

ARTICLE 6. SUBDIVISION REGULATIONS

Summary: This article establishes procedures for the subdivision of land. Included are requirements for the division of land into a subdivision, as defined in appendix A of this ordinance, as authorized by G.S. §§ 160A-371 to 160A-376. This article of the UDO shall officially be known, cited and referred to as the Subdivision Regulations of the County of Lee.

6.1. General.

6.1.1. *Purpose.* As required by G.S. §§ 153A-330 to 153A-339 and 160A-371 to 160A-376, the purpose of establishing this article is:

- 6.1.1.1. