5) acres or less, and will result in the formation of at least one (1) *lot* that at the time of the recombination or *subdivision* does not contain a dwelling, as defined in Part 10 chapter 2.

(2) The*property* is in a residential zoning district as defined in §10-2002.

(3) At least sixty-six (66) per cent of the "periphery," including public*right-of-way,* of the proposed area subject to the recombination or *subdivision* abuts existing residential building *lots* containing a single-family detached dwelling or a structure which was originally constructed as a *single family* detached dwelling. "Periphery" for the purposes of this subsection includes *properties* both immediately abutting and across a public *minor residential street* , *residential street* , *residential collector street* , or *collector street* from the proposed recombination or *subdivision* .

(4) The proposed recombination or*subdivision* contains any *lot* which is eighty (80) per cent or less than the median *lot* size of the surrounding peripheral developed residential *lots* determined by subparagraph (3) above, or the proposed recombination or *subdivision* contains one (1) or more *lots* whose public *street frontage* is eighty (80) per cent or less of the median public *street* frontage of the surrounding peripheral developed residential *lots* as determined in subparagraph (3) above.

(Ord. No. 1997-137-TC-153, §111, TC-18-96, 6-17-97; Ord. No. 2002-140-TC-211, §2, TC-14-01, 1-2-02)

Loop street . A *street* which is designed to discourage through traffic from other areas and both ends of the *loop street* connect with the same intersecting *street* .

(Ord. No. 1977-649-TC-73, §3, TC-107, 11-30-77)

Major thoroughfare . A *street* of considerable continuity which is designed to carry large volumes of traffic from one area of the *City* or region to another, and is so designated in the *Comprehensive Plan. Major thoroughfares* include: (1) principal arterials which are either gateways, freeways or expressways; (2) secondary arterials; or (3) other *major thoroughfares.*

(Ord. No 1993-263-TC-65, §9, TC-19-93, 9-26-93)

Marginal access street . A *street* which is generally laid alongside a *thoroughfare* so as to relieve the *thoroughfare* of the necessity of providing access to abutting *properties* .

Minor residential street . A *street* whose length *shall* be no longer than two (2) blocks, serving not more than forty (40) dwellings, and *shall* not connect *thoroughfares* so that through traffic would be possible.

Minor subdivisions .

(1) Any dedications to the public which do not create any divisions of land.

(2) The one-time division of a tract of land, whose entire area is two (2) acres or less, into not more than three (3)*lots* ; a subsequent division of a parent tract into any other minor *subdivision* is not a minor subdivision.

State law reference: Chapter 921, 1995 Session Laws, §6.

(Ord. No. 1987-31-TC-296, §3, TC-16-87, 12-1-87)

Minor thoroughfare . A *street* leading to or connecting the *major thoroughfare* system, carrying predominantly "through" traffic, but not of *major thoroughfare* importance, so designated in the *Comprehensive Plan.*

Primary electrical, telephone, fiber optic, or cable distribution lines . Primary lines exist typically along public *rights-of-way* for the purpose of providing utility service to an extended area. Primary electrical lines in particular are transformed in a substation and extended throughout the area to provide service to secondary distribution lines.

(Ord. No. 1989-318-TC-334, §3, TC-24-88, 2-26-89)

Regulated discharge floodplain area . An area where the depth and duration of flooding *may* be varied through human regulation of the release of floodwater from a manmade flood-control structure. Regulated discharge floodplain areas *shall* be designated by the *City Council following* recommendations of the United States Army Corps of Engineers and the Planning Commission. Maps of said area *shall* be kept on file with the Inspections Department.

(Ord. No. 1988-237-TC-320, §1, TC-15-88, 9-6-88)

Residential collector street . A *street* which:

(a) Collects traffic from:

(1) More than one hundred fifty (150) dwelling units but less than three hundred fifty one (351) dwelling units; or

(2) Schools, public museums, libraries, art galleries or other residential institutions with similar average daily traffic volumes or peak loading characteristics of up to three hundred fifty one (351) dwelling units; or

(3) Day care facilities of more than seventy (70) enrollees.

(b) Provides continuity of more than one-half (1/2) mile in length, provides a connection between*thoroughfares* or provides a connection between major traffic generators which would encourage through traffic on any *street* not classified as a *thoroughfare* .

A*street* designated as a *collector street* within the *Comprehensive Plan* , unless otherwise specified in the Plan, is either a *collector street* or a *residential collector street* depending on whether the *street* complies with the definition of this chapter.

(Ord. No. 1993-204-TC-57, §5, TC-11-93, 6-6-93)

Residential street . A *street* with the primary purpose of providing access to abutting residential *properties* . A *residential street may* not serve: more than one hundred fifty (150) dwelling units; museums; public, private or parochial schools; public libraries; art galleries; day care facilities with more than seventy (70) enrollees; or other uses with similar average traffic volumes or peak loading characteristics. Also, a residential *street may* not be more than one-half mile in length, nor provide a

connection between *thoroughfares* , nor provide a connection between major traffic generators which would encourage through traffic.

(Ord. No. 1989-440-TC-345, §14, TC-3-89, 10-9-89; Ord. No. 1993-204-TC-57, §6, TC-11-93, 6-1-93)

Right-of-way . An interest in land to the *City* which provides for the perpetual right and privilege of the *City* , its agents, franchise holders, successors, and assigns to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain, and use a public *street* , including related and customary uses of *street rights-of-way* such as sidewalks, bike paths, landscaping, mass transit facilities, traffic control devices and signage, sanitary sewer, stormwater drainage, water supply, cable television, electric power, gas, and telephone transmission and related purposes in, upon, over, below, and across the *rights-of-way* . The *City* is authorized to remove, and keep removed from the *rights-of-way* all trees, vegetation, and other obstructions as is determined to be necessary by the *City* to maintain, repair, and protect facilities located in the *right-of-way* .

(Ord. No. 1997-137-TC-153, §112, TC-18-96, 6-17-97)

Sanitary sewer easement . An interest in land to the *City* which provides for the perpetual right and privilege of the *City* , its agents, successors, and assigns to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain, and use a system of pumps, pipelines or mains for the public sanitary sewer purposes together with all the appurtenant facilities and equipment necessary or convenient thereto, in, upon, and across, the easement area. The *City* is authorized to remove, and keep removed from the easement all trees, vegetation, and other obstructions as is determined to be necessary by the Director of Public Utilities to maintain, repair, or protect the sanitary sewer line or lines and appurtenant facilities.

Secondary electrical, telephone, fiber optic, or cable distribution lines. Secondary lines exist solely to provide service to an individual customer. These lines connect primary distribution facilities with a point of service on a *property* . These lines are sometimes referred to as service drops.

(Ord. No. 1989-318-TC-334, §3, TC-24-88, 2-26-89)

Sensitive area thoroughfares . *Thoroughfares* designed with a shoulder/swale within the Reservoir Watershed Protection Area Overlay District, and within other sensitive natural areas that are identified as appropriate for *sensitive area thoroughfares* in the *Comprehensive Plan* .

(Ord. No. 1987-31-TC-296, §3, TC-16-87, 12-1-87)

Site planner . Any *person* responsible for constructing required site plan improvements and is listed as the *owner* of the site.

Slope easement . An easement, which is reasonably necessary and incidental to the construction within the adjoining *right-of-way* of public *street* or sidewalk, or both, by the *City* , *State* , or their contractors. The purposes to which the easement area *may* be used include cutting, sloping, filling, installation of stormwater drain pipes or other drainage facilities, grading or otherwise changing the natural contour of the easement area in order to support and to accommodate the *development* of the adjacent *street right-of-way* , in accord with generally accepted engineering practices. *Following* the construction of the adjacent *street* or sidewalk, or both, the area subject to this easement will be graded, stabilized, and restored using conventional engineering and landscaping methods. Thereafter, the landowners with the underlying fee interest *may* make and enjoy all lawful uses of the *property* subject to this easement, provided there be no damage to the lateral and subjacent support of the public *street* , sidewalk, or both or to any stormwater drainage facilities.

(Ord. No. 1986-783-TC-266, §1, TC-7-86, 5-6-86)

Subdivider . Any *person* who subdivides or develops any land deemed to be *subdivision* as herein defined. For purposes of this Code a *subdivider* includes, without limitation, partitioners of real *property* , holders of any security interest in real *property* not otherwise subdivided, and estates devising or conveying *real property* not otherwise subdivided.

State law reference: "*subdivision* " includes *subdivision* by legacy, 1955 Session Laws Chapter 921,

§6.

Subdivision. A *subdivision* shall include all divisions of a tract or parcel of land into two (2) or more *lots* , building sites, or other divisions when any one (1) or more of those divisions is created for the purpose, whether immediate or future, or sale, legacy, partition, or building *development* , and *shall* include all divisions of land involving the dedication of a new *street* or a change in existing *streets* ; provided however, that the *following shall* not be included within this definition:

(1) The combination or recombination of portions of previously subdivided and recorded*lots* where the total number of *lots* is not increased and the resultant *lots* are equal to the standards of this Code, including without limitation §10-3032(c) and (d), but if the standards of §10-2073(b) and §10-3032(c) are not met, the recombination *may* still be approved if the recombined *lots* more closely conform to the minimum *lot* size standards in this Code.

(2) The division of land into parcels greater than ten (10) acres where no*street right-of-way* dedication is involved.

(3) The public acquisition by purchase of strips of land for the widening or opening of*streets* or for public transportation system corridors.

Cross reference: More than one (1) building site on a*lot* , §10-2088.

State law references:*G.S.* 160A-372; and Chapter 921, Session Laws 1955, §6.

(Ord. No. 1991-879B-TC-385, §2, TC-128-91, 1-1-92; Ord. No. 1999-616-TC-181, §88, TC-3-99, 8-3-99; Ord. No. 2005-939-TC-276, §8, 12-6-05)

Thoroughfare . A *street* delineated as either a *major thoroughfare* or *minor thoroughfare* shown on the *Comprehensive Plan* , or as a major access corridor as defined in §10-2002.

(Ord. No. 1993-263-TC-65, §10, TC-19-93, 9-26-93)

Through street . A *street* , other than a *dead-end* or *loop street* , that connects two (2) perimeter *property* lines of a *development* .

(Ord. No. 1989-440-TC-345, §15, TC-3-89, 10-9-89)

Townhouse development . A *townhouse development shall* consist of one (1) or more single-family dwelling units, where land underneath each dwelling unit is sold with that dwelling unit, developed in accordance with §10-2109 and chapter 3, Part 10 of this Code.

(Ord. No. 1991-879B-TC-385, §3, TC-12B-91, 1-1-92)

Transit easement . An interest in land to the *City* which provides for a perpetual right of the *City* , its franchise holders, successors and assigns, and transit patrons ingress and access of vans, buses and other transit vehicles, without speed bumps or other roadway obstructions, and the construction of transit stop and transfer facilities.

Unit ownership (condominium) development . A project consisting of two (2) or more units, which *may* include one (1) or more buildings, structures, or uses which are permitted in the applicable zoning district, created in accordance with the North Carolina Unit Ownership Act.

Cross references: Residential Unit Ownership, §10-2108. Nonresidential unit ownership, §10-2122.

(Ord. No. 1991-879B-TC-385, §4, TC-12B-91, 1-1-92; Ord. No. 1991-713-TC-363, §4, TC-11-90, 2-1-91)

Water easement . An interest in land to the *City* which provides for the perpetual right and privilege of the *City* its agents, successors, and assigns to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain, and use a system of pipelines or mains for the public water supply and distribution purposes together with all the appurtenant facilities and equipment necessary or convenient thereto, in, upon, and across, the easement area. The *City* is authorized to remove, keep

removed from the easement all trees, vegetation, and other obstructions as is determined to be necessary by the Director of Public Utilities to maintain, repair, or protect the water line or lines and appurtenant facilities.

Sec. 10-3004. VARIANCES AND ALTERNATIVE DESIGNS.

Where topography or other existing physical conditions are such that compliance with the foregoing requirements would cause an unusual and unnecessary hardship on the*developer* above and beyond what other *developers* would meet, or deprive the *developer* of reasonable use of his/her *property* , the *City Council* and the Planning Commission, whichever *shall* have the approving authority, *may* vary the minimum requirements set forth herein. Within a Planned Development Conditional Use Overlay District, *City Council* , in accordance with the approval of the Master Plan, *may* approve alternative designs for one (1) or more of the *following* :

(a) Paving widths for all public*streets* except *thoroughfares* --§10-3041;

(b) Curbs and gutters--§10-3041; and,

(c) Sidewalks--§10-3041.

Cross reference: Master Plan alternative*subdivision* design standards, §10-2057(f)(5)j.

(*Code 1959* , §20-4; Ord. No. 1987-31-TC-296, §6, TC-16-89, 12-1-87; Ord. No. 1991-868-TC-378, §11, TC-9-91, 3-1-92; Ord. No. 1997-137-TC-153, §113, TC-18-96, 6-17-97)

Sec. 10-3005. RECOMBINATIONS.

(a) Recombination by recorded maps.

No recombination of*lots* by map *shall* be effective unless:

(1) The resultant*lots* are equal to the standards of this Code, including without limitation §10-3032, but if the standards of §10-2073(b) and §10-3032(c) are not met, the recombination *may* still be approved if the recombined *lots* are not lessened in size or dimension, and more closely conform to the minimum *lot* size standards in this Code;

(2) The total number of*lots* is not increased;

(3) All the metes and bounds boundaries of the affected*lots* are shown; any lines on the plat that were not actually surveyed must be clearly indicated and a statement including the sources of information as for example, metes and bounds based on pre-existing deeds and plats;

State law reference:*G.S.* 47-30(d).

(4) All*lot* boundaries changed or eliminated by requested combination are indicated by dashed lines;

(5) The title block contains the word "Recombination";

(6) Structures on the affected*lots* are shown, and the requested recombination does not violate the setback requirements of this Code, including Zoning and Building Code;

(7) In Reservoir Watershed Protection Areas, Urban Water Supply Watershed Protection Area, Conservation Management District, and in Metro-Park Protection Overlay District, the amount of*impervious surface* per *lot* is indicated before and after the recombination. All *impervious surfaces* and *lot* areas within the Reservoir Watershed Protection Area, Urban Water Supply Watershed Protection Area, Conservation Management District, and Metro-Park Protection overlay districts *shall* be

calculated from the adjoining *street right-of-way* ; provided if an expansion of an existing *right-of-way* or new *right-of-way* has been established in the *Comprehensive Plan* , *impervious surface* and *lot* areas within the Overlay District *shall* be calculated from the expanded or new *right-of-way* ;

(8) The recombination plat contains any notations previously required to be placed on a prior plat of the*property* byaction of any approving authority;

(9) The recombination plat is signed by all*property owners* .

(10) The recombination plat is certified as to its purpose, signed and sealed by a registered surveyor in accordance with §10-3017 and*G.S.* 47-30(f)(11);

(11) The recombination plat is certified by the Planning Director or his designee in accordance with the procedure specified in §10-3014(a);

(12) The recombination indicates that all resultant*lots* have the same water and sewer utility access that existed prior to the recombination;

(13) The recombination is certified by Wake County that it will not create a violation of setback standards or other standards of the Wake County Health Department regarding private wells and septic systems;

(14) The recombination does not create the potential of new*access points* on a *thoroughfare* in violation of the Street, Sidewalk and Driveway Access Handbook , or render any existing driveway *access point* non-conforming regarding the standards in the **Street, Sidewalk and Driveway Access Handbook, in accordance with §10-3042(b);**

(15) The recombination plat conforms to all law and ordinances for the recordation of maps and includes all information listed in §10-3017, except that information that is uniquely necessary for*subdivision* plats.

The resultant*lots* , if located within floodway fringe areas as set forth in Part 10 Chapter 4, conform to the bulk *lot* coverage limitations of §10-4008(c).

(b) Recombination by recorded instrument.

(1) The resultant*lots* are equal to the standards of this Code, including without limitation §10-3032, but if the standards of §10-2073(b) and §10-3032(c) are not met, the recombination *may* still be approved if the recombined *lots* are not lessened in size or dimension, and more closely conform to the minimum *lot* size standards in this Code;

(2) The total number of*lots* is not increased;

(3) The instrument contains a metes and bounds description of the new recombined*lots* or reference is made to a recorded plat;

(4) The instrument contains a statement as to the total acreage of the affected*lots* ;

(5) The title of the instrument contains the word "Recombination";

(6) The instrument contains a certification that the recombination does not violate the setback requirements of this Code, including Zoning and Building Code;

(7) In Reservoir Watershed Protection Area, Urban Water Supply Watershed Protection Area, Conservation Management District, and in Metro-Park Protection overlay districts, the amount of*impervious surface* per *lot* is indicated before and after the recombination. All *impervious surfaces* and *lot* areas within the Reservoir Watershed Protection Area, Urban Water Supply Watershed Protection Area and in Metro-Park Protection overlay districts *shall* be calculated from the adjoining *street right-of-way* ; provided if an expansion of an existing *right-of-way* or new *right-of-way* has been established in the *Comprehensive Plan* , *impervious surface* and *lot* areas within the

Overlay District *shall* be calculated from the expanded or new *right-of-way* ;

(8) The instrument is signed by all*property owners* and is recorded with the Wake County Registry. A copy of the recorded document, or certification by the Register of Deeds that the document has been recorded must be returned directly to the Planning Department in order to ensure that *City property* records are updated to reflect the recombination;

(9) If the number of*lots* is reduced, the instrument is to indicate which *lots* are eliminated;

(10) The recombination is certified by the Planning Director or his designee in accordance with §10-3014(a), and the appropriate authorization number is attached to ensure the proper mapping of the resultant*lots* on the Wake County and *City* of Raleigh Geographic Information System;

(11) The instrument indicates that all resultant*lots* have the same water and sewer utility access that existed prior to the recombination;

(12) The instrument contains a certification by Wake County that the recombination will not create a violation of setback standards or other standards of the Wake County Health Department regarding private wells and septic systems; and

(13) The instrument does not create the potential of new*access points* on a *thoroughfare* in violation of the Street, Sidewalk and Driveway Access Handbook , or render any existing driveway *access point* non-conforming regarding the standards in the **Street, Sidewalk and Driveway Access Handbook, in accordance with §10-3042(b);**

(14) The instrument conforms to all laws and ordinances for the recordation of declarations including*City* fees for the recording of a plat.

The resultant*lots* , if located within floodway fringe areas as set forth in Part 10 Chapter 4, conform to the bulk *lot* coverage limitations of §10-4008(c).

Cross references: Recordation fees, §10-3014(c)(2), §10-3048;*infill lots or infill projects* , §10-3032 (d), "flag *lot* " policy, Standard Operating Procedure 900-4; exemptions from stormwater runoff controls are lost by recombinations that reduce *lot* size, §10-9023(b)(2)b. (Ord. No. 2001-991-TC-206, §11, TC-8-00, 5-1-01)

(Ord. No. 1983-234-TC-203, §1, TC-249, 11-20-83; Ord. No. 1984-407-TC-222, §1, TC-268, 9-30-84; Ord. No. 1985-511-TC-232, §9, TC-270, 3-26-85; Ord. No. 1989-390-TC-340, §7, 6-20-89; Ord. No. 1991-879B-TC-385, §§5, 6, TC-12B-91, 11-19-91; Ord. No. 1997-137-TC-153, §114, TC-18-96, 6-17-97; Ord. No. 1997-138-TC-154, §2, TC-8-96, 6-17-97; Ord. No. 1999-616-TC-181, §89, TC-3-99, 8-3-99; Ord. No. 2005-817-TC-267, §9, TC-7-05, 4-19-05; Ord. No. 2006-953-TC-279, §1, TC-22-04, 1-3-06)

Sec. 10-3006. LIMITATIONS ON SUBDIVISION APPROVAL.

No*subdivision* or recombination of any *property shall* be approved pending any application for the rezoning of such *property* unless the *subdivision* or recombination is permitted under the existing zoning classification of the *property* and also under the zoning classification which is proposed for the *property.*

No*subdivision* plan *shall* be approved on any parcel of a parent tract when *forestry* general as defined in part 10 chapter 2 has occurred on the parent tract within the last five (5) years and the perimeter buffers set forth in §10-2072, Tree disturbing activity except a minor tree removal activity, subsection (2), were not preserved.

State Law References: 2001 Sessions Laws Chapter 191 §1(d) made applicable to the*City* of Raleigh by section 1 of 2003 Session Laws Chapter 128.

(Ord. No. 1988-292-TC-328, §7, TC-22-88, 1-3-89; Ord. No. 2005-762-TC-264, §20, TC-7-04, 1-4-05)

Sec. 10-3007. RESPONSIBILITY OF THE DEVELOPER.

(a) The*developer* *shall* be responsible for, and provide all engineering services (including the cost of testing materials and making soil compaction test), furnish plans and specifications consistent with the procedures and standards set forth in this Code, and acquire all applicable permits.

(b) The*developer* *shall* make all recordations and improvements required under this Code, conditions of approval, and under all approved plans.

(c) The*developer* *shall* be responsible for payment to the *City* of all fees and charges required by the *City* , such as without limitation: cost of permits, inspections, utility taps, acreage fees, and facility fees at such times as the payments are specified under the applicable ordinances and resolutions of the *City Council* , conditions of approval,and approved plans.

(d) The*developer* *shall* free and clear of all encumbrances make all dedications and reservations required under applicable codes and resolutions of the *City* , conditions of approval, and approved plans.

(*Code 1959* , §20-30; Ord. No. 1987-31-TC 296, §23, TC-16-87, 12-1-87)

Sec. 10-3008. RESPONSIBILITY OF THE CITY.

(a) Inasmuch as the*City* is charged by law with the responsibility for the condition, maintenance, and repair of public *streets* and the utility systems as defined in Part 8, the *City* will accept for maintenance only those public *streets* constructed inside the *City* limits to the standards in Article C of this Chapter, after approval of either the *subdivision* in accordance with Article B of this Chapter, or the site plan in accordance with Part 10 Chapter 2, and the *City* will accept for maintenance only for those utilities constructed and connected to the *City* system in accordance with Part 8. Connection to the *City* utility system will constitute dedication to the *City* .

(Ord. No. 1987-31-TC-296, §24, TC-16-87, 12-1-87)

(b) The*City* *shall* review the plans and specifications for construction of improvements, and it *shall* assure that inspection of construction work is completed.

Cross reference: Functions and duties of the Department of Central Engineering, §6-1002(b)(7) and (8).

(c) All approved easements,*rights-of-way* and other dedications for public use, other than drainage easements, will be accepted by the *City* , but the *City* will accept no responsibility to open or maintain the same until in the opinion of the governing body it is in the public interest to do so.

(d) The*City* upon receiving the appropriate contracts and data *shall* make all reimbursements required by this Code.

Policy reference: Inspections and acceptance of*streets* and utilities, Standard Operating Procedure 700-3

Sec. 10-3009. ENFORCEMENT.

(a) Violations/violators.

Each of the*following* are declared to be violations of the Raleigh *City* Code:

(1) It*shall* be unlawful for any *person* to design, construct, or open, any *street* , drainage structure, or utility line unless and until such *street* , drainage structure, or utility line *shall* be platted, laid out, graded, and improved in accordance with the provisions of this Code, plans approved under this Code, and conditions of approval.

(2) Any*owner* , tenant, architect, attorney, contractor, designer, engineer, lender, real estate broker, surveyor, agent or any other *person* who acts in concert, participates, directs or assists in the creation or continuation of a violation of this chapter, any regulation, rule, order, or condition of approval adopted pursuant thereto, or contrary to any plan approved under this Code are each declared to be violators of the Raleigh *City* Code.

(3) It*shall* be unlawful for any *person* to record a plat without the approval of the *City* , to make any change to an approved plat, or to record a document beyond its expiration date for recording without the specific *written* consent of the Planning Director or his designee. The Clerk of the Superior Court of Wake County *shall* not order or direct the recording of a plat where such recording would be in conflict with this chapter.

(*Code 1959* , §20-11; Ord. No. 1979-21-TC-100, §§9, 10, 2-20-79)

(4) It*shall* be unlawful for any *person* to subdivide *real property* by deed, will, security instrument, partition, or by map, contrary to this chapter, any rule, regulation, order, condition of approval adopted pursuant thereto, or any plan approved under this Code.

(5) It*shall* be unlawful for any *person* to fail, neglect, or refuse to make any dedication as required by this Code, any rule, regulation, order, or condition of approval adopted pursuant thereto, or any plan approved under this Code.

(6) It*shall* be unlawful for any *person* to own, manage, lease, or occupy *real property* , the subdividing of which is an unlawful *subdivision* by virtue of this Code, when such *person* knows or has reasonable grounds to believe that the *property* was subdivided contrary to this chapter, any regulation, rule, order, or condition of approval adopted pursuant thereto, or contrary to any plan approved under this Code. The enumeration of these declared violations *shall* not be deemed exclusive or all-inclusive. All *persons* who *shall* commit violations *shall* be held responsible and *shall* be subject to the penalties and remedies provided in subsection (b) below. Each day's continuing violation *shall* be a separate and distinct violation or offense.

(b) Remedies/penalties.

Enforcement*may* be by any one (1) or more of the *following* provisions, and the institution of any action under any of these provisions *shall* not relieve any *person* from any other civil or criminal proceeding prescribed for violations and prohibitions.

(1) Unauthorized ***streets*** **closed.**

The Director of Transportation is hereby authorized and directed to take necessary action to cause to be closed any*street* opened and constructed in violation of this chapter.

(2) Water and sewer service not provided to violating ***property*** .

No water or sewer service*shall* be furnished by the *City* to any *lot* , *owner* , or occupant of any land abutting upon any *street* or connected to a *City* public utility

which is opened, not opened, laid out or constructed contrary to any plan approved under this Code, or in violation of this chapter.

(3) Construction permits withheld.

The Department of Inspections*shall* not issue any construction permit for any proposed structure upon any land abutting upon any *street* which is opened, not opened, laid out or constructed contrary to any plan approved under this Code, or in violation of this chapter and *written* policies which are approved by the *City Council* and filed with the *City* Clerk.

The filing or recording of a deed, a will, a security interest, a plat of a subdivision, other division or land, or recombination contrary to this chapter*shall* not be recognized by the *City* . All administrative actions relating to such land, including the issuance of any grading, construction, building, or occupancy permit will be suspended. To properly enforce the provisions of this chapter, prior to the beginning of any construction, grading, reconstruction, use, or alteration of any land, building, or structure, the Inspections Department *shall* first determine that the requirements of this chapter are met.

Cross reference: Building Permits, §10-6035; Lots fronting on a public*street* , §10-3032(a)

(*Code 1959* , §20-5; Ord. No 1979-21-TC-100, §§3-5, 2-20-79; Ord. No. 1983-65-TC-176, §1, TC-224, 2-15-83; Ord. No. 1999-616-TC-181, §90, TC-3-99, 8-3-99)

(4) Criminal. Any violation of this chapter*shall* constitute a misdemeanor or infraction as provided by General Statutes §14-4 and the maximum fine, term or imprisonment or infraction penalty allowed by law is hereby authorized.

(5) Assessment of one hundred (100) per cent cost of incomplete improvements.

In the event the*developer* either fails to install any improvement required under this chapter or under a plan approved under this Code or makes an installation contrary to this chapter or plan approved under this Code, the *City may* assess one hundred (100) per cent of the costs of the incompleted improvements required under this chapter to some or all of the *owners* of the *property* within the *subdivision* or *development* and make said installations. Assessments are to follow the procedures of Article 10 of Chapter 160A or other statutory authorization whereby the *City may* do the work and assess the costs to the landowners inside and outside the corporate limits. When deciding which *lots* to assess, the *City Council shall* consider, among other things, the extent to which the *lots* are benefitted by the assessment project, the extent to which the *lots may* have paid for the improvement, and the extent the improvements were installed by the *developer* .

State law references: (1955 Session Laws, Ch. 921, §2; 1985 Session Laws, Ch. 498, §2)

(Ord. No. 1986-846-TC-272, §1, TC-9-86, 9-2-86)

(6) Forfeiture of reimbursements.

Failure by the*developer* to comply with all requirements of the regulations in this chapter *shall* result in forfeiture of any and all reimbursements of §§10-3022 through 10-3024 and Part 8, chapter 2, division 3.

(*Code 1959* , §20-30; Ord. No. 1987-31-TC-296, §23, TC-16-87, 8-4-87)

(7) Injunction.

Enforcement*may* also be achieved by injunction. When a violation occurs, the *City may* , either before or after the institution of any other authorized action or proceeding, apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction commanding the defendant, or in the case of counterclaims the plaintiff, to correct the unlawful condition which *may* include without limitation preparing

a *subdivision* plan and making dedications and improvements required by this chapter, or to cease the unlawful use of the *property* .

(8) Order of abatement.

The*City* *may* apply for and the court *may* enter an order of abatement. An order of abatement *may* direct that buildings or other structures on the *property* be closed, demolished, or removed; that fixtures, furniture or other movable *property* be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the *property* into compliance with this Code. Whenever the party is cited for contempt by the court and the *City* executed the order of abatement, the *City* *shall* have a lien, in the nature of a mechanic's and materialman's, on the *property* for the cost of executing the order of abatement.

(9) Civil penalty.

a. General.

Any act constituting a violation of this chapter*shall* subject the offender to a civil penalty to be recovered by the *City* in a civil action in the nature of a debt. All violations *shall* be subject to a civil penalty in the amount of fifty dollars ($50.00) per day of continuous violation. In addition, the *City* Manager *may* authorize a civil penalty of up to two hundred fifty dollars ($250.00) per day if it is determined that this larger penalty will contribute toward correction of the violation.

b. Citation contents.

No civil penalty*shall* be assessed until the *person* alleged to be in violation is served by either registered mail, certified mail-return receipt requested, personal service notice, or other means reasonably calculated to give actual notice. The notice *shall* set forth in detail a description of the violation for which the penalty has been invoked. The notice *shall* also set forth the measures needed to come in compliance and *shall* state the time within such measures must be completed. The notice *shall* state that failure to correct the violation within the specified time will result in the assessment of a civil penalty and other enforcement action. If, after the allotted time period has expired, corrective action has not been completed, the penalty *shall* be assessed from the date of receipt of notice of violation and each day of continuing violation thereafter *shall* constitute a separate violation against those *persons* who have the ability to correct this violation and fail to do so.

c. Collection.

The*City* Manager is authorized to accept payment in full and final settlement of the claim or claims right or rights of action which the *City may* have to enforce such penalty by civil action in the nature of debt. Acceptance of a penalty *shall* be deemed a full and final release of any and all claims or right of action arising out of contended violations, only if the activities or nonactivities which gave rise to the violations are abated or otherwise made lawful.

If the payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter *shall* be referred to the *City* Attorney for institution of a civil action in the name of the *City* in the appropriate division of the General Court of Justice in Wake County for recovery of the penalty.

State law reference: Penalties for transferring*lots* in unapproved subdivisions, G.S. §160A-375 et seq.

(Ord. No. 2005-939-TC-276, §9, 12-6-05)

Sec. 10-3010. ILLUSTRATIONS, MAPS, WORKSHEETS AND FLOW CHARTS.

The illustrations, maps, worksheets, outlines entitled "Code Insert" and flow charts of the several sections of this chapter explain the contents of this chapter and*shall* not be deemed or taken to be law or a part of this Code. Graphics entitled "Schedule" are part of this Code.

Sec. 10-3011. RESERVED.

ARTICLE B. PROCEDURES.

Sec. 10-3012. PRELIMINARY SUBDIVISION PLAN APPROVAL AND FINAL PLAT CERTIFICATION REQUIRED.

Before any*subdivision* regulated by this chapter is made within the *City* or within its extraterritorial jurisdiction, and before any plat or deed thereof *shall* be recorded in the registry of Wake County, the preliminary *subdivision* plan *shall* first be approved as provided in §10-3013.

Before any plat is recorded for any division of land, regardless of tract size, for any recombination of previously subdivided and recorded*lots* , for any easement maps not prepared by a governmental body, or for other plats where *property* boundaries, easements, *rights-of-way* or other matters are changed or added, the plats for recording *shall* first be certified by the Planning Director as described in §10-3014(a).

(*Code 1959* , §21-5; Ord. No. 1979-21-TC-100, §§3-5, 2-20-79; Ord. No. 1987-31-TC-296, §§7,8, TC-16-87, 12-1-87; Ord. No. 1995-695-TC-116, §4, TC-19-95, 8-1-95)

Sec. 10-3013. PROCEDURE FOR PRELIMINARY SUBDIVISION REVIEW.

(a) Submittal and review.

(1) An application for the approval of the preliminary*subdivision* plan *shall* be submitted to the *City* Planning Department along with at least seven (7) sets of plans. Submittal documents for preliminary *subdivision* review *shall* include all information specified in Section 10-3015.

Cross reference: Schedule of fees, §10-3081.

(Ord. No. 1980-519-TC-132, §§1,2, TC-174, 12-22-80; Ord. No.1987-31-TC-296, §9, TC-16-87, 12-1-87; Ord. No. 2002-309-TC-228, § 3, TC-17-02, 10-15-02; Ord. No. 2006-104-TC-293, §10, TC-18-06, 10-3-06)

(2) The Planning Director*shall* consult with the heads of the departments of Public Utilities, Central Engineering, Transportation, Parks and Recreation, Inspections, and the Fire Department to check the proposed development against the *City* requirements.

(Ord. No. 1999-616-TC-181, §91, TC-3-99, 8-3-99)

Policy reference: Standard Operating Procedure 900-4. Preliminary approval of*subdivisions* , site plans, *group housing* , *unit ownership (condominium)* , *townhouse* , and *cluster unit developments* .

Cross references: Public Utilities, Part 8; Public Works, Part 7; Engineering, Part 6;*City* Manager, Part 1 Ch. 2; exemptions from stormwater runoff controls are lost by subdividing exempt property, §10-9023(b)(2)a. (Ord. No. 2001-991-TC-206, §12, TC-8-00, 5-1-01)

(b) Approval procedure.

(1) Administrative approval.

The administrative Development Plans Review Group appointed by the*City* Manager *may* , with or without conditions, approve preliminary *subdivision* plans without review by the Planning Commission or the *City Council* except in one (1) or more of the *following* situations:

a. The plan requires a variance to be granted pursuant to §10-3004;

b. The plan is an*infill project* or located within a Historic Overlay District or proposed for any *Historic Landmark property* ;

c. The plan requires approval of an encroachment into or over any public*right-of-way* pursuant to §12-1001;

d. A reimbursement request pursuant to §10-3024(c) has been made;

e. Within ten (10) working days after the date of the decision on the plan by the Development Plans Review Group, excluding Saturday, Sunday, and legal holidays, the*owner(s)* of the land to be subdivided file a *written* notice of appeal with the Planning Director, to transmit the *subdivision* to the Planning Commission.

The Development Plans Review Group*shall* keep *written* records of any action taken, and it *shall* review the preliminary *subdivision* plan for conformity with the *City* Code and with *City Council* resolutions.

(Ord. No. 1993-121-TC-43, §1, TC-17-92, 1-24-93; Ord. No. 1997-137-TC-153, §§115, 116, TC-18-96, 6-17-97; Ord. No. 1997-138-TC-154, §3, TC-8-96, 6-17-97; Ord. No. 2007-197-TC-301, §1, TC-1-06, 4-3-07)

(2) Planning Commission.

a. Certified action.

All preliminary*subdivision* plans which are not approved by the *City* administration pursuant to subsection (b)(1) above *shall* be presented to the Planning Commission. All *infill projects shall* be reviewed by the Planning Commission. Subject to the provisions of subsection (b)(3) below, with two-thirds (2/3) of the membership of the Planning Commission both present and voting for the motion the Planning Commission *may* approve, deny, or approve with conditions any preliminary *subdivision* plan. The action of the Planning Commission *shall* be set forth in *written* form as a certified action, stating the findings of the Commission, and the certified action *shall* be signed by both the Planning Director and the chairperson of the Planning Commission.

Unless the*subdivision* is required to be transmitted to the *City Council* pursuant to subsection (b)(3) below, the certified action of the Planning Commission *shall* be final and *shall* be effective on the fourth working day after the date of the Planning Commission action, excluding Saturday, Sunday and legal holidays.

b. Certified recommendation.

All other actions of the Planning Commission *shall* be in the form of *written* certified recommendations to the *City Council* . All recommendations of the

Commission *shall* contain findings and reasons for the recommended action.

Cross references: Planning Commission composition, §10-1011(b). Planning Commission recommendation required forpreliminary site plans, §10-2132.2.(c).*Infill lots and infill projects* , §10-3032(d).

(Ord. No. 1997-137-TC-153, §116, TC-18-96, 6-17-97)

(3) ***City Council*** .

Following Planning Commission review, the preliminary *subdivision* plan *shall* be forwarded to the *City Council* with a certified recommendation by the Planning Commission if one (1) or more of the *following* are present:

a. The*subdivision* requires approval of an encroachment into or over a public *right-of-way* pursuant to §12-1001 which must be approved by the *City Council* .

b. The action of the Planning Commission is not in accord with the administrative Development Plans Review Group recommendation, and the Planning Director does not sign the certified action within three (3) working days after the date of the Planning Commission action, excluding Saturday, Sunday, and legal holidays.

c. Within three (3) working days after the date of the Planning Commission action, excluding Saturday, Sunday, and legal holidays, the*owner(s)* file a *written* notice of appeal with the Planning Director, to transmit the *subdivision* to *City Council* for final action. All appeals *shall* be *de novo* and *shall* be quasi judicial at the request of the appellant. The appeal *may* be heard by the entire *City Council* or a panel of not less than three (3) members.

d. The*subdivision* requires *City Council* approval of reimbursement pursuant to §10-3022(e)(1), §10-3023(b)(2), §10-3024(b)(5) and (6), §10-3024(c).

e. The Planning Commission acted upon the preliminary*subdivision* plan with less than a two-thirds vote of the membership of the Commission voting in favor of the motion.

f. A certified recommendation was submitted by the Planning Commission.

g. For an*infill lot or infill project* , within three (3) working days after the date of the Planning Commission action, excluding Saturday, Sunday, and legal holidays, one (1) or more of the *owner(s)* of *property* within one hundred (100) feet of the subject *property* (not counting the *street rights-of-way*), file a *written* notice of appeal with the Planning Director, to transmit the *infill lot or infill project* to the *City Council* for final action. All appeals *shall* be *de novo* and *shall* be quasi judicial at the request of the appellant or landowner. The appeal *may* be heard by the entire *City Council* or a panel of not less than three (3) members.

h. The*subdivision* is located within a Historic Overlay District or proposed for any *Historic Landmark property* . Within sixty (60) days of receipt of the *subdivision* by the City Planning Department and prior to presentation to the Planning Commission, the Raleigh Historic Districts Commission will review and make a recommendation on such proposed *subdivision* .

The certified action or certified recommendation of the Planning Commission and recommendation of the Development Plans Review Group*shall* be transmitted to the *City Council* . The *City Council* *shall* review the preliminary *subdivision* plan for conformity with the Code and *City Council* resolutions. The *City Council* *may* approve, deny, or approve with conditions the preliminary *subdivision* plan.

State law reference: 1985 Session Laws, Ch. 498, §3.

(Ord. No. 1987-31-TC-296, §§10-14, TC-16-87, 12-1-87; Ord. No. 1991-713-TC-363, §§7, 8, TC-11-90, 2-1-91; Ord. No. 1993-121-TC-43, §2, TC-17-92, 1-24-93; Ord. No. 1997-137-TC-153, §117, TC-18-96, 6-17-97; Ord. No. 1997-138-TC-154, §4, TC-8-96, 6-17-97; Ord. No. 2002-192-TC-517, §§4, 5, TC-4-02, 4-16-02; Ord. No. 2007-197-TC-301, §1, TC-1-06, 4-3-07)

(c) Post-preliminary approval procedures.

(1) Copy of preliminary plan required.

Following approval of the preliminary *subdivision* plan, a copy of the preliminary *subdivision* plan drawn to a size and scale required by the *City* and conforming to all conditions of approval, along with an archivable eight and one-half (8 1/2) inches by eleven (11) inches reduced copy on mylar material of the approved preliminary plan *shall* be submitted to the Planning Director, who *shall* give copies of the plan to the Central Engineering Department and other *City* departments as necessary. No review of construction plans *shall* occur unless both a copy of the approved preliminary plan and its reduction have been first received by the *City* .

(2) Construction plans review and construction acceptance.

The*developer shall* submit construction plans of the total area of the *subdivision* or any approved sections or phases of the *subdivision* to the Public Works Department showing construction details, including profiles and alignments of improvements required to be constructed in conjunction with the development of the *subdivision* . Such improvements include, without limitation:

- public improvements;

- private streets, private sidewalks;

- common drainage or utility facilities shared by all or some of the lots within the development.

Cross reference: Functions and duties of the Department of Public Works Department, §6-1002(b)(7).

These drawings*shall* contain all information required by §10-3016. The Public Works Director *shall* consult with the Directors of the Inspections, Public Utilities, Parks and Recreation, and other Departments as necessary to assure the proper design of improvements based on the approved preliminary *subdivision* plan. *Developments* approved under Article D of this chapter *shall* show these improvements on a phase by phase basis.

Cross reference: Schedule of fees, §10-3081.

(Ord. No. 1984-407-TC-222, §2, TC-268, 9-30-84; Ord. No. 1985-621-TC-244, §1, TC-6-85, 8-11-85; Ord. No. 1997-137-TC-153, §118, TC-18-96, 6-17-97; Ord. No. 1997-170-TC-155, §1, 8-5-97; Ord. No. 1998-384-TC-169, §1, 8-4-98; Ord. No. 1999-616-TC-181, §92, TC-3-99, 8-3-99; Ord. No. 2003-417-TC-236, §1, TC-7-03, 4-1-03; Ord. No. 2006-104-TC-293, §11, TC-18-06, 10-3-06)

a. Fee-in-lieu of construction of improvements.

Unless otherwise specified by the approving authority, all fees in lieu of construction*shall* be paid to the *City* prior to recording any plat of the related improvement or prior to the issuance of building permits, whichever *shall* first occur.

Policy reference: Fee-in-lieu determination and administration. Standard Operating Procedure 100-29.

(Ord. No. 1989-440-TC-345, §16, TC-3-89, 10-9-89; Ord. No. 1997-137-TC-153, §118, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §93, TC-3-99, 8-3-99)

b. Construction surety.

If all improvements and installations are not completed and accepted by the*City* prior to a request to record all or a part of a *subdivision* or issuance of a building permit for any site plan, whichever *shall* first occur, the *City* Manager or his designee *may* require the *developer* to post a security instrument, in lieu of the completion of such work, in an amount and with surety and conditions satisfactory to the *City* , providing for and securing to the municipality the actual construction and installation of such improvements.

Policy reference: Inspection and acceptance of*streets* and utilities. Standard Operating Procedure 700-3

(Ord. No. 1983-65-TC-176, §2, TC-224, 2-15-83)

c. Acceptance of public improvements.

After a final plat showing a*street* or *streets* to be dedicated to the *City* has been duly approved and recorded in the Wake County registry as provided by this Code, and after such *street* has been platted, laid out, graded, and improved in accordance with the conditions of approval, the provisions of this Code, and the construction plans approved by the Public Works Director or his/her designee, the *developer* *may* call for an inspection of these improvements and for official acceptance of the *streets* for maintenance by the public.

Public water and sewer lines and appurtenances to be dedicated to the*City* for maintenance *may* be requested to be accepted for maintenance by the *City* after a final plat showing necessary dedications of easements and *rights-of-way* has been duly approved and recorded in the Wake Registry as provided in this Code and after such utility lines as defined in Part 8 are laid out, graded, and constructed in public *streets* or public easements in accordance with the conditions of approval, the provisions of this Code, and the construction plans reviewed and approved by the Public Works Director or his/her designee.

If the public improvements are deemed acceptable by the Public Works Director or his/her designee of the*City* , and an as-built plat is received as required by subsection d. below, a *written* acknowledgment of acceptance or conditioned acceptance upon annexation *shall* be forwarded to the *developer* .

Cross reference: Functions and duties of the Department of Public Works Department, §6-1002(b)(7); Schedule of fees, §10-3081.

(Ord. No. 2006-104-TC-293, §12, TC-18-06, 10-3-06)

d. As-built plans required.

After all*streets* , including private *streets* , and utilities are approved, constructed, inspected and tested, and all deeds of easement and dedications are completed, but before the *City* officially accepts the *streets* or utilities for maintenance in accordance with subsection c. above, the *developer* *shall* make whatever minor corrections are necessary on the construction plans and file a reproducible copy with the Central Engineering Department of the *City* . This *shall* be called the as-built plan.

Policy reference: Inspection and acceptance of*streets* and utilities. Standard Operating Procedure 700-3.

e. Construction warranty.

The*developer* *shall* require the contractor constructing *streets* , curbs,

gutters, *street* storm drainage facilities, sidewalks and water and sewer lines to give a one- *year* warranty guaranteeing the work against defects for a period of one (1) *year* from the date ofpublic acceptance of such construction. If said improvements are constructed at different times, then said guarantee *shall* continue until one (1) *year* from the date of acceptance of the improvement last completed. This warranty *shall* list the *City* as a beneficiary.

(*Code 1959* , §20-27; Ord. No. 1983-65-TC-176, §3, TC-224, 2-15-83; Ord. No. 1987-31-TC-296, §22, TC-16-87, 8-4-87; Ord. No. 1997-170-TC-155, §2, 8-5-97; Ord. No. 1998-384-TC-169, §2, 8-4-98)

(3) Phasing.

If not otherwise set out as part of the preliminary*subdivision* plan, *lots may* be recorded, and public improvements *may* be constructed in phases. The *developer shall* submit a phasing plan to the Planning Director, prior to the submittal of construction plans to the Central Engineering Department. The Planning Director *shall* ensure that the phasing plan is in accordance with the approved preliminary *subdivision* plan, this Code and resolutions of *City Council* , and conditions of approval. This plan *shall* indicate phasing of the construction of public improvements in such a way that the number of *lots* in each phase is reasonably proportional to the amount of improvements in each phase, and that *rights-of-way* and utility easements are extended in the initial phase of development to all adjacent *lots* that do not have public *street* access or access to public utilities. *Developments* approved under Article D of this chapter *may* be recorded, and public improvements constructed, in phases in accordance with §10-3073(c). Amendments to the phasing plan for the development *may* be made in conjunction with the review of construction plans, but an updated copy of the new phasing plan must be submitted and placed on file in the *subdivision* case file in the Planning Department.

(4) Sunset regulations.

a. Subsequent to the submittal of construction plans or payment of a fee-in-lieu of construction as allowed in §10-3013(c)(2)a., the *owner shall* submit one (1) or more final plats for recording in accordance with §10-3014. Within three (3) *years* after approval of the preliminary *subdivision* plan, at least one-half of the gross land area shown on the preliminary *subdivision* plan *shall* be recorded in the Wake County registry and all remaining portions of the preliminary *subdivision* plan *shall* be recorded in the Wake County registry two (2) *years* thereafter, or within five (5) *years* from the approval date of the preliminary *subdivision* plan. Failure to record the land acreage plats when required herein *shall* automatically void the unrecorded portions of the preliminary *subdivision* plan unless the Planning Director finds that all of the *following* are met:

1. A*written* request for an extension has been made to the Planning Director prior to the expiration period.

2. Unrecorded portions of the preliminary*subdivision* plan conform to all ordinances, laws, and *City Council* resolutions in effect at the time of the requested extension.

3. The plan considers and respects the practical limits of public facilities and services such as stormwater, water and sewer lines,*streets* , fire, public safety, and trash collection.

4. No other extension has been granted.

If all the requirements of subsections 1. through 4. are met, the Planning Director*shall* permit only one (1) extension, which extension is not to exceed a time period of three (3) *years* , calculated from the date the request for extension is received by the Planning Director.

(Ord. No. 1984-407-TC-222, §3, TC-268, 9-30-84)

b. Notwithstanding the expiration of any sunset period, the administrative Development Plans Review Group*may* allow a one-time recording of either one (1) unrecorded *lot* in the approved *subdivision* or the equivalent of one (1) *minor subdivision* for a *subdivision* for which *lots* have been voided, provided that the portion to be recorded conforms to all current *City* ordinances, laws, and resolutions, conditions of approval,and the Planning Department has accepted an application for re-approval of the remaining sunsetted portion of the *subdivision* .

c. The time periods established by this section*shall* be applied only to those portions of *cluster unit developments* for which site plans or *subdivision* plans have been approved. All site plans and *subdivision* plans must meet *City standards* and ordinances in effect at the time of approval of the site specific development plan. If no site specific development plan has been approved and recorded for any portion of the *cluster unit development* within three (3) *years* of the approval of the preliminary plan for the *cluster unit development* , then the preliminary *subdivision* plan of the entire *cluster unit development* *shall* be void.

(Ord. No. 1991-849-TC-375, §3, TC-15-91, 9-30-91)

d. Obligations acquired under either this Code or conditions of approval prior to the expiration of the sunset period*shall* not be terminated by subsection (4).

Cross reference: Sunsetting of site plans, §10-2132.2.(g).

Editor's note: §16 of Ord. No. 1984-407-TC-222 stated that the time periods specified in subsection 4. above were applicable to pre-existing*subdivisions* as if they were approved on September 30, 1984, the effective date of Ord. No. 1984-407-TC-222.

(*Code 1959* , §20-6; Ord. No 1979-21-TC-100, §§6, 7, 2-20-79; Ord. No. 1981-724-TC-148, §1, 8-4-81;; Ord. No. 1987-31-TC-296, §§9-16, 8-4-87;Ord. No. 1991-713-TC-363, TC-11-90, 1-15-91; Ord. No. 1991-849-TC-375, §3, 9-17-91; Ord. No. 1997-137-TC-153, §§119--121, TC-18-96, 6-17-97)

Sec. 10-3014. FINAL PLAT APPROVAL AND RECORDING.

(a) Prior ***City*** **certification necessary.**

Prior to recording in the Wake County Registry of any plat, the plat must be submitted for review to the*City* . This certification of review *shall* be indicated *in writing* on the plat by the Planning Director of the *City* , and it *shall* be required for each of the *following* :

(1) Final*subdivision* plats;

(2) Recombination plats;

(3) Easement plats not prepared by either a governmental body nor any utility company granted the power of eminent domain by*G.S.* 40A-3(a)(1);

(4) Plats creating new*lots* where all *lots* are greater than 10 acres; and,

(5) All other plats where*property* boundaries, easements, *rights-of-way* or other matters are changed or added.

For subsections (2) through (4) above, the certificate of review by the Planning Director*shall* indicate that the plat is exempted from the *subdivision* regulations of the *City* .

The*City* *shall* file a copy of this chapter with the Register of Deeds of Wake County. The

Register of Deeds *shall* not thereafter file or record any of the plat located within the *City* or its extraterritorial jurisdiction without the certification of the *City* as required in this chapter. The Clerk of the Superior Court of Wake County *shall* not order or direct the recording of a plat where such recording would be in conflict with this chapter.

State law references:*G.S.* 47-30 and *G.S.* 160A-373.

(*Code 1959* , §20-11; Ord. No. 1979-21-TC-100, §§9, 10, 2-20-79)

(b) Recording of covenants.

The*City may* , as a precondition for recording *lots* and approving site plans, require the recording of covenants. Such covenants *may* be required for cross access, *property owners* associations for the maintenance of: landscaping, private *streets* or private open space, common storm drainage facilities, common utilities, or any combination thereof, access limitations, common-party walls, unified sign criteria, unity of development standards, and any other purpose determined to be necessary to implement Part 10 of the *City* Code by the approving authority.

Cross-reference: Time period for proof of recordation of covenants, §10-3014(c)(1).

(Ord. No. 1987-31-TC-296, §64, TC-16-87, 12-1-87)

(c) Procedure.

(1) Submittal, authorization, and recording.

Subsequent to the review and approval of preliminary*subdivision* plans and construction plans as described in §10-3013(a), (b) and (c)(2), the *developer* *shall* submit final plats for recording to the Planning Department. The plat to be recorded in the office of the Wake County Register of Deeds *shall* contain all information required by §10-3017. Three (3) copies of this plat *shall* be signed and sealed by a registered surveyor and submitted on mylar material. Other paper copies of the plat *may* be requested by the Planning Director for review by other Departments of the *City* . The Planning Director *shall* review the final plat and compare it to the approved preliminary *subdivision* plan and conditions of approval. The Planning Director *may* consult the various other departments of the *City* as necessary to determine that the final plat as submitted is in accordance with the approved preliminary *subdivision* plan, all conditions of approval, and to all applicable regulations and resolutions of the *City* . The Planning Director *may* then:

a. Certify the plat for recording,*in writing* on each of the three (3) copies; or,

b. Request revisions of the plat to complete information required by §10-3017 or to cause the plat to conform to the preliminary*subdivision* plan, any condition of approval, or regulations and resolutions that *may* be applicable to the recording of the plat.

Plats presented to and approved for recordation by the*City* must be recorded on or before the fourteenth day *following* the *signature* of the Planning Director. The expiration date *shall* be clearly indicated on the plat. Within this same fourteen (14) day time period, copies of recordation of legal documents required by this Code, if any, *shall* be given to the *City* Planning Department.

The Register of Deeds*shall* retain one (1) copy of the recorded plat, return one (1) copy to the *owner* , and retain one (1) copy for the *City* 's records.

Cross reference: Schedule of fees, §10-3081.

(2) Exceptions.

a. Boundary surveys,*right-of-way* plats and easement plats are not required to

be certified by the *City* prior to their recording.

(Ord. No. 1984-407-TC-222, §7, TC-268, 9-20-84; Ord. No. 1987-31-TC-296, §18, TC-16-87, 12-1-87; Ord. No. 1990-713-TC-363, §10, TC-11-90, 2-1-91; Ord. No. 1999-647-TC-185, §2, TC-7-99, 10-6-99; Ord. No. 2002-309-TC-228, §§4, 5, TC-17-02, 10-15-02; Ord. No. 2005-897-TC-272, §5, TC-12-05, 9-20-05; Ord. No. 2006-104-TC-293, §§13, 14, TC-18-06, 10-3-06)

Sec. 10-3015. PRELIMINARY SUBDIVISION PLAN AND CONSTRUCTION PLAN SUBMITTAL REQUIREMENTS.

The applicant*shall* submit all information, maps, and data, including conditional use zoning districts ordinances required by the Planning Director to properly review the preliminary *subdivision* plan for conformity with all *City* regulations, ordinances, and standards.

For*infill projects* , the applicant *shall* supply all of the names and addresses, and current *property* identification *numbers* of the subject *property* and of all *property owners* , as shown on the *County* tax listing at the time of filing, within one hundred (100) feet of the proposed *subdivision* (not counting *street rights-of-way*). The names of all the *property owners shall* be shown on their respective parcels on an accompanying map showing the boundary of the *subdivision* and all adjoining parcels. The applicant *shall* submit all information, maps, notations, certifications, and data required by the *Chief Engineer* to properly review the construction plans for conformity with all *City* regulations, ordinances, and standards.

(Ord. No. 1997-137-TC-153, §122, TC-18-96, 6-17-97)

Editor's note: Ord. No. 1997-137-TC-153, §122, TC-18-96, adopted June 17, 1997, repealed and re-enacted §10-3015 in its entirety. The former §10-3015 pertained to "Preliminary subdivision plan requirements" and derived from*Code 1959* , §20-7; Ord. No. 1978-872-TC-88, §§20, 21, TC-119, adopted Oct. 15, 1978; Ord No 1984-407-TC-222 §§4, 5, TC-268, adopted Sept. 4, 1984; Ord. No. 1985-511-TC-232, §10, TC-270, adopted March 26, 1985; Ord. No. 1987-31-TC-296, §17, TC-16-87, adopted Dec. 1, 1987; Ord. No. 1989-390-TC-340, §8, TC-14-88, adopted July 20, 1989; Ord. No. 1991-879B-TC-385, §§7, 8, TC-12B-91, adopted Nov. 19, 1991.

Sec. 10-3016. RESERVED.

Editor's note: Ord. No. 1997-137-TC-153, §123, TC-18-96, adopted June 17, 1997, repealed §10-3016, which had pertained to "Construction plans requirements" and derived from*Code 1959* , §20-8; Ord. No. 1986-783-TC-266, §2, TC-7-86, adopted May 6, 1986; Ord. No. 1978-871-TC-87, §1, adopted Oct. 15, 1978; Ord. No. 1979-21-TC-100, §8, TC-136-79, adopted Feb. 20, 1979; Ord. No. 1985-530-TC-234, §17, TC-4-85, adopted April 2, 1985; Ord. No. 1986-783-TC-266, §2, TC-7-86, adopted May 6, 1986.

Sec. 10-3017. FINAL PLAT REQUIREMENTS.

(a) Sheet size.

Three (3) copies of the final plat for recording*shall* be submitted to the Planning Department on mylar material. If the drawings are not original drawings, the reproduction submitted must be archivable in accordance with standards established by *the State* . Diazo or thermostatic processes for reproductions are not considered archivable. The size of the plats *shall* be eighteen (18) inches by twenty-four (24) inches, and at least one (1) of the submitted plats must be to true scale.

(b) Information.

The applicant*shall* submit all information maps data required by the Planning Director to properly review the final *subdivision* plan for conformity with all *City* ordinances, standards, and regulations. For example, natural resource buffer yards as defined in §10-2002 and *building envelopes* *may* be required to show the development potential of any *lot* , and if the *lot* can not be reasonable developed in accordance with §10-3032(b), the *lot shall* not be recorded notwithstanding any prior preliminary *subdivision* plan approval of the *lot* . The *following* information *shall* be shown on the final plat:

(1) Certificate by*property owner* *written* as follows:

"This certifies and warrants that the undersigned is (are) the sole*owner(s)* of the *property* shown on this map or plat and any accompanying sheets subject to the exceptions on record, having acquired the *property* in fee simple by deed(s) recorded in the office of the Register of Deeds of Wake County, North Carolina, or otherwise, as shown below and as such, has(have) the right to convey the *property* in fee simple, and that the dedicator(s) will warrant and defend the title against the lawful claims of all *persons* whomsoever unless excepted herein and that by submission of this plat or map for approval I (we) do dedicate to the *City* of Raleigh for public use all *streets* , easements, *rights-of-way* , parks and *greenways* , (as these interests are defined by the *City* Code), and as the same *may* be shown thereon, for all lawful purposes to which the *City* *may* devote or allow the same to be used and upon acceptance thereof in accordance with all *City* policies, ordinances, regulations or conditions of the *City* of Raleigh for the benefit of the public, said dedication *shall* be irrevocable; provided, any dedication of easements for storm drainage are not made to the *City* of Raleigh but are irrevocably made to the subsequent *owners* of any and all *properties* shown hereon for their use and benefit subject to conditions of subsections (b), (c), (d) and (f) of Section 1 and Section 4 of the " *City* Storm Drainage Policy" (Resolution 1970-742 as the same *may* be from time to time amended).

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Signature(s) of *property owner(s)* ";

(2) Certificate to indicate approval and acceptance by the*City* *written* as follows:

"I, the undersigned Planning Director of the*City* of Raleigh, do hereby certify that the *City* of Raleigh, as provided by its *City* Code, on the day of, in the *year* , approved this plat or map and accompanying sheets and accepted for the *City* of Raleigh the dedications as shown thereon, but on the further condition that the *City* assumes no responsibility to open or maintain the same until in the discretion and opinion of the governing body of the *City* of Raleigh it is in the public interest to do so.

, Planning Director";

(3) Certificate meeting the requirements of §47-30 of the General Statutes of North Carolina, regarding proof upon*oath* by the surveyor that the plat is in all respects correctly drawn and *written* substantially as follows:

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

Surveyor signature

Seal or Stamp

Registration No.";

(4) Certificate of the surveyor, in accordance with*G.S.* 47-30(f)(11), indicating the nature of the plat as one (1) of the *following* :

"a. That the survey creates a*subdivision* of land within the area of a *county* or municipality that has an ordinance that regulates parcels of land;

b. That the survey is located in such portion of a*county* or municipality that is unregulated as to an ordinance that regulates parcels of land;

c. That the survey is of an existing parcel or parcels of land;

d. That the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of*subdivision* ;

e. That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of his or her professional ability as to provisions contained in a. through d. above.";

(5) Certification and seal of a Notary Public, indicating that the*property owner(s)* and surveyor did appear and personally did apply their *signatures* to the plat as required above;

(6) North indicator, indicator of scale or scale ratio in wordsor figures and bar graph, vicinity map and date of preparation;

(7) Title block, indicating clearly the*owner* of the *property* , the Wake County *property* identification (P.I.N.) number, the purpose of the plat and the name, address and telephone number of the surveyor or firm preparing the plat;

(8) Square footage, acreage and dimensions of each*lot* ;

(9) Square footage, acreage and dimensions of all*rights-of-way* ;

(10) Square footage, acreage and dimensions of*common areas* , open space, *greenway* or other easements dedicated to the public;

(11) Total square footage and acreage within the plat;

(12) Name, phase and section number of the*subdivision* ;

(13) For*properties* within unified *developments* as per §10-2132.2(d)(5)j., a notation *shall* be placed on all plats stating that future development is subject to applicable unity of development guidelines approved by the *City* of Raleigh a copy of which is on file in the Raleigh *City* Planning Department (when applicable);

(14) For*properties* located in conditional use zoning districts, a notation *shall* be placed on all plats referencing zoning ordinance number and stating additional restrictions and requirements apply to the *property* (when applicable);

(15) Except for*right-of-way* and easement maps, all other final plats subject to, in part or in whole, a Master Plan *shall* contain the *following* notation:

"This*property* is part of an approved Master Plan as required by the Raleigh, *City* Code. The Master Plan was approved by the Raleigh *City Council* on _____ (date), and a copy is on file in the *City* Planning Department. No permits *shall* be issued except in accordance with this Master Plan.";

(16) Public and private*street* names with private *streets* labeled as private;

(17) Where access restrictions have been applied as part of the approval of the preliminary plan, a notation*shall* be placed on all plats stating the specific points of

access that are to be allowed, and indicating any *lots* to which access restrictions have been applied (when applicable);

(18) Any other notations required by the approving body as part of the preliminary approval;

(19) Any existing and dedicated easements, any utility, drainage, greenway, and*rights-of-way* , or access easements, showing dimension course and distance and purpose of the easement;

(20) If the construction of a*street* is not required for any reason, then in lieu of drawing an engineered *slope easement* on the recording plat, a *slope easement* of twenty (20) feet in width adjoining each side of the *right-of-way* *shall* be placed on the recording plat with the consent of the *Chief Engineer* , who will determine if such width is adequate for the terrain, and who *may* require a wider or lesser *slope easement* to be recorded.

Editor's Note: Fill added to slope easements for*lots* within floodway fringe areas, as defined in Part 10 Chapter 4, is subject to the bulk *lot* coverage limitation of §10-4008(c).

(21) The path of any expressway, freeway or major access corridor as defined in §10-2002; special arterial yard areas, §10-2075(c)(3)b.

(22) Floodprone areas, 100-*year* floodplain, floodway and floodway fringe, flood hazard soil boundaries, any creek, lake, stream or river, and regulatory flood elevations. A notation *shall* be placed on the plat stating that flood elevations and boundaries are dynamic and are subject to change in the future. The bulk *lot* coverage as defined in §10-4002 *shall* be calculated for all *lots* containing floodway fringe areas as defined in Part 10 Chapter 4. Whenever more than fifty (50) per cent of the area of any *lot* comprises floodprone areas or natural resource buffer yards as defined in §10-2002, a notation *shall* be placed on the plat stating that a significant portion of the specified *lot* (s) is within floodprone areas or watercourse buffer areas; riparian surface water buffers, flood easements as required by §10-3053;

(23) For lands in Reservoir Watershed Protection Area, Urban Water Supply Watershed Protection Area and Metro-Park Protection Overlay Districts: Watercourse buffer areas and*impervious surface* area limitations;

(24) For lands outside the*City* limits: *Signature* of official of North Carolina Department of Transportation if public *right-of-way* is involved;

(25) Any existing structures, dimensions from*property* lines;

(26) For lands in*townhouse developments* and residential *unit ownership (condominium) developments* : Outline of building location including outdoor living space, parking area location and phase lines;

Cross reference: Townhouse development, final plat §10-3072(b)(5)

(27) For lands in*cluster unit developments* : Phase lines,perimeter protective yards in accordance with §10-2101(b)(6)d., calculations for density transfers;

Cross reference:*Cluster unit development* final plat, §10-3071(b)(8).

(28) Stormwater control measures, including without limitation, detention facilities, retention facilities, wet ponds, sand filters, wetlands, bio-retention measures, swales and storm pipes required by Part 10 Chapter 9, including permanently protected undisturbed*open space areas;*

(29) A statement on the plat stating whether or not any land shown thereon is on the date of that recordation within the extraterritorial jurisdiction of the*City* as set forth in this Code;

(30) The location of any *common areas* and facilities subject to recorded covenants, such as, but not limited to: landscape areas, private open space or private *streets* , common storm drainage facilities and common utilities located outside public *street rights-of-way* and public utility easements;

(31) *Building envelopes* showing dimensions to the nearest *property* line of the allowable building area on a *lot* for any *lot* with a setback less than 5 feet as allowed in §10-2075(b).

(32) A notation on the plat stating special setback restrictions for "flag"*lots* as required by Standard Procedure 900-4.

(33) If*right-of-way* is to be conveyed to the public and reimbursement is to be made, or *dwelling* density transfer or *floor area ratio* or *building lot coverage* transfer from the *right-of-way* is to be made, a notation that dedicators and their successors waive their statutory rights to withdraw dedications of the *right-of-way* .

(34) Zoning and zoning boundaries if more than one (1) zoning district exists;

(35) Address of each*lot* as approved by the *City.*

(36) Riparian surface water buffers, and in Conservation Management Districts watercourse buffer areas.

(37) A statement on the plat stating which*lots* , by number, are served by which stormwater control; the stormwater control facility *shall* be identified by type-wetland, retention, detention, bio-retention, filter and its general location.

(*Code 1959* , §§20-8,9,10; Ord. No. 1978-871-TC-87, §1, 8-15-78; Ord. No. 1979-21-TC-100, §8, TC-136, 2-20-79; Ord. No. 1984-407-TC-222, §6, TC-268, 9-4-84; Ord. No. 1985-511-TC-232, §11, TC-270, 3-26-85; Ord. No. 1985-678-TC-255, §3, TC-22-85, 11-21-85; Ord. No. 1987-31-TC-296, §17, TC-16-87, 12-1-87; Ord. No. 1991-868-TC-378, §12, TC-9-91, 3-1-91; Ord. No. 1991-843-TC-374, §3, TC-10-91, 9-30-91; Ord. No. 1997-137-TC-153, §124, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §94, TC-3-99, 8-3-99; Ord. No. 2001-991-TC-206, §13, TC-8-00, 5-1-01; Ord. No. 2003-432, §§21--25, TC-1-03, 4-15-03; Ord. No. 2005-817-TC-267, §9, TC-7-05, 4-19-05; Ord. No. 2006-953-TC-279, §§2, 3, TC-22-04, 1-3-06)

Secs. 10-3018, 10-3019. RESERVED.

ARTICLE C. REIMBURSEMENT AND DESIGN STANDARDS FOR SUBDIVISIONS AND SITE PLANS.

Sec. 10-3020. CONFORMITY TO CITY PLANS.

Whenever a tract of land included within any proposed*subdivision* or site plan embraces any part of a freeway, expressway, arterial, *collector street* , major access corridor as defined in §10-2002, *major* or *minor thoroughfare* so designated on the current *City Comprehensive Plan* or Thoroughfare Plan after such plan or part of it has been adopted by the proper authority, such part of such proposed public way *shall* be platted and dedicated in the location and the width indicated on the *City* plan. But no tract *shall* be required to plat more than one hundred and ten (110) feet of *right-of-way* width, excluding *slope easements* , unless required to do so by the Street, Sidewalk and Driveway Access Handbook, on file in the *City* Clerk's Office.

(*Code 1959* , §20-12; 1985-678-TC-255, §4, TC-22-85, 11-21-85; Ord. No. 1987- 31-TC-296, TC-16-87, §20, TC-16-87, 8-4-87)

Cross reference: Reimbursements for*streets* , §10-3024.

Sec. 10-3021. RESERVATION OF PROPERTY FOR PUBLIC FACILITIES.

To insure orderly development of the community in accordance with the general principles set forth in the*Comprehensive Plan* , the *developer* , if not otherwise required to dedicate, *shall* be required to reserve lands for parks, *greenways* , open space, schools, *thoroughfares* and fire stations for a period not to exceed twelve (12) *months* from the date of approval of the preliminary *subdivision* plan or preliminary site plan as required in §10-3012 or §10-2132.2, respectively.

Cross reference: Limitations on issuance of building permits, §10-6035(g).

(*Code 1959* , §20-13; Ord. No. 1982-947-TC-165, §1, TC-215, 7-20-82; Ord. No. 1985-659-TC-250, §1, 11-5-85; Ord. No. 1987-31-TC-296, §21, TC-16-87, 8-4-87; Ord. No. 1991-764-TC-366, §1, TC-4-91, 4-16-91; Ord. No. 1993-263-TC-65, §12, TC-19-93, 9-26-93)

Statutory authority: 1955 Session Laws, Chap. 921 and*G.S.* 160A-372.

State law reference: Roadway Corridor Official Map Act,*G.S.* Chapter 136 Article 2E.

Sec. 10-3022. GREENWAY DEDICATION AND REIMBURSEMENT.

(a) Required ***greenway*** **dedication.**

Subject to the limitations of subsection (c) below, whenever a tract of land included within any proposed residential*subdivision* or residential site plan embraces any part of a *greenway* , so designated on the current *City Comprehensive Plan* after such plan or part of it has been adopted by the proper authority, such part of such proposed *greenway* *shall* be platted and dedicated as a *greenway* easement.

(b) ***Greenway*** **easement width calculation.**

Subject to the limitations of (c) below, the*greenway* requiredto be platted *shall* at a minimum, be the product of the *following* dimensions: minimum standard width multiplied by the length of the boundary along the banks of the adjoining watercourse, plus that portion of the watercourse contained within the development when *property* lines extend to the centerline of the watercourse:

SCHEDULE OF MINIMUM STANDARD WIDTHS

Neuse River: One hundred fifty (150) feet from each bank

Crabtree & Walnut Creeks: One hundred (100) feet from each bank

All other tributaries: As established by the current *City Council* -approved Raleigh Parks Plan.

(c) Limitation on dedication.

No dedication*shall* be required for *greenway* lying outside of any floodplain, floodprone, or flood hazard area, but such area *shall* be reserved in accordance with §10-3021 for possible *City* acquisition. The amount of *greenway* required to be dedicated *shall* not exceed the total obligation of the *development* to pay open space facility fees, as determined by the Open Space Fee Schedule established in §10-8003(a), the number and type of dwelling units allowed by law for the *development* , and the Schedule of Greenway Land Values set forth in subsection (d) below.

(Ord. No. 1991-764-TC-366, TC-4-91, 4-16-91)

(d) ***Greenway*** **easement value calculation.**

Upon the acceptance of a*greenway* easement by the *City,* the *City,* under all the conditions listed in subsection (e) below will make payments to the *developer* based on the *following* schedule:

SCHEDULE OF*GREENWAY* LAND VALUES

(1) *Greenway* land in floodway:

a. Residential, Agricultural Productive, Conservation Management zoning districts: Three and four-tenths cents ($0.034) per sq. ft.

b. Nonresidential zoning districts, excluding Agricultural Productive and Conservation Management: Fifteen and five-tenths cents ($0.155) per sq. ft.

(2) *Greenway* land in floodway fringe:

a. Rural Residential, Residential-2, Residential-4, Agricultural Productive, Conservation Management Districts: Four cents ($0.04) per sq. ft.

Special Residential-6, Residential-6, Manufactured Home Districts: Ten and three-tenths cents ($0.103) per sq. ft.

Residential-10 and all other residential zoning districts with higher densities as defined in §10-2002: Seventeen and two-tenths cents ($0.172) per sq. ft.

b. Nonresidential zoning districts, as defined in §10-2002, excluding Agricultural Productive and Conservation Management Districts: Seventy-nine and one-tenth cents ($0.791) per sq. ft.

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00; Ord. No. 2006-2-TC-284, §§1, 4, TC-7-06, 5-2-06)

(e) Method and conditions of reimbursement.

(1) The*City Council may* in its discretion change the general term of payment for individual projects and authorize payment in one (1) sum immediately or in fixed payments.

(2) No payment will be allowed if the dedicated open space is being used to satisfy a Code requirement for open space or is utilized for a*greenway* density transfer under §10-2074. Reimbursements will be reduced by any open space facility fee credits.

(3) The dedicators*shall* waive their statutory right to withdraw the dedication prior to receiving any payment.

(4) Reimbursements*shall* be fixed at the rate in effect when the dedication occurs.

(Ord. No. 1987-31-TC-296, §64, TC-16-87, 12-1-87; Ord. No. 1990-474-TC-348, §17, TC-12-89, 1-2-90)

Sec. 10-3023. REIMBURSEMENT FOR MINOR UTILITY LINES.

(a) Minor utility lines eligible for reimbursement.

(1) Inside ***City*** **limits.**

For*developments* inside the *City* limits or *developments* which it has been agreed *shall* be annexed to the *City* of Raleigh, the *City* , under all the conditions listed in subsection (b) below, will reimburse the *developer* for costs incurred over and above those required to serve his or her immediate development. Such reimbursement *shall* be made in ten (10) equal annual installments with interest at four (4) per cent per

annum beginning January 1 *following* the time of final inspection and acceptance of the improvement by the Chief Engineer of the *City* , but the first installment payment *shall* not become payable until the second January 1, *following* such final inspection and acceptance or contract execution, whichever is later; provided, however, that the *City Council may* in its discretion authorize such reimbursement to be paid in one (1) sum immediately or in installments over a period of less than ten (10) *years* . The *following* installations are subject to reimbursement:

a. Differential unit costs between a water main six (6) inches in diameter and a water main twelve (12) inches in diameter when required by the*City* and not necessary to serve the subject *property* .

Cross reference: Lines twelve (12) inches and over are eligible for reimbursement under the "utility main policy" of the*City* , Part 8, chapter 2, article B, division 3.

b. Differential unit costs between a sewer main over eight (8) inches in diameter and sewer mains twelve (12) inches in diameter, when required by the*City* and not necessary to serve the subject *property* .

Cross reference: Lines twelve (12) inches and over are eligible for reimbursement under the "utility main policy" of the*City* , Part 8, chapter 2, article B, division 3.

c. Unit cost of off-site utility lines less than twelve (12) inches in diameter constructed by the*developer* to reach the boundary of the development whether the lines be installed inside or outside the *City* limits.

(2) Outside ***City*** **limits.**

For*developments* outside the *City* limits, the *City* under all the conditions listed in subsection (b), will reimburse the *developer* for the unit cost of off-site utilities less than twelve (12) inches in diameter constructed within the *City* limits by the *developer* to reach the boundary of the development. Such reimbursement *shall* be made in ten (10) annual equal installments, without interest. The first payment to become due and payable on the second January 1 *following* the date of final inspection and acceptance of the improvement, and approval of the cost by the *Council* .

Cross reference: Lines twelve (12) inches in diameter and over are eligible for reimbursement under the "utility main policy" of the*City* , Part 8, chapter 2, article B, division 3.

(b) Procedural conditions for reimbursement.

(1) *Following* completion, acceptable to the Chief Engineer of the *City* of such improvements, the *developer shall* furnish the Chief Engineer an itemized list of costs to be reimbursed by the *City* . The *City Council shall* approve a contract with the *developer* , setting forth the terms for reimbursement.

(2) The*City shall* pay such other costs incidental to the development of the general area which, in the opinion of the *City Council* , should properly be borne by the *City* . The *City shall* set forth the terms of such payment.

Editor's note: The provisions of this section are also set forth in §8-2075, §8-2076, §8-2077, and are repeated here for the reader's convenience.

(Ord. No. 1983-162-TC-192, §1, TC-243, 8-7-83; Ord. No. 1987-31-TC-296, §§24,25,27,28, TC-16-87, 12-1-87)

Sec. 10-3024. REIMBURSEMENT FOR STREETS.

(a) Improvements eligible for reimbursement.

To mitigate against the effects of these regulations, the*City* will under all the conditions listed in subsection (b) below pay to the *developer* unit costs for *development-related improvements* over and above the unit costs for applicable standard *commercial* , *residential* and *minor residential streets* .

The*following* installations are eligible for reimbursement:

(1) The additional*right-of-way* , sub-base, grading, drainage, surface material, and pavement width for *residential collector streets* and *collector streets* .

(2) The additional*right-of-way* and improvements to *thoroughfare rights-of-way* required by the Street, Sidewalk and Driveway Access Handbook, on file in the *City* Clerk's office, minus the *right-of-way* and *street* improvements that would have been required under the applicable *commercial* , *residential* and *minor residential streets* .

(3) *Right-of-way* for controlled access freeways.

(Ord. No. 1993-204-TC-57, §7, TC-11-93, 6-6-93)

(b) Method and conditions of reimbursement.

(1) All general and*development-related improvement* costs *shall* be based on the *following* schedule, provided that the *City Council shall* grant alternative mitigation when the total expenditures for both the *thoroughfare* facility fees and road improvement costs in excess of the applicable standard *commercial, residential* , and *minor residential street* improvements exceed the costs attributable to the development for *thoroughfare* construction within the benefit area as indicated in §10-8003(a):

SCHEDULE OF IMPROVEMENT COSTS

TABLE INSET:

Improvement Item	Item Project Cost
Catch basins both sides: 1	
major thoroughfares	$11.18 per linear foot of *street*
minor thoroughfares	$ 5.90 per linear foot of *street*
all other streets.....	$ 5.16 per linear foot of *street*
Sidewalk per side.....	$19.21 per linear foot of *street*
Curb and gutter both sides.....	$33.45 per linear foot of *street*
Storm drainage perpendicular to *right-of-way* both sides: 2	$ 3.44 per inch of storm pipe diameter per linear foot of *right-of-way* width
major thoroughfares	
1 crossing per 311 linear ft. of *street*	
minor thoroughfares	
1 crossing per 352 linear ft. of *street*	
commercial & collector	
1 crossing per 406 linear ft. of *street*	
all other streets	
1 crossing per 528 linear ft. of *street*	
Storm drainage parallel to *right-of-way* both sides: 3	
	$17.20 per linear front foot of *street*

thoroughfares	
commercial or *collector*	$ 8.60 per linear front foot of *street*
residential street (31).....	$ 6.88 per linear front foot of *street*
Excavation common.....	$ 8.17 per cubic yard
Excavation stripping, top soil.....	$ 3.44 per cubic yard
Clearing & grubbing.....	$8,407.36 per acre
Erosion control both sides of *street*	$ 4.71 per linear *front* foot of *street*
Traffic control both sides of existing *streets*	$ 3.56 per linear *front* foot of *street*
Seeding & mulching.....	$4,644.00 per acre
Paving: 4	
Asphalt (I-2).....	$ 3.25 per inch per square yard
Aggregate Base Course (ABC).....	$ 1.15 per inch per square yard
Mobilization.....	5% of construction costs 5
Paint striping.....	$ 4.73 per linear *front* foot of *street*
Design & inspection.....	15% of all project costs except *right-of- way* and *slope easements*
Right-of-way 6 in:	
Agricultural Productive, Conservation Management, Rural Residential, Residential-2.....	$ 0.86 per square foot
Residential-4, Special Residential-6, Residential-6, Manufactured Home.....	$ 0.95 per square foot
Residential 10.....	$ 1.12 per square foot
Residential-15, Residential-20, Special Residential-30, Residential-30.....	$ 1.20 per square foot
Office and Institution districts.....	$ 3.87 per square foot
Residential Business, Buffer Commercial, Neighborhood Business, Shopping Center, Business.....	$ 6.88 per square foot
Thoroughfare.....	$ 4.73 per square foot
Industrial-1, Industrial-2.....	$ 2.58 per square foot
Slope Easements in all zoning districts.....	one-half the value of the adjoining *right-of-way* reimbursement

NOTES:

1 If engineering construction drawings are submitted to the*City* , project cost will be based on difference in the number of catch basins for minimum applicable size *street* for that *development* and *street* to be constructed at seven hundred dollars ($700.00) per catch basin.

2 If no engineering construction drawings are submitted to the*City* , assumed size of storm drainage perpendicular to the *street* is eighteen (18) inches. If engineering construction drawings are submitted to the *City* , project cost will be based on the difference of both the number of cross drainage pipes and the size of those pipes for minimum applicable size *street* for that *development* and *street* to be constructed.

3 If engineering construction drawings submitted to the*City* project costs will be based on difference in storm pipe size (at $1.00 per inch of storm pipe diameter per linear foot) for minimum size *street* for that *development* and *street* to be constructed.

4 Paving reimbursements*shall* be based on minimum *City* paving requirements.

5 Construction costs are all project costs except*right-of-way* , *slope easements* , design and inspection.

6 For the Planned Development Conditional Use Overlay District and Master Plans approved by*City Council* , the *rights-of-way* values will correspond to the highest zoning district (excluding the Thoroughfare District) which first permits the primary use or category of use required in the Master Plan adjoining the *right-of-way* .

Cross reference: Comparative status of zoning district classifications, §10-2012.

(2) No monetary payments will be allowed if the*developer* has a density transfer under §10-2074(a) and (b), or utilizes the dedicated *right-of-way* for *floor area ratio* or *building lot coverage* , or *impervious surface* coverage in the Reservoir Watershed Protection Area Overlay District [or] Urban Water Supply Watershed Protection Area Overlay District.

(3) The dedicators*shall* waive their statutory right to withdraw unopened dedications prior to receiving any payment.

Statutory authority: 1983 Session Laws, Ch. 272.

State law reference: Withdrawal of unopened*rights-of-way* , *G.S.* 136-96.

(4) Reimbursements*shall* be paid at the rate in effect when dedication occurs, or construction costs are incurred.

(5) The *City Council may* , in its discretion, change the general term of payment for individual projects and authorize payments in one (1) sum immediately or in fixed payments.

(Ord. No. 1993-204-TC-57, §7, TC-11-93, 6-6-93; Ord. No. 1991-713-TC-363, §11, TC-11-90, 2-1-91, Ord. No. 1993-263-TC-165 §§15, 16, TC-19-93, 11-20-93 (§15), 9-26-93 (§16); Ord. No. 1999-616-TC-181, §95, TC-3-99, 8-3-99; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00; Ord. No. 2005-817-TC-267, §10, TC-7-05, 4-19-05; Ord. No. 2006-2-TC-284, §§2, 5, TC-7-06, 5-2-06)

(c) Additional reimbursement.

The*City shall* pay such other costs incidental to the development of the general area which, in the opinion of the *City Council* , should properly be borne by the *City* . The *City Council shall* set forth the terms of such payment.

(*Code 1959* , §20-31; Ord. No. 1987-31-TC-296, §§24-31, TC-16-87, 12-1-87; Ord. No. 1991-713-TC-363, §11, TC-11-90, 1-15-91; Ord. No. 1991- 741-TC-365, §1, TC-3-91, 3-5-91)

Cross references: Function and duty of the Department of Central Engineering to inspect public facilities constructed in all*subdivisions* , §6-1002(b)(14); *developer* to be reimbursed for oversized utility lines, §8-2075.

(d) Street improvement value adjustment.

The SCHEDULE OF IMPROVEMENT COSTS in subsection (b) above*shall* be adjusted annually on July 4 th by applying the most current year end Engineering News Record Construction Cost Index as published in December, or such other method of adjusting current value as may be determined by the *City Council.*

(Ord. No. 2006-2-TC-284, §8, TC-7-06, 5-2-06; Ord. No. 2007-165-TC-299, §9, TC-1-07, 2-6-07)

Editor's note: Subsection 10-3024(d) shall become effective July 1, 2008.

Secs. 10-3025--10-3030. RESERVED.

Sec. 10-3031. BLOCK LAYOUT.

The width of blocks*shall* be sufficient to allow two (2) tiers of *lots* where possible.

(*Code 1959* , §20-15; Ord. No. 1991-713-TC-363, §14, TC-11-90, 1-15-91; Ord. No. 1993-204-TC-57, §9, TC-11-93, 6-6-93)

Sec. 10-3032. LOT LAYOUT.

(a) Lot ***frontage*** .

Every*lot shall* have *frontage* upon a public *street* , except those which are approved as a *cluster unit development* or *townhouse development* under Article D.

(Ord. No. 1987-31-TC-296, §35, TC-16-87, 12-1-87)

(b) Lot arrangement.

Lots*shall* be subdivided to permit conformance with all laws and ordinances, and to ensure for orderly urban growth, proper building arrangement, and to provide *City* services and facilities. *Lot* dimensions *shall* provide for the potential development of all *lots* , and future compliance with development standards of this Code. The *lot* arrangement *shall* be in accordance with the general plans adopted by the *City Council* , including the *Comprehensive Plan* , redevelopment plans, and Neighborhood Plans.

(c) Lot dimensions.

(1) Public utilities or community systems.

Lots that are occupied or are intended to be occupied by any dwelling, congregate care or congregate living structure, supportive housing residence, multiunit supportive housing residence; (as these terms are defined in Part 10, chapter 2) and that are connected to a public water system or a community water system approved by*the State* , and a public sewer system or a community sewer system approved by *the State* , *shall* conform with the *following* dimensional requirements. Minimum *lot* area, minimum *lot* width, and minimum *lot* depth *shall* be measured from the public *street rights-of-way* and applicable private *street rights-of-way.* Within each *lot* the minimum *lot* width and minimum *lot* depth dimensions *shall* form a rectangular envelope which is totally enclosed within the *lot* boundary lines. The *following* dimension requirements *may* be modified by a *cluster unit development* (§10-2101), a *townhouse development* (§10-2109), within the Downtown Overlay District or Pedestrian Business Overlay District (§10-2051(e)(2) et seq.), by the provisions of the Neighborhood Conservation Overlay District (§10-2054), the Reservoir Watershed Protection Overlay District (§10-2056), or by a conditional use zoning ordinance, including a Planned Development Conditional Use Overlay District (§10-2057).

TABLE INSET:

District	Min. Lot Area	Min. Lot Width	Min. Corner Lot	Min. Lot Depth

	(sq. ft.)	(sq. ft.)**	Width (sq. ft.)**	(sq.ft.)***
Rural Residential	40,000*	65	80	100
Residential-2	20,000	65	80	100
Residential-4	10,890	65	80	100
Special Residential-6	7,260	50	65	80
Residential-6	7,260	50	65	80
All other districts	5,000	45	60	70

*In the primary reservoir watershed protection areas of the Reservoir Watershed Protection Area Overlay District, eighty thousand (80,000) square feet.

Any*lot* where the minimum *lot* width is not met at the *street frontage* but is met under footnote * below must comply with the *following* :

The minimum*lot frontage* on a *street* is twenty (20) feet for *lots* in residential districts and the Residential Business zone, so that a standard driveway and associated curb turn-outs *may* be constructed to serve the *lot* . This dimension *may* be reduced upon approval of the Transportation Director if a common driveway or other form of shared access is provided, and the other provisions of this section are satisfied;

***Measured from the public*street rights-of-way* or private *street right-of-way* as calculated according to the Street, Sidewalk and Driveway Access Handbook. Anyvwhere the minimum *lot* width is not met at the *street frontage* must comply the *following* :

The minimum*lot* depth specified *shall* not be measured from the public *street right-of-way* or private *street* easement, but instead *shall* be measured beginning from the nearest point to the public *right-of-way* where the *lot* width equals the minimum *lot* width as specified in subsection (c) above. The minimum *lot* depth on such a *lot* , as measured in this way, *shall* be seventy (70) feet in Rural Residential, Residential-2 and Residential-4 zones, sixty (60) feet in Residential-6 and Special Residential-6 zones, and fifty (50) feet in all other zoning districts (See Illustration 1).

Cross references: §10-3005(a)(1) and (b)(1), Recombinations; Schedule of Minimum Gross Development Site Sizes, §10-2073(e)

GRAPHIC LINK:ILLUSTRATION 1

(2) Septic fields, wells, or both.

Lots that are not connected to a public water system or a community water system approved by*the State* , and a public sewer system or a community sewer system approved by *the State* , *shall* meet the dimensional requirements of the Rural Residential District stated above, unless certification is provided by the Wake County Department of Health that the proposed *lot* is adequate in size and the soil is suitable to support the necessary well and septic system. All plats for the recording of *lots* that require this certification *shall* include a notation that the *City* of Raleigh will issue no *building* permit on the *lot* until the Wake County Department of Health has issued an improvements permit for the water supply or waste disposal system, or both.

(Ord. No. 1997-137-TC-153, §125, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §33, TC-3-98, 7-7-98; Ord. No. 2000-914-TC-200, §3, TC-12-00, 12-5-00; Ord. No. 2006-105-TC-294, §6, TC-16-06, 10-3-06)

(d) ***Infill lots* and infill projects.**

Any*infill lot* formed either by recombination or by *subdivision* after the application of this

regulation* *shall* comply with all of the *following* :

(1) All*lot* line boundaries *shall* meet all of the *following* :

a. Lot lines*shall* be angled from the *street* in a similar manner to the angle that is typical of the surrounding peripheral residential *lots* ;

b. Lots*shall* consist of no more than four (4) lines (front, rear, side, side) where such a configuration is typical of the surrounding peripheral residential *lots* ;

c. Lots*shall* not be configured in such a way that building envelopes for houses are placed one behind the other when viewed from the public street, where such a configuration is not typical of the surrounding peripheral residential *lots* .

Lot line boundaries*may* be approved that do not meet subparagraphs a. b. or c. above if the Planning Commission finds the *lot* line configuration is harmonious with the *lot* configuration pattern of the surrounding peripheral *lots* .

(2) Lots*shall* be configured to be adequately served by *City* services, allow for access of emergency vehicles, and meet *City* standards for proximity to fire hydrants and fire lines where public water is available.

(3) If a*lot* is to be formed of a size that would allow further *subdivision* , a forty-foot minimum width *shall* be maintained on all parts of the *lot* to allow a public *street* to be extended to serve any additional *lots* that *may* be proposed in the future.

(4) The Planning Commission first finds that the infill project is in accordance with the general plans for the physical development of the*City* as embodied in the *Comprehensive Plan* (including the design standards contained therein), redevelopment plans, Streetscape Plans, Neighborhood Plans or other *City Council* -adopted plans and standards. If there are conflicts between the plan and Code restrictions, the more stringent *shall* apply.

(5) The Planning Commission first finds that the infill project contains adequate measures to protect other properties, including public corridors from adverse effects expected from the development or recombination, including stormwater, traffic, and interference with air, light and privacy of surrounding residential properties.

To make the findings required above, the Planning Commission*shall* conduct a hearing on each *infill project* , at which time, the applicant and all proponents and opponents to the project will be given an opportunity to address the Planning Commission.

For*infill projects* the applicant *shall* send notice of the requested hearing by first class mail, registered mail, or certified mail, return receipt requested, at least two (2) weeks prior to the scheduled Planning Commission hearing to all *owners* of the *property* within one hundred (100) feet on all sides of the proposed *subdivision* or recombination boundaries (not counting the *street rights-of-way*). The *City* will also post a sign(s) on the *property* , when possible, at a convenient location to provide visibility to *persons* concerned with or affected by the proposed *infill project* .

For purposes of this subsection,*infill lots or infill project* means a recombination of tracts of land or the *subdivision* of land where all of the *following* conditions exist:

(1) The total area subject to the recombination or*subdivision* is five (5) acres or less, and will result in the formation of at least one (1) *lot* that at the time of the recombination or *subdivision* does not contain a dwelling, as defined in Part 10 chapter 2.

(2) The*property* is in a residential zoning district as defined in §10-2002.

(3) At least sixty-six (66) per cent of the "periphery," including public*right-of-way,* of the proposed area subject to the recombination or *subdivision* abuts existing residential

building *lots* containing a single-family detached dwelling or a structure which was originally constructed as a *single family* detached dwelling. "Periphery" for the purposes of this subsection includes *properties* both immediately abutting and across a public *minor residential street, residential street, residential collector street* , or *collector street* from the proposed recombination or *subdivision* .

(4) The proposed recombination or*subdivision* contains any *lot* which is eighty (80) per cent or less than the median *lot* size of the surrounding peripheral developed residential *lots* determined by subparagraph (3) above, or the proposed recombination or *subdivision* contains one (1) or more *lots* whose public *street frontage* is eighty (80) per cent or less of the median public *street* frontage of the surrounding peripheral developed residential *lots* as determined in subparagraph (3) above.

*Editor's note:*Infill lot* and *infill project* regulations first became applicable on September 1, 1997. (Ord. No. 1997-137-TC-153, TC-18-96, 6-17-97)

Cross reference: Appeals, §10-3013(b)(3)c. and g. (Ord. No. 2000-914-TC-200, §4, TC-12-00, 12-5-00)

(Ord. No. 1987-61-TC-299, §1, TC-22-87, 10-6-87; Ord. No. 1991-823-TC-371, §§1,2, TC-11-91, 7-16-91, Ord. No. 1993-121-TC-43, TC-17-92, 1-24-93; Ord. No. 1997-137-TC-153, §126, TC-18-96, 6-17-97; Ord. No. 1997-138-TC-154, §1, TC-8-96, 6-17-97; Ord. No. 1999-616-TC-181, §96, TC-3-99, 8-3-99; Ord. No. 2002-140-TC-211, §3, TC-14-01, 1-2-02)

(e) Side ***lot*** **lines.**

Side*lot* lines *shall* be as near as practicable at right angles to the *street* line on which the *lot* faces.

Policy reference: "Flag*Lot* " policy, standard operating procedure 900-4: Procedure for Preliminary Site Plan, subdivision, Master Plan, Condominium, Cluster Unit and Townhouse Approvals.

(*Code 1959* , §20-16; Ord. No. 1978-706-TC-79, §1, TC-113, 2-7-78; Ord. No. 1978-872-TC-88, §23, TC-119, 8-15-78; Ord. No. 1986-880-TC- 277, §§6, 7, TC-18-86, 10-22-86; Ord. No. 1988-151-TC-307, §1, TC-7-88, 4-19-88; Ord. No. 1988- 292-TC-328, §§8, 9, TC-22-88, 1-3-89; Ord. No. 1989-399-TC-342, §1, TC-7-89,7-5-89)

(f) Greenway easement value adjustment.

The SCHEDULE OF*GREENWAY* LAND VALUES in subsection (d) above *shall* be adjusted annually on July 4 th by applying the most current year end Engineering News Record Construction Cost Index as published in December, or such other method of adjusting current value as may be determined by the *City Council.*

(Ord. No. 2006-2-TC-284, §7, TC-7-06, 5-2-06; Ord. No. 2007-165-TC-299, §9, TC-1-07, 2-6-07)

Editor's note: Subsection 10-3032(f) shall become effective July 1, 2008.

Sec. 10-3033. SUBDIVISION AND SITE PLAN NAMES; STREET NAMES AND NUMBERING.

The proposed name of the subdivision, site plan, and proposed*street* names *shall* not duplicate or too closely approximate, phonetically, the name of any other subdivision, site plan, or *street* within the jurisdictional extent of this chapter. Words that are part of a name and are generic in their meaning (e.g. "river," "woods," "hills") *shall* not be considered as duplicates of other similar uses of such words. The *subdivision* and amendments therefore approved by the *City may* include the same original name as part of each phase name, if this naming system is approved by the Planning Commission, or the *City Council* if the *City Council* approves the subdivision.

House or building numbers*shall* conform to the system established for the *City* .

Cross references: Unit number regulations, §10-2083.1(c); procedures for renaming*streets* , §6-3001.

Policy reference:*Street* names, *City standard* procedure, 900-9.

(*Code 1959* , §20-17; Ord. No. 1987-31-TC-296, §§36, 37, TC-16-87, 8-4-87)

Sec. 10-3034. MONUMENTS.

(a) Permanent markers.

Permanent markers*shall* be placed at locations of the *subdivision* in accordance with subsection (c) below. These *shall* be permanent markers made of concrete at least three (3) feet long and four (4) inches square or in diameter with appropriate markings on top. The location and coordinates of each of these markers *shall* be shown on the *subdivision* plat.

(b) Corner markers.

Corner markers*shall* be set at the corners of all *lots* where it is possible to drive them, and *shall* consist of metal pipes not less than three-fourths (3/4) of an inch in diameter and two (2) feet long.

(c) Coordinate system.

The*subdivider* *shall* cause one (1) or more corners of the *subdivision* to be accurately tied to and coordinated with a horizontal control monument of some United States or State *agency* survey system, such as the North Carolina Geodetic Survey System, where such monument is within two thousand (2,000) feet of said corner. Where the North Carolina Grid System coordinates of said monument are on file with *the State* , the coordinates of both the referenced corner and the monuments used *shall* be computed and shown in X (easting) and Y (northing) ordinates on the map. The coordinates *shall* be identified as based on "NAD 83" indicating North American datum of 1983, or as "NAD 27," indicating North American datum of 1927. Where such a monument is not available, the tie *shall* be made to some pertinent and permanent recognizable landmark or identifiable reference point.

(d) Reference mark.

A reference mark in the form of a chiseled "X" indicating the elevation in relation to mean sea level to the nearest tenth of one foot *shall* be located on a permanent marker or structure such as a culvert, bridge, head wall or wing wall or as otherwise approved by the *Chief Engineer* within each *subdivision* whenever any portion of any *lot* in the *subdivision* lies within a floodprone area as defined in Part 10, chapter 4. The elevation and a description of the location of the reference mark *shall* be indicated on plats required under this chapter, which contain *lot* (s) in floodprone areas.

(*Code 1959* , §20-18; Ord. No. 1978-871-TC-87, §§2, 3, 8-15- 78; Ord. No. 1978-872-TC-88, §24, TC-119, 8-15-78)

Cross reference: Central Engineering Department, Part 6, Chapter 1.

State law reference: Plats and*subdivisions* , mapping requirements, *G.S.* 47-30, as amended.

Secs. 10-3035--10-3040. RESERVED.

Sec. 10-3041. STREET DESIGN STANDARDS.

The design and construction of public and private*streets* and sidewalks, driveway *access points* , and

rights-of-way requirements *shall* be in accordance with the standards and requirements in the Street, Sidewalk, and Driveway Access Handbook as amended, on file in the *City* Clerk's office.

Policy reference: Variance for Street Improvements in Rural Areas, Standard Procedure 900-9.

Sec. 10-3042. ACCESS POINTS.

(a) For any development, the number of*access points* *may* be restricted where it is necessary for purposes of decreasing traffic congestion or hazards, and *shall* be in accordance with the Street, Sidewalk and Driveway Access Handbook on file in the *City* Clerk's Office. In the case of multiple *lot developments* or when the adjoining *property* is under the same ownership, these restrictions *may* include required recorded common *access point* declarations. When adjoining *properties* are owned by different *persons* , recorded offers of cross access easements *may* be required.

(b) All land which adjoins a*thoroughfare* *shall* be subject to the *following* regulations:

(1) If access to a*lot* adjoining a *thoroughfare* is to be from a public *street* other than a *thoroughfare* , such access *shall* be stated or shown on the recorded plat. If the access is onto a *thoroughfare* , the location that meets the standards of this Code *may* be required to be shown on the recorded plat.

(2) A recombination of*lots* which *may* either increase the number of potential *access points* along a *thoroughfare* needed for the *lots* being recombined or render existing *access points* nonconforming regarding the standards in the Street, Sidewalk and Driveway Access Handbook is a violation of this chapter and is impermissible unless an appropriate legal instrument is recorded indicating that the potential number of *access points* before and after the recombination cannot be any greater than prior to the recombination. If a recombined *lot* which previously had no public *street* access can only gain access onto a *street* in violation of the standards of the Street, Sidewalk and Driveway Access Handbook, then this recombination *may* be allowed if the access meets the standards to the extent feasibly possible.

(Ord. No. 1983-153-TC-190, §13, TC-233, 7-19-83; Ord. No. 1986-799-TC-267, §48, TC-21-85, 6-3-86; Ord. No. 1986-847-TC- 273, §7, TC-16-86, 9-2-86; Ord. No. 1987-31-TC-296, §§61-63, TC-16-87, 12-1-87; Ord. No. 1991-879B-TC-385, §15, TC-12B-91, 11-19-91; Ord. No. 1999-647-TC-185, §3, TC-7-99, 10-6-99)

Secs. 10-3043--10-3050. RESERVED.

Sec. 10-3051. SURFACE WATER DRAINAGE.

(a) Connection to sanitary sewer prohibited.

No surface water drainage*shall* empty into a sanitary sewer.

(b) Piping of watercourses.

This subsection applies to all storm drainage piping of watercourses except those crossing public or private*streets* : See §10-3053(c), Streets in Floodprone Areas. All natural watercourses *shall* remain open and unaltered unless piping, enclosing or altering is requested and justified by the *developer* and/or required by the *Chief Engineer* , but then only when the *following* conditions are met:

(1) The*developer* *shall* connect the development pipe system to an existing public or private pipe storm drainage system when such system, in the opinion of the *Chief*

Engineer , is reasonably accessible. The *developer* *shall* do all grading and provide all structures necessary to properly connect to the existing storm drainage system;

(2) All design and construction*shall* be done according to *City standards* ;

(3) Pipes and open channels*shall* be designed in accordance with the Raleigh Stormwater Control and Watercourse Manual. Storm drains and culverts used in conjunction with public *streets* or private *streets* must meet the standards of §10-3053 (c).

(4) To preserve the screening function of Conservation Management Districts and protective yards, pipe(s) which traverse any Conservation Management District or protective yard as defined in §10-2002 for a distance of at least fifty (50) feet (15.24 meters) or more*shall* be built with a bend to prevent direct sight view through the District or yard provided that such a bend *shall* not exceed a ninety (90) degree angle. The requirement of a bend within a Conservation Management District or a protective yard *may* be waived or modified by the approving authority for the development where the gradient will not permit gravity flow or where the Conservation Management District or a protective yard fails to contain a vegetative screen;

(5) Where natural drainage systems are used, or where an approved pipe drainage system cannot be connected to an existing public pipe drainage system, a*developer* *shall* do all grading to assure positive flow of stormwaters of the design storm and provide all drainage structures that are necessary to properly carry stormwater to locations which are acceptable to the *Chief Engineer* ;

(6) The watercourse is located outside natural resource buffer yards of Reservoir Watershed Protection Areas, Conservation Management District, and Metro-Park Protection Overlay Districts and outside riparian water surface buffers unless a variance is granted; and

(7) The standards in Part 10, Chapter 9 Article B Division 2 watercourse buffers, whenever applicable, are met.

Editor's note: Copies of the**Raleigh Stormwater Control and Watercourse Buffer Manual** , which includes *City* drainage design standards and policies, are available in the Department of Central Engineering. (Ord. No. 2001-991-TC-206, §14, TC-8-00, 5-1-01)

Cross references: Resolution No. 1978-690, as amended: Notice to Riverine Communities of alteration and relocations of watercourses within floodprone areas. Easements for storm drainage, §10-3058.

(c) Within The Reservoir Watershed Protection Overlay District.

Within the Reservoir Watershed Protection Overlay District, where*impervious surfaces* coverage is equal to or less than twelve (12) per cent in the primary reservoir watershed protection area, or equal to or less than twenty-four (24) per cent in the secondary reservoir watershed protection area, the first one-half (1/2) inch of stormwater which directly or indirectly runs off any public or private *street* *shall* be retained within the *subdivision* and either infiltrated into the soil or evaporated into the air, or detained for at least a twelve (12) hour period, or captured by a wet pond installed in accordance with §10-5006(a)(11)c. Where the *impervious surface* coverage is greater than twenty-four (24) per cent in the secondary reservoir watershed protection area, the first one (1) inch of rainfall from the public or private *street* , including *rights-of-way* *shall* be captured by a wet pond installed in accordance with §10-5006(a)(11)c.

When retention or detention facilities or wet ponds are to be installed by the*developer* to permit greater *impervious surfaces* in accordance §10-5006(a)(11)c., for stormwater measures that will serve more than one (1) *lot* and are located on private *property* , there *shall* be recorded a maintenance agreement which complies with §10-5007(c) and §10-5006(b)(11)d for sharing

the maintenance costs, and there *shall* be recorded, after approval by the *City* in the Wake County Registry, a map of those *lots* showing the location of such facility and wet pond, and said map *shall* bear the *following* note:

> "The devices and wet ponds which capture stormwater located on this*lot* are required to be maintained by the *property owner* on his *lot* in accordance with the requirements of the Raleigh *City* Code."

No retention device, detention device, or wet pond*shall* be installed except in accordance with the plan approved by the Soil Conservation Division of the *City* . No retention, detention, or capture stormwater control measure authorized by this subsection *shall* be installed without the execution of a maintenance agreement between the *developer* and the *City* . The agreement *shall* contain the provisions set forth in §10-5006(a)(11)d.1. through 6.

(d) Stormwater control plans to comply with Part 10, Chapter 9.

For all subdivisions subject to Part 10, Chapter 9, a stormwater control plan as defined in Chapter 9*shall* be submitted serving the entire subdivision, and approved as part of the preliminary subdivision plan. This requirement *shall* not apply to a subdivision where all proposed *lots* exceed one (1) acre in size. If all *lots* exceed one (1) acre in size, a stormwater control plan *shall* be submitted for the *streets* , utilities, and storm drainage areas for the entire subdivision, but no stormwater control plan is required to be submitted for each *lot* within the subdivision. A stormwater control plan *shall* be approved for each individual *lot* within such a subdivision at the time any permit is requested.

(e) Stormwater detention and/or retention facilities on residential ***lots*** .

No residential*lot* recorded after application of this regulation* *shall* contain any stormwater detention and or retention facility.

*Editor's Note: This ordinance was first applied on June 23, 2003, Ord. No. 2003-432, TC-1-03.

(*Code 1959* , §20-25; Ord. No. 1977-648-TC-72, §2, TC-105, 11-1-77; Ord. No.1985-511-TC-232, §16, TC-270, 3-26-85; Ord. No. 1978-872-TC-88, §25, TC-119, 8-15-78; Ord. No. 1982-849-TC-157, §3, TC-208, 2-16-82; Ord. No. 1985-511-TC-232, §16,17, TC-270, 3-26-85; Ord. No. 1986-799-TC-267, §47, TC-21-85, 6-3-86; Ord. No. 1987-950-TC-287, §23, TC-4-87, 4-7-87; Ord. No. 1987-31-TC-296, §§54,57, 58, TC-16-87, 8-4-87; Ord. No. 1988-105-TC-304, §14, TC-24-87, 1-5-88; Ord. No. 1988-133-TC-305, §12, TC-27-87, 3-1-88; Ord. No. 1991-879B-TC-385, §§13, 14, TC- 12B-91, 1-1-92; Ord. No. 1993-218-TC-60, §§9-11, TC-10-93, 6-20-93; Ord. No. 1997-137-TC-153, §127, TC-18-96, 6-17-97; Ord. No. 2001-991-TC-206, §§14--17, TC-8-00, 5-1-01; Ord. No. 2003-432, §§26, 27, TC-1-03, 4-15-03)

Sec. 10-3052. REGULATIONS IN THE RESERVOIR WATERSHED PROTECTION AREA OVERLAY DISTRICT.

(a) ***Impervious surface*** **coverage.**

The maximum amount of*impervious surfaces* within *subdivisions* in a Reservoir Watershed Protection Area Overlay District *shall* not exceed the *following* table without providing the stormwater control measures set forth in §10-5006(a)(11)b. and c.

Impervious Coverage

Primary water supply watershed protection areas of this Overlay District: six (6) per cent or less; or three thousand five hundred (3,500) sq. ft. if this is not more than twelve (12) per cent.

Secondary water supply watershed protection areas of this Overlay District*: twelve (12) per cent or less; or three thousand five hundred (3,500) sq. ft. if this is not more than twenty-four (24) per cent.

*In those portions of the secondary water supply watershed protection area which will within one (1) *year* after the approval of the preliminary *subdivision* plat be served with *City* water and sewer utilities, *impervious surfaces may* exceed both twelve (12) per cent coverage and three thousand five hundred (3,500) square feet per *lot* if the stormwater control measures of §10-5006(a)(11)c. are installed. *Impervious surfaces* of more than twenty-four (24) per cent are allowed in *subdivisions* with connections to public water and sewer utilities when the first inch of rainfall of the entire *subdivision* (including the amount from the first twenty-four (24) per cent *impervious surface* coverage) is captured in a wet pond which conforms to §10-5006(a)(11)c.3. Unless the *subdivision* is located in an area designated in the *Comprehensive Plan* for higher *impervious surfaces* , the maximum per cent of impervious coverage allowed with a wet pond *shall* not exceed thirty (30) per cent; if the *impervious surface* coverage for the *subdivision* is thirty-five hundred (3,500) square feet per *lot* or less, the maximum *impervious surface* coverage *shall* not exceed fifty (50) per cent.

When the*subdivision* is located in an area designated in the *Comprehensive Plan* for higher *impervious surfaces* , a maximum *impervious surface* coverage of seventy (70) per cent is allowed. All wet ponds *shall* be maintained in accordance with §10-5006(a)(11)d. No more than five (5) per cent of the land area within any one (1) secondary water supply watershed protection area *may* be developed with an *impervious surface* coverage in excess of fifty (50) per cent unless approved by the North Carolina Environmental Management Commission*.

Editor's note: As of August 1, 2002, the total estimated amount of acreage representing five (5) per cent of the land within the jurisdiction of the*City* in the secondary water supply watershed protection area of the Swift Creek Watershed Basin is two hundred thirty (230) acres, and within the secondary water supply watershed protection area of the Falls Watershed Basin is ninety (90) acres. (Ord. No. 2003-373-TC-231, §39, TC-23-02, 2-4-03)

The*impervious surface* limits *shall* include all proposed public and private *streets* approved after application of this ordinance* and all *impervious surfaces* on any *lot* and *common area* . Calculation of the area of the development *shall* include all *subdivision lots* , new *street rights-of-way* , and *common areas* within the watershed. Calculations of the area of the development *shall* exclude any widening of existing *street rights-of-way* , existing *street rights-of-way* , and new *street rights-of-way* reserved in accordance with either §10-3019 or the Roadway Corridor Official Map Act, Chapter 136, Article 2E of the General Statutes.

*Editor's note: This ordinance was first applied on June 20, 1993 [Ord. No. 1993-218-TC-60, TC-10-93].

(1) The*developer shall* indicate whether the development will exceed twelve (12) per cent *impervious surfaces* in the secondary water supply watershed protection area. *Following* this determination, by means of a document recorded in the Wake Registry, the *developer shall* allocate for each *lot* within the development the maximum permissible impervious surface. No expansions beyond this *impervious surface* limit *shall* be permitted unless the increase is calculated based on the area of the *lot* , and the additional stormwater run-off is detained, retained, or captured in a wet pond on the *lot* in accordance with §10-5006(a)(11)c. Any *lot* for which no *impervious surface* is allocated must be conveyed to the public or owned by a homeowners association, approved in accordance with §10-3073. All stormwater control measures *shall* be maintained in accordance with §10-5006(a)(11)d.

(2) The*impervious surface* coverage limitations and stormwater retention, detention and capture requirements within the secondary water supply watershed protection area of the Reservoir Watershed Protection Area Overlay District area inapplicable to any *street* , *right-of-way* , *lot* , or improvement thereon if its stormwater runoff flows by gravity to a watercourse located outside the Overlay District. All gravity flow drainage plans *shall* be approved by the Soil Conservation Division of the *City* .

(b) Watercourse buffer areas.

After application* of the Reservoir Watershed Protection Area Overlay District, watercourses*shall* contain, in accordance with this subsection, a natural resource buffer yard. Natural resource buffer yards *shall* adjoin either a primary watercourse or a secondary watercourse. The establishment of and uses permitted in the natural resource buffer yards are set forth in §§10-9040, 10-9042.

*Editor's note: This regulation first became applicable on March 10, 1985. (Ord. No. 511-TC-232, TC-270).

(c) Objectives.

The plans for*developments* in the Reservoir Watershed Protection Area Overlay District *shall* assure that:

(1) They are consistent with the need to protect water quality;

(2) All public utilities and facilities are located and constructed to minimize or eliminate water quality degradation; and,

(3) Impervious surface areas*shall* be designed and sited to minimize stormwater discharge directly into the receiving waters, minimize concentrated stormwater flow, maximum use of sheet flow through vegetated areas, and maximum the flow length through vegetated areas;

(4) Areas of concentrated development are located in upland areas and away, to the maximum extent practicable, from surface waters and drainage ways.

(Ord. No. 1985-511-TC-232, §18, TC-270, 3-26-85; Ord. No. 1987-950-TC-287, §23, TC-4-87, 4-7-87; Ord. No. 1988-105-TC-304, §15, TC-24-87, 1-5-88; Ord. No. 1988-133-TC-305, §§4, 5, 12, 13, TC-27-87, 3-1-88; Ord. No. 1990-691-TC-360, §6, TC-12-90, 12-11-90; Ord. No. 1991-879B-TC-385, §§16-22, TC-12B-91, 1-1-92; Ord. No. 1993-218-TC-60, §§12-17, TC-10-93, 6-20-93; Ord. No. 1993-297-TC-69, §§1,4, TC-24-93, 12-12-93; Ord. No. 2001-991-TC-206, §§18, 19, TC-8-00, 5-1-01; Ord. No. 2005-817-TC-267, §§11, 12, TC-7-05, 4-19-05)

Cross references: Zoning regulations, §10-2056; Soil Erosion and Sedimentation Control, §10-5006(a)(11); stormwater run-off retention, detention and drainage facilities in the Reservoir Watershed Protection Area Overlay District, §10-3051(c); watercourse buffers, Part 10, Chapter 9, Article B Division 2. (Ord. No. 2001-991-TC-206, §20, TC-8-00, 5-1-01)

Sec. 10-3052.1. REGULATIONS IN THE URBAN WATER SUPPLY WATERSHED PROTECTION AREA OVERLAY DISTRICT.

(a) ***Impervious surface*** **coverage.**

The maximum amount of*impervious surfaces* within *subdivisions* in an Urban Water Supply Watershed Overlay District *shall* not exceed the *following* table

Impervious Coverage

Primary water supply watershed protection areas of this Overlay District:

Twenty-four (24) per cent without stormwater control measures; a maximum of fifty (50) per cent imperviousness is permitted with stormwater control measures set forth in §10-5006(a)(12) b and c. Stormwater runoff from the development*shall* be transported by vegetated conveyances to the maximum extent practicable.

Two (2) dwelling units of a*single family* detached development per acre (or twenty thousand (20,000) square foot *lot* excluding road way *right-of-way.*

Secondary water supply watershed protection areas of this Overlay District*:

Twenty-four (24) per cent without stormwater control measures; a maximum of seventy (70) per cent imperviousness is permitted with stormwater control measures set forth in §10-5006(a)(12) b. and c. or two (2) dwelling units of a*single family* detached development per acre (or 20,000 square foot *lot* excluding road way *right-of-way.*

Thirty-six (36) per cent built upon area without stormwater control measures for projects or three (3) dwellings per acre residential developments without curb and gutter*street* systems.

The*impervious surface* limits *shall* include all proposed public and private *streets* approved after application of this ordinance* and all *impervious surfaces* on any *lot* and *common area* . Calculation of the area of the development *shall* include all *subdivision lots* , new *street rights-of-way* , and *common areas* within the watershed. Calculations of the area of the development *shall* exclude any widening of existing *street rights-of-way* , existing *street rights-of-way* , and new *street rights-of-way* reserved in accordance with either §10-3019 or the Roadway Corridor Official Map Act, Chapter 136, Article 2E of the General Statutes.

*Editor's note: This ordinance was enacted on April 19, 2005, [Ord. No. 2005-817-TC-267, TC-7-05] and first became applicable on April 24, 2005.

(1) The*developer shall* indicate whether the development will exceed twenty-four (24) per cent *impervious surfaces* in the primary or secondary water supply watershed protection area or exceed thirty-six (36) per cent impervious surfaces in secondary water supply watershed protection areas for developments without curb and gutter streets. *Following* this determination, by means of a document recorded in the Wake Registry, the *developer shall* allocate for each *lot* within the development the maximum permissible impervious surface. No expansions beyond this *impervious surface* limit *shall* be permitted unless the increase is calculated based on the area of the *lot* , and the additional stormwater run-off is detained, retained, or captured in a wet pond on the *lot* in accordance with §10-5006(a)(12)c. Any *lot* for which no *impervious surface* is allocated must be conveyed to the public or owned by a homeowners association, approved in accordance with §10-3073. All stormwater control measures *shall* be maintained in accordance with §10-5006(a)(12)d.

(2) The*impervious surface* coverage limitations and stormwater retention, detention and capture requirements within the protected area of the Urban Water Supply Watershed Protection Area Overlay District area inapplicable to any *street* , *right-of-way* , *lot* , or improvement thereon if its stormwater runoff flows by gravity to a watercourse located outside the Overlay District. All gravity flow drainage plans *shall* be approved by the Stormwater Services Division of the *City* .

(b) Watercourse buffer areas.

After application* of the Urban Water Supply Watershed Protection Area Overlay District, watercourses*shall* contain, in accordance with this subsection, a natural resource buffer yard. Natural resource buffer yards *shall* adjoin either a primary watercourse or a secondary watercourse. The establishment of and uses permitted in the natural resource buffer yards are set forth in Part 10, Chapter 9, Article B, Division 2.

*Editor's note: This regulation was enacted on April 19, 2005, [Ord. No. 2005-817-TC-267, TC-7-05] and first became applicable on April 24, 2005.

(c) Objectives.

The plans for*developments* in the Urban Water Supply Watershed Protection Area Overlay District *shall* assure that:

(1) They are consistent with the need to protect water quality;

(2) All public utilities and facilities are located and constructed to minimize or eliminate water quality degradation; and,

(3) Impervious surface areas*shall* be designed and sited to minimize stormwater discharge directly into the receiving waters and minimize concentrated stormwater flow, maximum use of sheet flow through vegetated areas, and maximum the flow length through vegetated areas.

(4) Areas of concentrated development are located in upland areas and away, to the maximum extent practicable, from surface waters and drainage ways.

(Ord. No. 2005-817-TC-267, §13, TC-7-05, 4-19-05)

Cross references: Zoning regulations, §10-2064; Soil Erosion and Sedimentation Control, §10-5006(a)(12); stormwater run-off retention, detention and drainage facilities in the Urban Water Supply Watershed Protection Area Overlay District, §10-3051(c); watercourse buffers, Part 10, Chapter 9, Article B Division 2. (Ord. No. 2001-991-TC-206, §20, TC-8-00, 5-1-01).

Sec. 10-3053. STREETS CROSSING WATERCOURSES AND IN FLOODPRONE AREAS.

(a) Conformance to chapter 4, Part 10.

All*developments* proposed for the designated floodprone areas, and floodway and floodway fringe areas of creeks, streams, watercourses, and tributaries thereto within the corporate limits and extraterritorial limits of the *City* *shall* conform to the permitted use and other provisions of Part 10, chapter 4.

(b) Objectives.

The plans for*developments* *may* be disapproved if they fail to comply with any of the *following* objectives:

(1) They contain measures to reduce flood damage;

(2) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided so as to reduce exposure to flood hazards.

(c) ***Streets*** **crossing watercourses.**

(1) All*streets* and driveways, or any bridge or culvert associated with any *street* or driveway, crossing a watercourse, *shall* be designed and constructed in accordance with *City* standards.

(2) *Street* crossings of natural resource buffer yards, as defined in §10-2002, shall be as close to a perpendicular angle as possible.

(3) Any*street* or driveway, or any bridge or culvert associated with any *street* or driveway, which is located in a floodprone area draining less than one (1) square mile, and not shown on a FEMA map, or located outside a floodprone area, *may* either increase the flow levels and area of flooding of the ten (10) through one hundred (100) *year* frequency floods or redirect floodwaters if the following is met: copies of recorded flood easements or flood easements on plats recorded pursuant to §10-3014 and §10-3017, adequate to contain the increased flow levels are first submitted to the *City* . Land areas contained within the easement boundaries *shall* be delineated as flood storage areas.

"Roadway section" as used herein means the roadway and shoulders. The edge of the shoulder*shall* extend to the limits of the dedicated *street right-of-way.*

(4) The*following* additional standards *shall* apply to all *streets* and driveways crossing watercourses draining ten (10) acres or more, and which are located inside

floodprone areas:

a. Any*street* or driveway, or bridge or culvert associated with any *street* or driveway, *shall* pass the one hundred (100) *year* flood crest, as determined in accordance with Part 10, Chapter 4 under free flow conditions that will not result in any increase in the elevation of the ten (10) through one hundred (100) *year* floods above those specified in the Flood Insurance Study, *City* of Raleigh, Federal Emergency Management Agency, latest publication.

b. If the drainage areas exceeds one (1) square mile, the maximum rise allowed for the one hundred (100)*year* flood shall not exceed a total of one (1) foot above the base flood elevation established for flood hazard soil areas or those elevations specified either in the drainage basin study maps or in the Flood Insurance Study, *City* of Raleigh, Federal Emergency Management Agency, latest publication, unless additional rise is in conformity with §10-4003(b) of this Code. Base flood elevations for return periods of less than one hundred (100) *years* may be increased to exceed one (1) foot; provided, that the portion of the flood increase which is greater than one (1) foot is either limited to the site boundaries of the property of the *owner* requesting this increase, or restricted to flood storage areas shown on plats recorded pursuant to §10-3014 and §10-3017.

(d) ***Streets*** **in floodprone areas.**

(1) All*streets* in floodprone areas *shall* be designed and constructed to provide a minimum of two (2) feet of vertical freeboard, as measured from the predicted ten (10) *year* flood peak water surface elevation to the low point of the top of curb, or edge of the pavement for *streets* without curbs. The *following* are exceptions to this standard:

a. Those portions of*streets* within allowable vertical and horizontal controls which act as a transition to existing *streets* ; or

b. When the*City Council* finds that the public benefit derived from the construction of the thoroughfare or collector *street* would be better served if these standards were varied.

c. All*thoroughfares* in floodprone areas *shall* be designed and constructed so as not to be overtopped during the predicted fifty (50) year storm. All others streets in floodprone areas *shall* be designed and constructed so as not to be overtopped during the predicted twenty-five (25) *year* storm.

(2) For any*street* in floodprone areas, any proposed increase above floodway levels specified in the Flood Insurance Study, *City* of Raleigh, Federal Emergency Management Agency, latest publication, *may* be allowed; provided that such change is approved by the Federal Insurance Administration and all other requirements of §10-4003(b) of this Code are met.

(3) Any proposed*street* or driveway, bridge or culvert, associated with a *street* or driveway (including fill), located in the floodprone area must be accompanied by a sealed *written* statement by a registered professional engineer licensed in North Carolina certifying that such "structure" is designed and constructed in accordance with this subsection §10-3053(c) and *shall* specify which provision applies.

(4) Outside of regulated discharge floodplain areas, the maximum depth of any overtopping flow during the predicted one hundred (100)*year* flood *shall* not exceed one (1) foot. The downstream slope of the roadway section *shall* be protected from erosion due to the overtopping flow. *Streets* located within regulated discharge floodplain areas must be located at or above the one hundred (100) *year* flood elevation, consistent with the regulations of §10-4007.

(*Code 1959* , §20-41; Ord. No. 1978-872-TC-88, §26, TC-119, 8-15- 78; Ord. No. 1978-904, §1, 9-19-78; Ord. No. 1982-849- TC-157, §§1, 10, TC-208, 2-16-82; Ord. No. 1987-927-TC- 279, §§1, 2, 2-17-87; Ord. No. 1987-31-TC-296, §60, TC-16-87, 12-2-87; Ord. No. 1988-237-TC-320, §§3, 4, TC-15-88, 9-6-88; Ord. No. 1990-606-TC-355, §§1-5, TC-12-90, 6-19-90; Ord. No. 1985-511-TC- 232, §§14, TC-270, 3-5-85; Ord. No. 1987-943-TC- 284, §1, TC-5-87, 3-17-87; Ord. No. 1988-237-TC-320, §3, TC-15-88, 9-6-88; Ord. No. 1989-390-TC-340,§9, TC-14-88, 7-20-89; Ord. No. 1991-879B-TC-385, §11, TC-12B-91, 11-19-91; Ord. No. 2001-991-TC-206, §21, TC-8-00, 5-1-01; Ord. No. 2002-298-TC-227, § 1, TC-15-02, 10-1-02)

Cross references: Floodprone area regulations, chapter 4, Part 10; Street maintenance, Part 7, Ch. 2; Watercourse areas in the Reservoir Watershed Protection Overlay District, §10-3052 and §10-5006(d)(11); ; uses permitted within natural resource buffer yards, §§10-9041 and 10-9042. (Ord. No. 2001-991-TC-206, §21, TC-8-00, 5-1-01)

Editor's note: Copies of the**Raleigh Stormwater Control and Watercourse Buffer Manual** , which includes *City* drainage design standards and policies are available in the Department of Central Engineering. (Ord. No. 2001-991-TC-206, §21, TC-8-00, 5-1-01)

Sec. 10-3054. INCORPORATION OF SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE.

(a) Chapter 5 of Part 10 of this Code of the*City* of Raleigh entitled, "Soil Erosion and Sedimentation Control," is hereby adopted by reference as fully as though set forth here in. The Soil Erosion and Sedimentation Control Ordinance *shall* be in effect and apply within the *City* 's corporate limits, beyond and surrounding its corporate limits and within the limits of the *City* 's extraterritorial jurisdiction as provided in §14-1008 to the same degree that this chapter is effective and applies within these areas.

(b) When applying this chapter, the provisions of Part 10, chapter 5*shall* be considered as additional regulations and standards in application of this chapter.

(*Code 1959* , §20-36)

Sec. 10-3055. WATER SUPPLY.

(a) Within ***City*** **limits.**

When a*development* is within the corporate limits of the *City* , the *developer* *shall* connect with the water system of the *City* in accordance with this Code and install all water lines required to provide public water service to every *lot* within the development. The *developer* *shall* extend water lines to the periphery of the *development* as required by the Public Utilities Director.

(b) Outside ***City*** **limits.**

When the*development* is outside the corporate limits of the *City* , but water facilities are available or are made available at the boundary of the *development* within one (1) *year* after approval of the *development* , the *developer* *shall* connect to the *City* water system and install all water lines required to provide water service to every *lot* within the *development* , unless the *developer* cannot connect to the *City* sewer system or pay a fee, as required in §8-2063(b). If connection is made, the *developer* *shall* extend water lines to the periphery of the *development* as required by the Public Utilities Director.

(c) Construction inside Conservation Management Districts or a protective yard.

To preserve the screening function of any Conservation Management District or a protective

yard, water line(s) which traverse a Conservation Management District or a protective yard for a distance of at least fifty (50) feet (15.24 meters) or more*shall* be built with a bend to prevent direct sight view through the district or yard provided that such bend *shall* not exceed a ninety (90) degree angle. The requirement of a bend within a Conservation Management District or a protective yard *may* be waived or modified by the *City Council* where the Conservation Management District or a protective yard fails to contain a vegetative screen.

(d) Community water systems.

Developments located outside the corporate limits but within the extraterritorial planning jurisdictional area of Raleigh and located within the utilities planning area as provided in the*Comprehensive Plan* that install or propose to install a community water system must install said system in accordance with the *City* design, materials, and construction standards and methods. Such design, materials, and construction standards and methods are subject to the same regulations as if the community water system were connected to the system of Raleigh. If the conditions of State Law 160A-374 are met by the *City* , full dedication of a community water system, including all wells, pumps and utility lines, is required.

Editor's note: Construction standards and extension requirements are set forth in the**Public Utilities Handbook** , available in the Public Utilities Department.

Cross reference: Water and sewer extension policies, article B, chapter 2, Part 8.

(*Code 1959* , §20-28; Ord. No. 1977-648-TC-72, §4, TC-105, 11-1-77; Ord. No. 1979-21-TC-100, §12, 2-20-79; Ord. No. 1979-161-TC-105, §1, 8-7-79; Ord. No. 1985-577-TC-237, §§2, 3, TC-10-85, 6-4-85; Ord. No. 1986-799-TC-267, §47, TC-21-85, 6-3-86; Ord. No. 1987-31-TC-296, §59, TC-16-87, 12-1-87)

Sec. 10-3056. SEWAGE DISPOSAL.

(a) Within ***City*** **limits.**

When a*development* is within the corporate limits of the *City* , the *developer* *shall* connect to the sewer system of the *City* in accordance with this Code and install all sewer lines required to provide sewer service to every *lot* within the *development* . The *developer* *shall* extend sewer lines to the periphery of the *development* as required by the Public Utilities Director.

(b) Outside ***City*** **limits.**

When a*development* is outside of the corporate limits of the *City* but sewer facilities are available or are made available at the boundary of the *development* within one (1) *year* after approval of the *development* , the *developer* *shall* connect to the *City* sewer system and install all sewer lines required to provide sewer service to every *lot* within the *development* , unless:

(1) The*developer* cannot connect to the *City* water system or pay a fee, as required in §8-2063(b), or

(2) Grades are such that the sewer facilities would not be of service to the development, or

(3) There is insufficient off-site sewer capacity to serve the development.

If a connection is made, the*developer* *shall* extend sewer lines to the periphery of the development as required by the Public Utilities Director.

(c) Crossing a Conservation Management District or protective yard.

To preserve the screening function of Conservation Management Districts or a protective yard,

sewer line(s) which traverse a Conservation Management District or a protective yard for a distance of at least fifty (50) feet (15.24 meters) or more*shall* be built with a bend to prevent direct sight view through the district or yard provided that such bend *shall* not exceed a ninety (90) degree angle. All sewer lines twelve (12) inches or less within a Conservation Management District or a protective yard *shall* be constructed of ductile iron. The requirement of a bend within a Conservation Management District or a protective yard *may* be waived or modified by the *City Council* where the gradient will not permit gravity flow or where the Conservation Management District or a protective yard fails to contain a vegetative screen.

(d) Community sewer system.

Developments located outside the corporate limits but within the extraterritorial jurisdictional area of Raleigh and located within the utilities planning area as provided in the *Comprehensive Plan* that install or propose to install community sanitary sewer system must install said system in accordance with the *City* design, materials, and construction standards and methods. Such design, materials, and construction standards and methods are subject to the same regulations as if the community sewer system were connected to the system of Raleigh.

Editor's note: Construction standards and extension requirements are set forth in the**Public Utilities Handbook** , available in the Public Utilities Department.

(*Code 1959* , §20-29; Ord. No. 1977-648-TC-72, §5, TC-105, 11-1-77; Ord. No. 1979-21-TC-100, §13, 2-20-79; Ord. No. 1979-161-TC-105, §2, 8-7-79; Ord. No. 1985-577-TC-237, §2, TC-10-85, 6-4-85; Ord. No. 1986-799-TC-267, §47, TC-21-85, 6-3-86; Ord. No. 1987-31-TC-296, §59, TC-16-87, 8-4-87; Ord. No. 1991-879B-TC-385, §12, TC-12B-91, 11-19-91)

Cross reference: Water and sewer extension policies, article B, chapter 2, Part 8.

Sec. 10-3057. RESPONSIBILITY FOR EXTENSION OF PUBLIC WATER AND SEWER STUBS.

In residential*developments* and *subdivisions* approved for *property* located in residential zoning districts as defined in Part 10, chapter 2, the *developer shall* extend water and sewer service stubs to the *property* line on each side of the development where the locations of the service stub connections are known before the *streets* are paved. If curbs are installed, the location of service stubs *shall* be stamped on the curbs. In all other developments, the responsibility for making and paying for water and sewer service stub extensions *shall* be borne by the *owner* of the *property* to be served by the extension. Such extensions *shall* be made according to *City standards* and specifications.

Cross references: Responsibility for making water and sewer connections, §8-2004; installation of water, sewer meters, §8-2005; new water and sewer service stubs, §10-6081; pressure-reducing valves, §10-6085.

(Ord. No. 1983-244-TC-204, §4, TC-253, 12-11-83; Ord. No. 1989-318-TC-334, §4, TC-24-88, 2-26-89)

Sec. 10-3058. EASEMENTS FOR STORM DRAINAGE, WATER, SEWER LINE INSTALLATIONS; WIDTHS; MAINTENANCE RESPONSIBILITY.

(a) Easements*shall* be provided in the locations required by the *City* in order to:

(1) Allow for adequate storm drainage facilities;

(2) Allow for proper installation of water and sewer lines whether immediately proposed or necessary for adequate service in the future; and

(3) Allow for effectiveness of Conservation Management Districts and tree protective

areas of*Resource Management Districts.*

(b) Easement widths*shall* be specified by the *City* necessary to accommodate areas anticipated to be inundated by stormwater, construction, and repair of facilities.

Editor's note: Copies of the*City* of **Raleigh Stormwater Control and Watercourse Buffer Manual** , which includes *City* drainage standards and policies, are available in the Department of Central Engineering.

(c) The*City* will accept no responsibility to maintain any storm drainage structures or easements except those lying within *street rights-of-way* .

(*Code 1959* , §20-26; Ord. No. 1977-648-TC-72, §3, TC-105, 11-1-77; Ord. No. 1991-879B-TC-385, §§12-14, TC-12B-91, 11-19-91; Ord. No. 1996-851-TC-128, §29, TC-23-95, 4-2-96; Ord. No. 2001-991-TC-206, §22, TC-8-00, 5-1-01)

Editor's note: The storm drainage policy of the*City* is set out in Res. No. (1993)-196ex, as amended.

Sec. 10-3059. UNDERGROUND UTILITIES.

(a) Extension of utility systems.

Electrical and telephone service*shall* be extended by the *developer* to each *lot* within a *development* .

(b) Primary services.

All new primary electrical, telephone, fiber optic, and cablevision distribution lines installed to serve a*subdivision* of land, shopping areas, shopping centers, office centers, *group housing developments* , manufactured home parks, or unit ownership projects (condominiums) *shall* be placed underground within the entire *development* to serve each parcel or building, without expense to the *City* .

(c) Secondary services.

Within the*development* , all new secondary utilities installed to serve the project *shall* be placed underground without expense to the *City* . Such utilities *shall* be underground from the point they enter the site and *shall* include but not be limited to pad mounted or subterranean transformers, secondary electrical, telephone, fiber optic, and cablevision distribution lines. Underground secondary electrical services *shall* originate from a ground mounted or subterranean electrical transformer. Ground mounted transformers *shall* be located off the public *right-of-way.*

(d) ***Street*** **lights.**

The*developer* , when installing underground electrical and telephone service *shall* also install at his expense underground terminal facilities for *street* lighting along public *streets* according to the standards required by the Illuminating Engineering Society publication Road Lighting; provided however, that the average maintained footcandle level for outlying and rural roads as defined in said publication *shall* be no less than three-tenths (0.3) and the uniformity ratio *shall* be no greater than sixty-four (64). The *City* will not take responsibility for any *street* lighting system until it meets the above standards.

(e) Construction inside Conservation Management Districts or a protective yard.

To preserve the screening function of Conservation Management Districts and protective yards, underground utilities which traverse a Conservation Management District or a protective yard for a distance of at least fifty (50) feet (15.24 meters) or more*shall* be built at the expense of the *developer* with a bend to prevent direct sight view through the District or yard provided that such a bend *shall* not exceed a ninety (90) degree angle. The requirement of a bend *may* be

waived or modified by the *City Council* where the Conservation Management District or protective yard fails to contain a vegetative screen. In tree protected areas of *street protective yards* in Resource Management Districts, utilities serving the development *shall* be located within driveways and other authorized incursions of the tree protected area.

(*Code 1959* , §20-29.1; Ord. No. 1977-648-TC-72, §6, TC-105, 11-1-77; Ord. No. 1979-21-TC-100, §14, 2-20-79; Ord. No. 1982-848-TC-156, §1, TC-206, 2-16-82; Ord. No. 1989-318-TC-334, §5, TC-24-88, 2-21-89; Ord. No. 1991-879B-TC-385, §12, TC-12B-91, 11-19-91; Ord. No. 1993-223-TC-61, §15, TC-15-93, 8-1-93; Ord. No. 1996-851-TC-128, §30, TC-23-95, 4-2-96; Ord. No. 1997-86-TC-146, § 1, TC-4-97, 4-1-97; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

Secs. 10-3060--10-3070. RESERVED.

ARTICLE D. PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS.

Sec. 10-3071. CLUSTER UNIT DEVELOPMENT REGULATIONS.

(a) Purpose and definitions.

(1) Purpose.

The purpose of §10-3071 is to provide desirable and usable open space, tree cover, recreational areas, scenic vistas, and variety in residential buildings and*properties* and preserve sensitive environmental areas by allowing certain variations in *lot* sizes in subdivision, and/or establishment of *townhouse* , residential *unit ownership (condominium), group housing* and multi-family developments, detached single-family dwellings, attached cluster housing, manufactured homes, congregate care and congregate living structures; provided that, all are served by adequate utilities, and provided further that the overall density does not exceed that permitted by the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units, §10-2073 (b), and all applicable zoning requirements are met. But nothing herein *shall* prevent any *cluster unit development* from containing only one (1) housing type.

Cross reference: Requirements for planned residential developments, Part 10 chapter 2 Article F.

(Ord. No. 1991-879B-TC-385, §23, TC-12B-91, 11-19-91; Ord. No. 2000-734-TC-189, TC-2-00, §2, 2-15-00)

(2) Definitions.

a. ***Building envelope*** . The allowable area of a *lot* within which a single-family dwelling or attached cluster housing unit *may* be constructed in accordance with all applicable yard areas and setbacks.

b. ***Cluster unit development*** . A planned residential development which *may* include *townhouse* , residential *unit ownership (condominium)* , *group housing* and multi-family developments, congregate care and congregate living structures, life care communities, detached single-family dwellings, attached cluster houses and manufactured homes. It permits recreational uses related to the residential development and residential related services. It allows for transfer of allowable dwelling unit densities, placement of dwelling units, creation of residential *lots* , and installation of private *streets* that are not otherwise permitted by this Code.

c. ***Common areas*** . *Property* intended for the use and benefit of the residents of the development; *common areas* include: (1) any private *street*

and private walkways (not intended for the sole benefit of a single *lot*), (2) stormwater control measures, including without limitation, detention facilities, retention facilities, wet ponds, sand filters, dry detention basins, permanently protected undisturbed open space areas, wetlands, bio-retention measures, swales and storm pipes that serve more than one (1) *lot* and are located outside of public *street rights-of-way* (excluding those pipes and stormwater control measures serving one (1) *lot*), (3) any utility line serving more than one *lot* and which is located outside public *street rights-of-way* and public utility easements, (4) any site or facility designated a *common area* , common property, open space common area, open space common property, common area open space, common *property* open space, amenity, or similar designation on any recorded plat or in any declaration of covenant, (5) any *City Code* required shared facility or open space, (6) any public road *right-of-way* dedicated to the public on plats and maps of the *development* recorded in the local *County* Register of Deeds Office but not accepted for public maintenance by the appropriate governmental entity (provided, however, that the fact that a *street* or road was not accepted by the public for maintenance *shall* not relieve the *developer* of the obligation to take such action as is necessary to have it accepted, and the *developer shall* be liable to the homeowners' association for all costs and expenses, including court costs and reasonable attorneys' fees, incurred by the association in connection with such unaccepted *street* improvements and enforcement of its rights against the *developer* with respect thereto), and (7) any object or improvement located on, under, in or over public *property* or public *street right-of-way* which is subject to an encroachment agreement with a governmental entity that is recorded with the local *County* Register of Deeds Office, and *may* include without limitation: *signs* , landscaping, irrigation facilities, drain pipes, decorative surfaces and brick pavers.

(Ord. No. 1999-647-TC-185, §1, TC-7-99, 10-6-99; Ord. No. 2000-734-TC-189, TC-2-00, §2, 2-15-00; Ord. No. 2003-432, §§19, 20, TC-1-03, 4-15-03; Ord. No. 2003-504-TC-240, TC-8-03, §10, 9-16-03; Ord. No. 2005-897-TC-272, §§1--4, TC-12-05, 9-20-05)

(b) ***Cluster unit development*** **standards.**

All*cluster unit developments* *shall* meet all of the *following* :

(1) General.

A*cluster unit development* *shall* conform with §10-2101 and the requirements of Part 10, chapter 2 and 3 of this Code.

(2) Site size and land use.

The minimum site size of land under unified control for a*cluster unit development* is:

Rural Residential, Residential-2, Residential-4 districts: twenty (20) contiguous acres;

All other zoning districts which permit dwellings: ten (10) contiguous acres.

Real property which is used to meet the minimum site size *shall* consist of dwellings or rooming units, open space, landfill (debris from on-site), recreational uses related to residential *developments* and residential related services. Land in excess of the minimum site size that is not utilized for residential density or *impervious surface* transfer or required open space *may* contain additional uses permitted by the applicable zoning district(s) within the *cluster unit development* .

Multi-family dwellings, congregate care or congregate living structures,*group housing, townhouse* , attached cluster housing, and residential *unit ownership (condominium) developments* that are part of a *cluster unit development* are permitted in the Rural

Residential, Residential-2, Residential-4, and Special Residential-6 Districts; provided that, the *cluster unit development* is located outside a primary reservoir watershed protection area of any Reservoir Watershed Protection Area Overlay District.

Editor's note: This subsection is also set forth in §10-2101(b)(2); it is repeated here for the convenience of the reader.

(Ord. No. 1989-440-TC-345, §7, TC-3-89, 10-9-89)

(3) Residential density.

a. Except within any primary reservoir watershed protection area of the Reservoir Watershed Protection Area Overlay District, dwelling units, equivalent dwelling units, and rooming units*may* be arranged on *lots* such that the residential density on a particular *lot* exceeds that allowed by the Schedule of Minimum Net Lot Areas for Dwelling Units, or Equivalent Dwelling Units §10-2073(b); provided that, the overall density of the *cluster unit development* does not exceed that allowed in the applicable zoning district as determined by the above-referenced schedule.

Editor's note: This subsection is also set forth in §10-2101(b)(4); it is repeated here for the convenience of the reader.

(Ord. No. 1985-511-TC-232, §19, TC-270, 3-26-85)

b. Residential density*may* be transferred among *lots* within one (1) contiguous, uniform zoning district within a *cluster unit development* ; provided that, the total number of dwelling units which *may* be established *shall* not exceed the allowable residential density for that zoning district.

c. Residential density*may* be transferred to *lots* across zoning district [boundaries] within a *cluster unit development* when all of the *following* are met:

1. The maximum residential density within the zoning district receiving the transfer*shall* not exceed the greater of either:

(i) the residential density permitted in the*residential zoning district* which next exceeds the density permitted in the receiving district [e.g. if the receiving district is zoned O&I-1, which allows twenty-five (25) units per acre, the next highest residential density is that of the R-30 district.] If the receiving district permits more than thirty (30) dwelling units per acre, then the maximum density *shall* be no more than ten (10) per cent of the density permitted in the receiving district, unless *City Council* approves a greater density under the Downtown Residential Overlay District; or

(ii) the total number of dwelling units that would be permitted for the entire*cluster unit development* as calculated by the most restrictive zoning district which permits dwellings existing in the *cluster unit development.*

The minimum net*lot* area for transfers made pursuant to subsection (i) above *shall* be the same as the next higher density residential zoning district listed in the table of "Cluster Unit Minimum Net Lot Area". The minimum net *lot* area for transfers made pursuant to subsection (ii) above *shall* be the same as that listed in subsection (4) below in the table of "Cluster Unit Minimum Net Lot Area" for all other districts that permit dwellings.

2. The*cluster unit development* and the transfer are consistent with the

Comprehensive Plan .

3. The area receiving the residential density transfer is not situated within a Metro-Park Protection Overlay District.

(Ord. No. 1999-616-TC-181, §97, TC-3-99, 8-3-99; Ord. No. 2003-394-TC-235, §2, TC-21-02, 3-4-03)

d. Lots within*cluster unit developments* *may* be further subdivided and further density transfers *may* occur if, after accounting for the minimum net *lot* area for the zoning district, excess land area remains on a *lot* ; and provided that such *subdivisions* and transfers conform to the *City* Code and are not in conflict with legal recordations required by this code. The number of dwelling units that can be allocated to a *lot* is determined by dividing the excess land area on that *lot* by the total excess land area in the development, and multiplying this percentage by the number of dwelling units remaining unallocated in the *cluster unit development* .

Cross reference: Gross density exception, §10-2074(b).

(Ord. No. 1989-398-TC-341, §7, TC-8-89, 7-10-89)

(4) Yard and ***lot*** **lot dimensional requirements.**

The*following* minimum setbacks *shall* apply to *cluster unit developments* :

a. Yard setbacks*shall* be in accordance with §10-2101(b)(6).

b. Outside of primary reservoir watershed protection areas of the Reservoir Watershed Protection Area Overlay District, the minimum net*lot* areas for dwellings or rooming units *may* be reduced to the net areas indicated on the Table entitled "Cluster Unit Minimum Net Lot Area" except where larger net *lot areas* are required for any well and septic tank installations.

TABLE
CLUSTER UNIT MINIMUM NET LOT AREA

TABLE INSET:

	Lots on private *streets* (.65 of minimum net *lot*) In square feet	Lots on public *street rights-of-way* of 50' or less in width (.60 of minimum net *lot*) In square feet	Lots on public *street rights-of-way* of 60' or greater in width (.55 of minimum net *lot*) In square feet
Rural Residential	26,000	24,000	22,000
Residential-2	13,000	12,000	11,000
Residential-4	7,079	6,534	5,989
Residential-6, Special Res.-6	4,719	4,356	3,993
All other districts that allow dwellings	3,250	3,000	2,750

(Ord. No. 1989-440-TC-345, §27, TC-3-89, 10-9-89; Ord. No. 1991-879B-TC-385, §25, TC-12B-91, 11-19-91)

(5) Open space.

a. General.

Open space is required by this Code for all*cluster unit developments* ; the open space *shall* be provided in the same manner as is required for *group housing development* standards, §10-2103(d). This open space *shall* either be conveyed to the *City* or held as *common areas* deeded to a homeowners association in accordance with §10-3073. The right to use the open space *shall* be guaranteed in the homeowners declaration to each resident of the total *cluster unit development* . All dwelling units *shall* have convenient ingress and egress to and from the open space by means of improved *streets* and walkways or pedestrian ways of not less than ten (10) feet wide; such ingress and egress access ways *shall* be shown on the preliminary *subdivision* plan.

Any*greenway* and park deeded to the *City* *shall* be accessible to the general public. Recreational facilities located in open space *shall* comply with §10-2072 (b), *recreational uses related to a residential development* , other than a *single-family dwelling unit* .

Cross reference: Open space in the Downtown Overlay District, §10-2051(d)

(Ord. No. 1983-151-TC-188, §3, TC-241, 7-19-83; Ord. No. 1983-166-TC-193, §1, TC-244, 8-2-83; Ord. No. 1984-366-TC-218, §5, TC-265, 6-24-84; Ord. No. 1987-76-TC-302, §§6,7, TC-23-87, 11-9-87; Ord. No. 1998-370-TC-167, §34, TC-3-98, 7-7-98; Ord. No. 2005-897-TC-272, §6, TC-12-05, 9-20-05; Ord. No. 2005-932-TC-275, §27, TC-6-05, 11-15-05)

b. Minimum average open space quotient.

The*cluster unit development* *shall* contain or exceed the appropriate minimum average open space quotient set forth in subsection 1 and 2 below:

1. The minimum average open space quotient throughout the development*shall* not be less than seventy-five (75) feet except the minimum average open space quotient *shall* not apply in the Downtown Overlay District or to parks and *greenways* conveyed to the *City* .

2. If a*cluster unit development* contains any *lot* with a *group housing, townhouse, unit ownership (condominium)* , or multi-family *development* except two (2) attached residential dwellings, which exceeds the zoning density allowed on the *lot* , then throughout the *development* the minimum average open space quotient *shall* be at least one hundred fifty (150) feet except the minimum average open space quotient *shall* not apply in the Downtown Overlay District or to parks and *greenways* conveyed to the *City* .

The minimum open space quotient*shall* be calculated by dividing the square footage of open space used to comply with the requirements set forth in §10-3071(b)(5)a. by one-quarter of the linear footage of its periphery.

(Ord. No. 1998-370-TC-167, §35, TC-3-98, 7-7-98; Ord. No. 2005-932-TC-275, §28, TC-6-05, 11-15-05)

c. Division by ***thoroughfare*** .

If a*cluster unit development* is divided by a *thoroughfare* , the amount of required open space for the tracts created by the *thoroughfare* *shall* be allocated to those tracts in the same proportion as the units approved to be located on each tract. But the requirements of *subdivision* d., below, *shall* apply to one (1) of the tracts only.

d. Size, grade, and condition.

A minimum of one-third (1/3), or two (2) acres, whichever is less, of the open space required by subsection a., above,*shall* be in one (1) continuous part with a maximum average slope of eight (8) per cent. Within the Reservoir Watershed Protection Area Overlay District, all open space required by this Code *shall* remain in its natural state to the greatest extent practicable.

(Ord. No. 2005-897-TC-272, §7, TC-12-05, 9-20-05)

e. Alternate compliance by Planning Commission.

The Planning Commission*may* allow alternative designs for arrangement of open spaces in *cluster unit developments* if it finds that the alternative will provide equal or better safety, utility, and access to the open space in the development without adversely affecting the value of the open space and the character of the *property* adjacent to the alternate open space.

Cross reference: Additional requirements for*common areas* , §10-3073(a).

(Ord. No. 1988-211-TC-317, §3, TC-10-88, 7-10-88; Ord. No. 1991-879B-TC-385, §25, TC-12B-91, 1-1-92; Ord. No. 1993-218-TC-60, §19, TC-10-93, 6-15-93; Ord. No. 1993 -223-TC-61, §19, TC-19-93, 8-1-93)

(6) Private ***streets*** .

The requirements for private*streets* and parking thereon set forth in §10-3074 and §10-2103(d)(2), respectively, are met if the *development* contains any private *streets* . Private *streets* within *subdivisions* approved after August 1, 1993 which are a part of a *cluster unit development* *shall* only be permitted in accordance with §10-2101(b)(3) and §10-3074. Within *subdivisions* approved after August 1, 1993 which are a part of a *cluster unit development* , *lots* which contain detached single dwellings, attached cluster housing, and duplexes must *front* on a public *street* *right-of-way* .

Cross reference: Private*streets* allowed in *cluster unit developments* , §10-2101(b)(3).

(Ord. No. 1989-440-TC-345, §§28-30, TC-3-89, 10-9-89; Ord. No. 1993-223-TC-61, §16, TC-15-93, 8-1-93; Ord. No. 1998-370-TC-167, §36, TC-3-98, 7-7-98)

(7) Submittals.

Cluster unit developments *shall* be reviewed and approved in accordance with §10-3013. Submittal requirements for *cluster unit developments* *shall* conform to submittal requirements for a *subdivision* set forth in §10-3015. Submittal requirements for *cluster unit development* concept plans (which are not site plans or *subdivisions*) *shall* include only the information identified in §10-3015 that is necessary to determine compliance with residential density allocation, open space requirements, phasing, major *street* dedication and construction requirements, general utility system, and the *Comprehensive Plan* . Subsequent site plans and *subdivisions* for each phase must be approved in accordance with §10-3013.

(8) Final plat.

The final plat required by §10-3014,*shall* identify all *real property* as *lots* , public *streets* and other public facilities, open space, *common areas* and private *streets* . All necessary information required by §10-3017 *shall* be shown, including the dimensional maximum *building envelope* for every *lot* which will either contain a *dwelling* structure located within five (5) feet of any *side yard* or will adjoin such a *lot* . Perimeter *protective yards shall* be shown on the final plat.

Cross reference: Sunsetting of*cluster unit developments* , §10-3013(c)(4)d.

(Ord. No. 2005-897-TC-272, §8, TC-12-05, 9-20-05)

(9) Legal documents.

a. Prior to the filing of the final plat, the attorney of the*subdivider* who prepared the legal documents, including without limitation the declaration of covenants and restrictions governing the *common areas,* the open spaces, the homeowners association, and governing documents of the association, *shall* certify in *writing* to the Raleigh *City* Attorney that the documents are in conformity with the provisions of the *City Code* and the conditions of approval of the *development* . Certifications *shall* be on forms approved by the Raleigh *City* Attorney and *may* include, at the discretion of the Raleigh *City* Attorney, provisions to be attached to and made part of the declaration of covenants and restrictions. After the *City* Attorney or his/her deputy first approves either the certification or the legal documents for recording the declaration of covenants and restrictions governing the *common areas* , the homeowners association, party walls, open space, maintenance documents for stormwater control measures and devices required by §10-9027, and any annexation declaration that subjects additional land to the declaration *shall* be recorded in the office of the local *County* Register of Deeds. The legal documents *shall* be recorded promptly after the filing of the recording plat with the local *County* Register of Deeds, but all recordations must be completed prior to any conveyance or transfer of any portion of the *real property* shown on the final plat. Copies of the recorded legal documents *shall* be given to the Planning Department in accordance with the fourteen (14) day time period of §10-3014(c)(1).

If the *cluster unit development* contains townhouse units, then the legal documents prepared in conformance with §10-3072 and *shall* be recorded with the local *County* Register of Deeds Office contemporaneously with the recording plat. Terminology for the cluster unit legal documents and the townhouse legal documents *shall* be coordinated, and different terms *shall* be used to describe the *common areas* owned by the homeowners association of the cluster development and *common areas* owned by the townhouse homeowners association.

If the*cluster unit development* contains unit ownership (condominium) units, then legal documents prepared in conformance with §10-2108 *shall* be recorded in the local *County* Register of Deeds Office.

Cross reference: Homeowner documents, §10-3073(b).

b. During any period of time that the lands subject to the declaration of covenants and restrictions governing the homeowners association legal documents total less than twenty (20) acres in the Rural Residential, Residential -2 and Residential -4 Districts or are less than ten (10) acres in other zoning districts, a restrictive covenant approved by the Raleigh*City* Attorney *shall* be placed on the remaining unrecorded phases of the approved *cluster unit development* ; the attorney of the *subdivider* who prepared the annexation declaration *shall* certify in *writing* to the Raleigh *City* Attorney that the documents are in conformity with the provisions of the *City* Code and the conditions of approval of the *development* . Certifications *shall* be on forms approved by the Raleigh *City* Attorney and *may* include, at the discretion of the Raleigh *City* Attorney, a restrictive covenant to be recorded with the local *County* Register of Deeds Office. The approved and certified covenant *shall* require any *owner* of the land:

1. To build in general conformity with the approved preliminary*cluster unit development subdivision* plan on file with the *City* of Raleigh

Planning Department; and

2. To annex the land subject to the covenant into the existing*cluster unit development* and subject such lands to the original set of legal declarations recorded in the local *County* Register of Deeds Office, all in accordance with the provisions and deadlines of the recorded declaration of the *cluster unit development* .

This covenant*shall* expire when the recorded phases of the *cluster unit development* , including any recombination or annexations, if any, contain twenty (20) acres or more in the Rural Residential, Residential-2, and Residential-4 Districts or contain ten (10) acres or more in other zoning districts.

(Ord. No. 1985-621-TC-244, §2, TC-6-85, 8-11-85)

c. A restrictive covenant, running with each*lot* in the *cluster unit development* , *shall* be recorded in the local *County* Register of Deeds Office for all *cluster unit developments* . This recordation *may* be included as part of any recorded homeowner documents. If no homeowner association is created, owing to the absence of any *common areas* , a covenant is required. The covenant must contain all of the *following* :

1. A statement that the*real property* is a part of a *cluster unit development* approved by the *City* in which residential density transfers are permitted; therefore, even though some *lots may* appear to contain enough land area to construct additional dwelling units or create additional *lots* , prior density transfers approved within the *cluster unit development* *may* , in fact, preclude *City* approval of additional dwellings or further subdividing of *lots* .

2. A description of any development rights retained by the declarant as special declarant rights, including the rights to add real estate to the*cluster unit development* , to add dwelling units, to add *common areas* , to change unit types within the cluster and to reallocate units within the cluster.

3. A description of conditions and limitations applied to the exercise of any developmental rights allowed in subsection 2. above.

4. A statement of the maximum amount of land that can be added to a cluster.

5. A statement of the maximum number of dwelling units and the maximum number of dwelling units per acre that can be contained in the *cluster unit development* or transferred to portions of the *cluster unit development* without rezoning the *real property* to another zoning classification for additional dwelling units.

Cross reference: Fourteen (14) day time period to provide*City* Planning Department proof of recordation of legal documents, §10-3014(c)(1).

(Ord. No. 1989-398-TC-341, §8, TC-8-89, 7-10-89; Ord. No. 1999-647-TC-185, §§4--7, TC-7-99, 10-6-99; Ord. No. 2005-897-TC-272, §§9--14, TC-12-05, 9-20-05)

(10) Annexations of ***property*** .

Lands which were not part of the approved*cluster unit development* or lands not subject to the original set of legal declarations recorded in the local *County* Register of Deeds Office (an unrecorded approved phase) *may* be annexed and made part of the recorded *cluster unit development* ; provided that, all of the *following* are met:

a. The annexed lands are contiguous to or directly across the*street* from the approved *cluster unit development* ;

b. Any development of the annexed land is first approved by the*City* ;

c. Annexation of such lands does not conflict with legal declarations recorded in the local*County* Register of Deeds Office; and,

d. Contemporaneously with either the development of the land or the recording of the plat of the annexed lands, whichever first occurs, the legal documents annexing the*property shall* be recorded with the local *County* Register of Deeds Office.

No annexation declaration*shall* be valid without the prior written approval of the Raleigh *City* Attorney or his/her deputy. Evidence of such approval *shall* be indicated by the *signature* of the *City* Attorney or his/her deputy attorney on the recorded original copy of the annexation declaration. Any annexation declaration recorded without the required *City* approval is void *ab initio* . An annexation declaration *may* contain such complementary additions and modifications to the terms of the declaration as *may* be necessary or desirable to reflect the different character, if any, of the annexed *property* and as are not inconsistent with the general scheme of the declaration. Each annexation declaration *shall* state that title to the *common area* , and open space and stormwater control measures that is situated within the annexed *property shall* be conveyed to the association no later than the time of the conveyance of the first *lot* within the annexed property, and any open space in the annexed *property shall* be conveyed in fee simple without any encumbrances except drainage, greenway and utility easements. Open space in the annexed *property* is subject to all *Code* and homeowners declaration provisions relating to open space. Each annexation declaration *shall* state the amount of the stormwater assessment for *lots* in the annexed property. Except in those instances where the existing stormwater agreement required by §10-9027(c) of this *Code* already contains contribution payments for all stormwater control measures for the annexed phases of the *development* , the annexation declaration *shall* establish new stormwater assessments for the *lots* in the annexed *property* with respect to all new or additional stormwater control measures required to serve the annexed property, and such new or additional stormwater control measures *shall* be designated as limited common area on the recorded plat of the annexed property. The new stormwater assessments *shall* be sufficient to maintain the new or additional control stormwater control measures in or serving the annexed *property* and to pay the applicable replacement contribution payments to the *City* under the new or amended stormwater agreement required by §10-9027(c), and such stormwater assessment *shall* be assessed only against the owners of *lots* in such annexed property.

(Ord. No. 1984-407-TC-222, §8, TC-268, 9-30-84; Ord. No. 1999-647-TC-185, §8, TC-7-99, 10-6-99; Ord. No. 2005-897-TC-272, §§10, 11, 15, 16, TC-12-05, 9-20-05)

(*Code 1959* , §10-4.1; Ord. No. 1981-772-TC-150, §1, TC-197, 10-20-81; Ord. No. 1982-890-TC-161, §§3-6, TC-211, 4-20-82; Ord. No. 1983-95-TC-179, §§7,11, TC-189, 4-19-83; Ord. No. 1984-308-TC-210, §1, 3-20-84; Ord. No. 1985-511-TC-232, §20, TC-270, 3-5-85; Ord. No. 1985-542-TC-236, §8, TC-1A-85, 4-16-85; Ord. No. 1985-592-TC-240, §§4, 5, TC-9-85, 6-18-85; Ord.No. 1985-596-TC-241, §5, TC-8-85, 6-18-85; Ord. No. 1985-660-TC-251, §1, 11-5-85; Ord. No. 1988-133-TC-305, §15, TC-27-88, 3-1-88; Ord. No. 1988-291-TC-327, §§8,11, TC-23-88, 12-13-88; Ord. No. 1989-440-TC-345, §§25-26, TC-3-89, 10-3-89; Ord . No. 1991-713-TC-363, §§19-22, TC-11-90, 1-15-91; Ord. No. 1991-879B-TC-385, §§22,24,26-32, TC-12B-91, 11-19-91)

Sec. 10-3072. TOWNHOUSE DEVELOPMENT REGULATIONS.

(a) Purpose and definitions.

(1) Purpose.

The purpose of §10-3072 is to provide desirable and usable open space, tree cover, recreational areas, scenic vistas, and to preserve sensitive environmental areas by allowing certain variations in*lot* sizes, yard setbacks, or both; provided that all residential sites are served by adequate utilities, and provided further, that the overall density in the *townhouse development* and portions of the *development* segmented by public *streets* do not exceed that permitted by the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units, §10-2073(b), and all applicable zoning requirements are met. In contrast to *cluster unit developments* , *townhouse developments* contain only single-family dwelling units, and at no time *shall* more than fifty (50) per cent of the dwellings in the *townhouse development* be detached dwellings. In contrast to *unit ownership (condominium) developments* , the land underneath each dwelling unit in a *townhouse development* is sold with that unit.

Cross reference: Requirements for planned residential developments, Part 10 chapter 2, article F.

(2) Definitions.

a. ***Townhouse development*** . A development of one (1) or more single-family dwelling units, where land underneath each dwelling unit is sold with that dwelling unit; all developed in accordance with both §10-2109 and this chapter.

b. Residential site. That*real property* intended for conveyance to a fee-simple *owner* , which *shall* be of sufficient size to contain a single-family dwelling unit plus any required yard setback. The residential site *may* be of any larger desired size.

c. ***Common areas*** . *Property* intended for the use and benefit of the residents of the development; *common areas* include: (1) any private *street* and private walkways (not intended for the sole benefit of a single *lot*), (2) stormwater control measures, including without limitation, detention facilities, retention facilities, wet ponds, sand filters, dry detention basins, permanently protected undisturbed open space areas, wetlands, bio-retention measures, swales and storm pipes that serve more than one (1) *lot* and are located outside of public *street rights-of-way* (excluding those pipes and stormwater control measures serving one (1) *lot*), (3) any utility line serving more than one *lot* and which is located outside public *street rights-of-way* and public utility easements, (4) any site or facility designated a *common area* , common property, open space common area, open space common property, common area open space, common *property* open space, amenity, or similar designation on any recorded plat or in any declaration of covenant, (5) any *City Code* required shared facility or open space not conveyed to the government, (6) any public road *right-of-way* dedicated to the public on plats and maps of the *development* recorded in the local *County* Register of Deeds Office but not accepted for public maintenance by the appropriate governmental entity (provided, however, that the fact that a *street* or road was not accepted by the public for maintenance *shall* not relieve the *developer* of the obligation to take such action as is necessary to have it accepted, and the *developer shall* be liable to the homeowners' association for all costs and expenses, including court costs and reasonable attorneys' fees, incurred by the association in connection with such unaccepted *street* improvements and enforcement of its rights against the *developer* with respect thereto), and (7) any object or improvement located on, under, in or over public *property* or public *street right-of-way* which is subject to an encroachment agreement with a governmental entity that is recorded with the local *County* Register of Deeds Office, and *may* include without limitation: *signs* ,

landscaping, irrigation facilities, drain pipes, decorative surfaces and brick pavers.

(Ord. No. 1999-647-TC-185, §1, TC-7-99, 10-6-99; Ord. No. 2003-432, §19, TC-1-03, 4-15-03; Ord. No. 2005-897-TC-272, §§1--4, TC-12-05, 9-20-05)

(b) ***Townhouse development*** **standards.**

Townhouse developments *shall* meet all of the *following* :

(1) General.

A*townhouse development* *shall* conform with §10-2109 and the requirements of Part 10 chapters 2 and 3 of this Code.

(2) Open space.

Open space is required by this Code for all*townhouse developments* ; such open space *shall* be provided in accordance with §10-2103(d). This open space *shall* either be conveyed to the *City* or held as *common areas* deeded to a homeowners association in accordance with §10-3073 when any residential site in the *townhouse development* has a *net lot area* less than the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units, §10-2073(b). All residential sites *shall* have convenient ingress and egress to and from the open space by means of improved *streets* and walkways or pedestrian ways of not less than ten feet wide; such ingress and egress accessways *shall* be shown on the preliminary *subdivision* plan. *Recreational uses* located in open space *shall* comply with §10-2072(b), *recreational uses* related to a residential development, other than a *single-family dwelling unit* . When all residential sites of the *townhouse development* meet or exceed the minimum *net lot area* required by the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units, the required open space *may* be located on each and every residential site instead of within common areas.

Cross reference: Open Space in the Downtown Residential Housing Overlay District, §10-2051(d).

(Ord. No. 1991-879-TC-385, §33, TC-12B-91, 1-1-92; 2; Ord. No. 1998-370-TC-167, §37, TC-3-98, 7-7-98; Ord. No. 1999-616-TC-181, §98, TC-3-99, 8-3-99; Ord. No. 2005-897-TC-272, §17, TC-12-05, 9-20-05)

(3) Private ***streets*** .

The requirements for private*streets* and parking thereon set forth in §10-3074 and §10-2103(c) respectively are met if the development contains any private *streets* .

Cross reference: Private*streets* in *townhouse developments* , §10-2109(d).

(Ord. No. 1998-370-TC-167, §38, TC-3-98, 7-7-98)

(4) Submittals.

A*site plan shall* accompany the submittal of the preliminary *subdivision* plan to the *City* . The *site plan shall* conform to subsections (d) and (e), or (f) of §10-2132.2. The *site plan shall* contain numbered and dimensional residential sites, and it *shall* also show all *common areas* .

(5) Final plat.

The final plat required by §10-3014*shall* identify all *real property* as residential sites, public *streets* and other public facilities, or *common areas* .

(6) Legal documents.

Prior to the filing of the final plat, the attorney of the*subdivider* who prepared the legal documents, including without limitation the declaration of covenants and restrictions

governing the *common areas* , if any, the homeowners association, and governing documents of the association, *shall* certify in *writing* to the Raleigh *City* Attorney that the documents are in conformity with the provisions of the *City Code* and the conditions of approval of the d *evelopment* . Certifications *shall* be on forms approved by the Raleigh *City* Attorney and *may* include, at the discretion of the Raleigh *City* Attorney, provisions to be attached to and made a part of the declaration of covenants and restrictions. After the *City* Attorney or his/her deputy first approves either the certification or the legal documents for recording, the declaration of covenants and restrictions governing the *common areas* , if any, the homeowners association, party walls, maintenance documents for stormwater control measures and devices required by §10-9027, and any annexation declaration that subjects additional land to the declaration *shall* be recorded in the office of the local *County* Register of Deeds Office. The legal documents *shall* be recorded promptly after the filing of the recording plat with the local *County* Register of Deeds, but all recordations must be completed prior to any conveyance or transfer of any portion of the *real property* shown on the final plat. Copies of the recorded legal documents *shall* be given to the Planning Department in accordance with the fourteen (14) day time period of §10-3014(c)(1).

(Ord. No. 1999-647-TC-185, §9, TC-7-99, 10-6-99; Ord. No. 2005-897-TC-272, §18, TC-12-05, 9-20-05)

Cross reference: Homeowners documents, §10-3073(b).

(7) Annexation of ***property*** .

Lands which were not part of the approved*townhouse development* or lands that were not subjected to the original set of legal declarations recorded in the Wake Registry (an unrecorded approved phase) *may* be annexed and made part of the recorded *townhouse development* ; provided that, all of the *following* are met:

a. The annexed lands are contiguous to or directly across the*street* from the approved *townhouse development* ;

b. Any development of the annexed land is first approved by the*City* ;

c. Annexation of such lands does not conflict with legal declarations recorded in the Wake Registry; and,

d. Contemporaneously with either the development of the land or the recording of the plat of the annexed lands, whichever first occurs, the legal documents annexing the*property shall* be recorded with the Wake County Registry.

(Ord. No. 1999-647-TC-185, §8, TC-7-99, 10-6-99)

Cross reference: Phasing, §10-3073(c).

No annexation declaration*shall* be valid without the prior written approval of the Raleigh *City* Attorney or his/her deputy. Evidence of such approval *shall* be indicated by the *signature* of the *City* Attorney or his/her deputy attorney on the recorded original copy of the annexation declaration. Any annexation declaration recorded without the required *City* approval is void *ab initio* . An annexation declaration *may* contain such complementary additions and modifications to the terms of the declaration as *may* be necessary or desirable to reflect the different character, if any, of the annexed *property* and as are not inconsistent with the general scheme of the declaration. Each annexation declaration *shall* state that title to the *common area* , and open space and stormwater control measures that is situated within the annexed *property shall* be conveyed to the association no later than the time of the conveyance of the first *lot* within the annexed property, and any open space in the annexed *property shall* be conveyed in fee simple without any encumbrances except drainage, greenway and utility easements. Open space in the annexed *property* is subject to all *Code* and homeowners declaration

provisions relating to open space. Each annexation declaration *shall* state the amount of the stormwater assessment for *lots* in the annexed property. Except in those instances where the existing stormwater agreement required by §10-9027(c) of this *Code* already contains contribution payments for all stormwater control measures for the annexed phases of the *development* , the annexation declaration *shall* establish new stormwater assessments for the *lots* in the annexed *property* with respect to all new or additional stormwater control measures required to serve the annexed property, and such new or additional stormwater control measures *shall* be designated as limited common area on the recorded plat of the annexed property. The new stormwater assessments *shall* be sufficient to maintain the new or additional control stormwater control measures in or serving the annexed *property* and to pay the applicable replacement contribution payments to the *City* under the new or amended stormwater agreement required by §10-9027(c), and such stormwater assessment *shall* be assessed only against the owners of *lots* in such annexed property.

(*Code 1959* , §20-4.3; Ord. No. 1983-95-TC-179, §10, TC-189, 4-19-83; Ord. No. 1985-542-TC-236, §10, TC-1A-85, 14-16-85; Ord. No. 1989-440-TC-345, §32, TC-3-89, 10-3-89; Ord. No. 1991-713-TC-363, §§6, 27, TC-11-90, 1-15-91; Ord. No. 1999-647-TC-185, §10, TC-7-99, 10-6-99; Ord. No. 2005-897-TC-272, §§15, 16, TC-12-05, 9-20-05)

Cross references: Gross density exception, §10-2074(b); fourteen (14) day time period to provide*City* Planning Department proof of recordation of legal documents, §10-3014(c)(1).

Sec. 10-3073. REQUIREMENTS FOR COMMON AREAS, OPEN SPACE, HOMEOWNERS DOCUMENTS, AND PHASED DEVELOPMENTS.

(a) Open Space.

(1) Conveyance. The conveyance of*common areas* and open space to the homeowners association *shall* be in accordance with all of the *following* :

Open space*shall* be conveyed to the incorporated nonprofit homeowners association in fee simple without any encumbrances except drainage, *greenway* , and utility easements. Title to the *real property* *shall* be conveyed to the association no later than the time of the conveyance of the first *lot* within the applicable phase of the development. Open space and private *streets* *shall* be preserved for the perpetual benefit of the *owners* of the residential sites within the development, and it *shall* be restricted against private or public ownership for any other purpose except acquisition by condemnation or in lieu of condemnation and the granting of utility, drainage, and greenway easements. Open space *may* also be conveyed to the *City* no later than the time of the conveyance of the first *lot* within the applicable phase of development.

(Ord. No. 2005-897-TC-272, §§20--23, TC-12-05, 9-20-05)

(2) Exchange of open space.

Open space*shall* not be subsequently subdivided or conveyed by the homeowners association. However nothing herein *shall* prevent the exchanging of open space for other *properties* when all of the *following* are met:

a. *Written* notice of the exchange is given to each member of the association;

b. After the notice is given the minimum percentage of votes required by*G.S.* 47F- 3-112(a) or any greater percentage required by the homeowners declaration, and provided that the rights of any mortgagee of the open space are subordinate to the rights of the owners and the association;

c. The exchanged*properties* and other considerations are of like value and

utility;

d. The acreage and configuration of the remaining open space (including*real property* to be received by the association in such exchange) equals or exceeds the requirements of this Code; and,

e. The exchange is approved by the Planning Director of the*City* .

(Ord. No. 1987-4-TC-292, §§1,2, TC-17-87, 6-22-87; Ord. No. 2005-897-TC-272, §§22, 24--26, TC-12-05, 9-20-05)

(3) Adjacency.

Common areas used exclusively for open space in excess of the minimum area required by this Code, in cluster unit, in townhouse and in *unit ownership (condominium) developments may* be located on separate *lots* owned by the homeowners association; provided that such *common areas* :

a. Are approved by the*City* at the same time as the adjoining planned residential development; and,

b. Are adjacent to, or directly opposite, the planned residential development,*City* parks, and *greenways* for least fifty (50) per cent of the separated *lot* .

(Ord. No. 1985-542-TC-236, §11, TC-1A-85, 4-21-85)

(4) Dissolution.

If the association is dissolved, the open space*shall* first be offered to the *City* , and if accepted, deeded to the *City* .

(Ord. No. 2005-897-TC-272, §22, TC-12-05, 9-20-05)

(5) Recreation.

Recreational uses located in open space and other *common areas shall* comply with §10-2072, *recreational use* related to a residential development, other than a *single-family dwelling unit* .

(Ord. No. 2005-897-TC-272, §27, TC-12-05, 9-20-05)

(6) Stormwater control measures.

No more than twenty-five (25) per cent of the minimum outdoor open space required by this Code*shall* be devoted singularly or collectively to detention ponds, sand filters, and retention ponds, provided, this limitation *shall* have no application to any retention pond that meets all of the *following:*

a. The retention pond or closely connected series of ponds is one-half (1/2) acre water surface area at normal pool in size or greater, and

b. The retention pond is surrounded by open space, and

c. The retention pond is accessible to all homeowners, and

d. The retention pond is an amenity complying with §10-2082.13(d).

Cross reference: Permanent stormwater retention ponds and dry detention basins, §10-2082.13.

(Ord. No. 2003-432, §28, TC-1-03, 4-15-03; Ord. No. 2004-627-TC-246, §3, TC-12-03, 5-4-04)

(7) Mortgaging of Open Space.

Nothing in this Code*shall* prevent the mortgaging and hypothecating of open space areas with the written approval by the minimum percentage of votes required by *G.S.*

47-3-112(a) or any greater percentage required by the homeowners declaration; provided, the rights of any mortgagee of the open space are subordinated to the rights of the owners and of the association.

(Ord. No. 2005-897-TC-272, §28, TC-12-05, 9-20-05)

(b) Homeowner documents.

Every*lot* within a *cluster unit development* and townhouse development containing any *common area* or providing for the common maintenance of *residences* or *lots* must be subjected to restrictive covenants recorded with the local *County* Register of Deeds Office. The restrictive covenant *shall* contain, but not be limited to, provisions for the *following* :

(1) Establishment of an incorporated nonprofit homeowners association that*shall* be organized and in legal existence prior to the sale of any *lot* in the development. For any *development* subject to the North Carolina Planned Community Act of Chapter 47F of the North Carolina General Statures or its successor laws, its restrictive covenants and governing documents *shall* comply with the North Carolina Planned Community Act;

(2) Membership in the homeowners association*shall* be mandatory for each original *owner* and any successive *owner* of a residential site within the development;

(3) The homeowners association*shall* be responsible for the expenditures made by and financial liabilities of the association, together with any allocations to reserves, including, without limitation, the *following* : the payment of premiums for liability insurance, in an amount of not less than one million dollars ($1,000,000.00), covering all occurrences of commonly insured against for death, bodily injury and *property* damage arising our of or in connection with the use, ownership, or maintenance of *common areas* and the premiums of hazard insurance on the *common area* insuring against all risk of loss commonly insured against, including fire and extended coverage of peril, and local taxes on *common areas* owned in fee simple, maintenance of private *streets* , open space, stormwater control measures required by Part 10 Chapter 9 of this Code, recreational and other facilities located on the *common areas* owned in fee simple, and payment of assessments for public and private capital improvements made to or for the benefit of the *common areas* fees for services engaged by the association, including without limitation, management contracts and charges for utilities used in connection with the *common area* , payments owed to the *City* pursuant to any stormwater agreement required by §10-9027(c) - except for payment in such stormwater agreement owed to the *City* by the *developer,* cost and expenses for which the association is obligated under any encroachment agreement with the *City* , expenses for acquisition, maintenance, repair, restoration, replacement, use and operation of the *common areas* , and expenses incurred by the association in performing its functions and providing services, including operating management, enforcement and administrative expenses;

(4) The homeowners association*shall* be empowered to levy assessments against the *owners* of *lots* within the development for the payment of expenditures made by the homeowners association for the items set forth in subsection (b)(3) above and any such assessments not paid by the *owner shall* constitute a lien on the *lot* of the owner. Except for additional limited common expenses to pay for services and facilities which serve a particular group of *lots* , such as exterior maintenance; maintenance of private streets; and stormwater control measures, assessments *shall* be fairly distributed among all of the *lots* of the *development,* and deficits resulting from reductions in and exemptions of assessments *shall* be paid by the *developer* without recoupment of any interest.

(5) Easements over the*common areas* for access, ingress, and egress to and from *streets* , parking areas and walkways and easements for enjoyment of the *common*

areas *shall* be granted to each *owner* of a residential site;

(6) The limitations for conveying open space contained in subsection (a) above are clearly set forth;

Cross reference: Open space guaranteed to all residents of a*cluster unit development* , §10-3071(b)(5)a.

(7) All common party walls between individual*residences* *shall* conform to the requirements of the North Carolina State *Building Code* . Provisions *shall* be made for the maintenance and restoration, in the event of destruction or damage, of any common party wall; such provisions *shall* include: right of entry, allocation of costs, a statement if these costs are personal debts or whether they are appurtenant to the land so as to pass to successors in title, and notice of any right of contribution;

(8) A perpetual access easement over the adjoining*lot* must be recorded in favor of any *owner* , tenant and their contractors of any residential unit located closer than five (5) feet from a *lot* line. The purpose of this easement is to allow the residential unit to be maintained. No fence, wall, storage shed, or similar structure or any other kind of obstruction *shall* be permitted in the easement area that will obstruct access to the residential unit;

(9) A statement concerning maintenance of private*streets* that is in accordance with §10-3074(b) and (c) if any private *street* is located in the development; and,

(10) A perpetual right of access over all*common areas* and private *streets* for the benefit of governmental *agencies* for installing, removing and reading water meters; maintaining and replacing water and sewer facilities, fire lines and acting for other purposes consistent with public safety and welfare including without limitation, law enforcement, fire protection, emergency services, garbage collection and the delivery of mail.

(11) The homeowners association*shall* be empowered to plant, maintain, and protect trees within tree conservation areas shown on the recorded plats of the *development,* and the documents *shall* contain an easement allowing all future *lot* owners of the *development* and their agents the right to enter the tree conservation areas shown on the plats of the *development* to perform "active tree protection," as defined in Chapter 2 Part 10, to remove trees, to plant trees, and to replant replacement trees; all with the prior approval of both the association and the *City* in accordance with subsections (f) and (i) of §10-2082.14; provided, however, the consent of the association *may* not be required if the tree conservation area in which the *owner* desires to perform active tree protection measures, plant trees or replant replacement trees is located on that owner's *lot* . The legal documents *shall* also contain a warning statement that any "tree disturbing activity", as defined in Chapter 2 Part 10 of the *City* Code, undertaken in any tree conservation area shown on the plats of the *development* recorded in the office of the local *County* Register of Deeds in violation of the Raleigh *City* Code will result in significant financial consequences.

Cross reference: Tree conservation, §10-2082.14 subsections (e)(2) and (3).

(12) No immunity, exculpation or indemnification provision of the homeowners' declaration or governing documents*shall* relieve owners from their liabilities as an *owner* under the homeowners' declaration and other governing documents.

(13) Any restriction on the right to park vehicles on public streets contained in the declaration*shall* only be applicable to the owners and to their *family* members and tenants.

(14) No sight obstructing or partially obstructing wall, fence, foliage, berm, parked vehicle or*sign* between two (2) feet and eight (8) feet tall, as measured above the curb

line elevation or the nearest traveled way if no curb exists *shall* be placed within any area designated on a recorded map of the properties as a sight triangle or other similar designation. An easement over sight triangles is reserved for the benefit of the declarant, the association, and the *City* and their agents and contractors for the purpose of removing any such obstruction, and a *person* entering onto a *lot* pursuant to such easement for the purpose of removing such obstruction *shall* not be deemed a trespasser and *shall* not be liable for damages to the association or *owner* of the *lot* with respect to the obstruction removed from the site triangle. It *shall* be the responsibility of the association (as to *common area*) or *owner* of the *lot* , as soon as reasonably practicable *following* removal of any obstruction from the sight triangle, to restore the portion of the properties previously *occupied* by the removed obstruction to the condition required or permitted by the *Code* and the governing documents.

Cross reference: Sight triangles §10-2086.

(15) Any water or sewer line that serves more than one (1)*lot* and which is either located outside of any public *street right-of-way* or outside of any *City* utility easement *shall* be owned and maintained by the association as *common area.* In no case *shall* the *City* or *the State of* North Carolina be responsible for maintaining any such private utility line or be responsible for the consequences for any backflow, blockage, break or leak in said utility line. Such responsibility *shall* rest with the association *(* or applicable Sub-Association *)* and owners of *lot* within the *development* . Accordingly, the *City shall* not be responsible for failing to provide regular or emergency *utility services* to any *cluster unit development* , unit ownership (condominium) development, *group housing development* , townhouse development, or manufactured home park or their occupants when such failure is due to inadequate design or construction, backflow, blockage, leakage, inadequate maintenance, or any other factor within the control of the *developer* , the association, the owners or occupants of the properties;

The provisions of this section*shall* be incorporated into all conveyances of any part or all of the *development* , which incorporation *may* be by reference to the homeowners' declaration. Provided, however, the provisions of this Code section and all other provisions of the homeowners' declaration are applicable to the portions of the *development* conveyed and the owners thereof, whether or not any such provisions are incorporated into the conveying documents.

(16) The homeowners association*shall* be responsible for maintaining and replanting any shrub or tree located within any area designated on a recorded map of the properties as a landscape easement or similar designation. Association expenses for maintaining or replanting any shrub or tree located in a landscape easement or similar designation is a common expense. Whenever a slope easement co-exists, in whole or in part, within a designated landscape easement, and any future public improvement adjacent to the slope easement removes or causes any of the shrubs or trees within the slope easement to die or become "unhealthy" (as defined in Part 10 Chapter 2 of the Code), it *shall* be the responsibility of the association to replace the shrubs and trees in accordance with the minimum applicable quantity, size and spacing requirements of the *Code* within one-hundred eighty (180) days of completion of the public improvement. Within any area designated on recorded maps of the properties as a landscape easement or similar designation, no vegetation *shall* be removed without the prior written consent of the homeowners' association. But governmental entities *shall* not be required to obtain the consent of the association when working within slope easements, greenway easements or construction easements.

State law reference: North Carolina Planned Community Act, Chapter 47F General Statutes.

Cross references: Fourteen (14) day time period to provide *City* Planning Department proof of recordation of legal documents, §10-3014(c)(1). Other required legal documents by the *City* Code: unity of development, §10-2090; joint driveway agreements, §10-3042(a); stormwater devices that

serve more than one (1) *lot* , §10-5007(c) and §10-9027(b) and (c); encroachments on *City real property,* §12-1001; maintenance of stormwater control detention or retention devices in Reservoir Watershed Protection Overlay Districts in §10-5006(a)(11)d. (Ord. No. 2003-432, §29, TC-1-03, 4-15-03)

Prior to the filing of the final plat, the attorney of the*subdivider* who prepared the declaration of covenants and restrictions governing the *common areas* , the open space, maintenance of stormwater control measures and devices required by §10-9027, the homeowners association, and governing documents of the association *shall* certify in *writing* to the Raleigh *City* Attorney that the documents are in conformity with the provisions of the *City* Code and the conditions of approval of the *development* . Certifications *shall* be on forms approved by the Raleigh *City* Attorney and *may* include, at the discretion of the Raleigh *City* Attorney, provisions to be attached to and made a part of the declaration of covenants and restrictions. After the *City* Attorney or his/her deputy first either approves the certification or the legal documents for recording the declaration of covenants and restrictions governing the *common areas* , open space, maintenance of the stormwater control measures required by §10-9027, the homeowners association, party walls, and any annexation declaration that subjects additional land to the declaration *shall* be recorded in the office of the local *County* Register of Deeds. The legal documents *shall* be recorded promptly after the filing of the recording plat with the local *County* Register of Deeds, but all recordations must be completed prior to any conveyance or transfer of any portion of the *real property* shown on the final plat. Copies of the recorded legal documents *shall* be given to the Planning Department in accordance with the fourteen (14) day time period of §10-3014(c)(1).

Cross reference: Legal documents for*cluster unit developments* , §10-3071(b)(9).

(Ord. No. 1978-702-TC-75, §§1,2, TC-109, 2-20-79; Ord. No. 1980-528-TC-134, §§1-5, TC-D-80, 11-18-80; Ord. No. 1999-647-TC-185, §§11--14, TC-7-99, 10-6-99; Ord. No. 2005-897-TC-272, §§10, 29--35, TC-12-05, 9-20-05)

(c) Phasing.

Cluster unit developments , *townhouse developments* , *unit ownership (condominium) developments* , and manufactured home parks *may* be developed in sections or phases provided that all of the *following* are met:

(1) The entire project received approval with the preliminary*subdivision* plan. Phasing *may* be approved as part of the preliminary *subdivision* plan or *may* be approved subsequently by the administrative Development Plans Review Group. But nothing herein *shall* prohibit an unrecorded phase or section from containing inappropriate densities, setbacks, and off-street parking spaces and common open spaces provided any such phase or section at the time of its recordation is combined with other recorded phases or sections of the development so that the combined *properties* together conform to the density, setback, off-street parking and common open space requirements of this Code;

(Ord. No. 1985-621-TC-244, §3, TC-6-85, 8-11-85; Ord. No. 1991-713-TC-363, §23, TC-11-90, 2-1-91)

(2) The number of dwelling units in the recorded section or phase conforms to the density requirements for the zoning district; in the recorded section or phase, the buildings are located so that all setbacks, including perimeter protective yards, are met, and off-street parking requirements for the developed portion are observed. The amount of open space in the recorded section or phase is in accordance with §10-2103(d) and proportionate to the percentage of land being recorded; e.g. if twenty-five (25) per cent of the part to be developed is being recorded, then at least twenty-five (25) per cent of the minimum open space area and treescape requirements are being recorded. Any recorded portion*shall* conform to all the requirements of a legal *lot* ;

(Ord. No.1985-621-TC-244, §4, TC-6-85, 8-11-85; Ord. No. 1987-76-TC-302, §7, TC-23-87, 11-9-87;

Ord. No. 1999-616-TC-181, §99, TC-3-99, 8-3-99)

(3) The expenditures for required*subdivision* improvements in each phase or section bear a reasonable pro rata share to the entire development based on the number of dwelling units;

(Ord. No. 1985-621-TC-244, §5, TC-6-85, 8-11-85)

(4) Any residual portion*shall* conform to all the requirements of a legal *lot* , including its authorization as a subdivided *lot* ;

(5) In a*cluster unit development* , phasing and annexations *shall* be of sufficient size to allow for the efficient administration of this Code;

(6) The*following* information *shall* be included on the final plat in tabular form for the entire development approved, broken down by phase, and with a totals column that is cumulative for each *preceding* phase recording (for instance, the cumulative totals column will show the total of recorded phases 1 and 2 the total of recorded phases 1, 2, and 3 and so on until all phases are included):

a. Total number of*lots* (or units) approved.

b. Total number of*lots* (or units) recorded.

c. Total acres (gross) approved.

d. Total acres (gross) recorded.

e. Total acres of*right-of-way* approved.

f. Total acres of*right-of-way* dedicated.

g. Total acres (net) approved.

h. Total acres (net) recorded.

i. Total acres of open space approved.

j. Total acres of open space recorded.

k. Record book and page number of required legal declarations together with amendments and successive annexations thereto.

l. Applicable*City* *subdivision* file numbers.

m. Number of units transferred under any density transfer.

Cross reference: Phasing plans required, amendments: §10-3012(c)(3)

(Ord. No. 1985-621-TC-244, §7,8, TC-6-85, 8-6-85; Ord. No. 1991-713-TC-363, §§6, 28-29, TC-11-90, 2-1-91)

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00; Ord. No. 2005-897-TC-272, §19, TC-12-05, 9-20-05)

Sec. 10-3074. PRIVATE STREET STANDARDS IN CLUSTER UNIT, UNIT OWNERSHIP (CONDOMINIUM), GROUP HOUSING, AND TOWNHOUSE DEVELOPMENTS AND MANUFACTURED HOME PARKS.

Private*streets* *shall* comply with all of the *following* :

(a) General.

The private*street* is contained within the approved *cluster unit development* , unit ownership

(condominium) development, *group housing development* , townhouse development, or a manufactured home park.

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

(b) *Street* maintenance, construction and emergency access.

In no case*shall* the *City* be responsible for failing to provide any emergency or regular fire, police or other public service to any *cluster unit development* , unit ownership (condominium) development, *group housing development* , townhouse development, or manufactured home park or their occupants when such failure is due to lack of access to such areas due to inadequate design or construction, blocking of access routes, inadequate maintenance, or any other factor within the control of the *developer* , homeowners association, or occupants.

In no case*shall* the *City* or *the State* be responsible for maintaining any private *street* . Such responsibility *shall* rest with the homeowners association and occupants in that such private *streets* will not be constructed to the minimum standards sufficient to allow their inclusion for public maintenance.

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

State law reference: Similar provisions, *G.S.* 136.102.6(f)

(c) Homeowners documents--limitations on governmental responsibility.

In no case*shall* any approval, permit, or certificate granted for the use of any *cluster unit development* , unit ownership (condominium) development, *group housing development* , townhouse development, or manufactured home park be valid unless the homeowners association documents required by this Code or State law clearly indicate the limitations of governmental responsibility set forth in subsection (b) above and unless all conveyances made with respect to such *developments* indicate those limitations provided, however, the provisions of this section and all other provisions of the homeowners' declaration are applicable to the portions of the *development* conveyed and the owners thereof, whether or not any such provisions are incorporated into the conveying documents.

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00; Ord. No. 2005-897-TC-272, §36, TC-12-05, 9-20-05)

(d) Access through locked gates.

All private*streets* and drives with access limited by locked gates or similar devices must provide a pass-key and lock-box of a type, and at a location, and installed in a manner as *may* be required by the *City* Fire Department for the provision of emergency access. The *owner* , including homeowners association, *shall* maintain the lock-box, gate, and gate lock in a working order so as to insure accessibility by emergency personnel and vehicles. The *City* and other applicable governmental entities and their respective emergency personnel *shall* be granted *in writing* the right, without liability, to break the locked gate or such similar device when emergency personnel reasonably believe that doing so is necessary to save life, prevent serious bodily harm, put out a fire, to prevent a crime or to apprehend an apparent law breaker or to avert or control a public catastrophe.

(Ord. No. 2005-897-TC-272, §37, TC-12-05, 9-20-05)

(e) Private ***street*** **design and vehicular accommodation.**

(1) Design specifications.

Subject to the requirements of §§10-3020, 10-3031 and 10-3033(a), private*streets* will be permitted in the projects with the maintenance responsibility resting with the homeowners association. All private *streets* *shall* comply with the standards in the Street, Sidewalk and Driveway Access Handbook on file in the *City* Clerk's Office.

(2) Construction standards.

a. Pavement and base course design*shall* be in accordance with *City standards* for *street* construction of *residential streets* .

b. Storm drainage*shall* be approved by the *Chief Engineer* . All *streets* in reservoir watershed protection areas *shall* control its stormwater which directly or indirectly runs off the *street* in accordance with §10-3052(a).

(3) Parking.

Parking*lot* design must conform to the *City standards* for off-street parking set forth in §10-2081 and with the Street, Sidewalk and Driveway Access Handbook on file in the *City* Clerk's office.

Cross reference: Parking on private collectors for group housing and*townhouse developments* , §10-2103(c)(5) and (6).

(4) Traffic flow.

It*shall* be the responsibility of the homeowners association to establish speed limits and to maintain uninterrupted traffic flow along all private *streets* within the project. If it is necessary for "no parking" signs to be erected, for *street* lights to be installed, for repairs to be made, or towing of vehicles to be undertaken, this is all to be done at the expense of the homeowners association.

(5) Street signage.

All*streets* and drives must contain identification required in §10-2083.1(c)(1) of this Code.

(6) Sidewalks.

Sidewalks in accordance with the Street, Sidewalk and Driveway Access Handbook, on file in the*City* Clerk's office.

(7) Turning movements.

The network of private*streets* *shall* be designed to accommodate turning movements of garbage trucks, moving vans, emergency and other service vehicles.

(8) Driveways.

All private driveway widths must be in conformance with §10-7001 of this Code.

(Ord. No. 1989-440-TC-345, §33, TC-3-89, 10-3-89; Ord. No 1991-879B-TC-385, TC-12B-91 §§34-37, 11-19-91; Ord. No. 1998-370-TC-167, §39, TC-3-98, 7-7-98)

Secs. 10-3075--10-3080. RESERVED.

ARTICLE E. FEES

Sec. 10-3081. FEE SCHEDULE.

In order to partially cover the cost to the*City* of checking the specifications of the proposed *subdivision* and *site plan* relative to the *Comprehensive plan* of the *City,* all standards, regulations and policies as stated in this *Code* , other actions of the governing body of the *City* , checking the specifications of plat recordings relative to the adequacy of utility lines, the location and width of *streets,* as they relate to the general street plan of the *City* , and the engineering inspections to see

that the final plat conforms to the ordinances of the *City* and that construction is carried out in conformity with the preliminary *subdivision plan* and construction plans, each *subdivision* and *site plan* to be reviewed and each plat to be recorded and recombination by recorded instrument must be accompanied by the following applicable fee, payable to the *City* . If a development plan qualifies as a *subdivision* as well as an *infill project* or a preliminary *site plan* or *group housing development* per §10-2132.2(g), only one fee *shall* be charged based on the highest applicable fee.

Comprehensive Plan Amendment . . . $500.00

Preliminary Subdivisions per set of submitted plans

Subdivisions on l *ots* less than 2 acres . . . 250.00

Subdivisions on *lots* between 2 and 4 acres . . . 750.00

Subdivisions on *lots* greater than 4 acres . . . 1,500.00

Infill subdivision for 3 or fewer lots . . . 250.00

Infill subdivisions for 4 or more lots . . . 500.00

Group housing development . . . 750.00

Re-review fee (initial application fee includes 2 same fee as reviews) . . . Same fee as stated above

Post-approval name change petition . . . 50.00

Sunset extension letter . . . 50.00

Construction plan review . . . . . except for the $200.00 for utility main extensions authorized in Section 8-2061, $150.00 per submitted construction plan set plus

- ten cents ($0.10) for each linear foot of installed public and private street shown on the plan

Construction mylar, per mylar set submitted . . . 150.00

Engineering field inspection of public facilities

Per linear foot of for each inspected public street . . . 1.00

Per linear foot of for each inspected public water main . . . 1.00

Per linear foot of for each inspected public sewer main . . . 1.00

Cross reference: Closed circuit television inspection required, §8-2040.

Plat recordation per set of submitted plats

Recombination plat or other recorded instrument . . . 200.00

Final*subdivision* plat . . . 200.00 plus $10.00 per lot

Exempt subdivision plat . . . 200.00

Boundary survey plat . . . 100.00

Right-of-way or easement plat . . . 100.00

Street Name Change . . . 250.00

Street Right-of-Way Closure . . . 250.00

All the fees appearing on the fee schedule above will be adjusted annually on July 4th based on the average annual prior calendar year United States Department of Labor Consumer Price Index--All Urban Consumers.

No fee will be charged for*right-of-way* and easement plats recorded by governmental bodies and

agencies.

(Ord. No. 2006-104-TC-293, §16, TC-18-06, 10-3-06; Ord. No. 2007-165-TC-299, §§3--5, TC-1-07, 2-6-07)

State law reference: 1997 Session laws chapter 450, the Wake County Public School System and nonpublic schools of Wake County with 20 or more students qualified under*G.S.* 115C-555 are exempt from development charges.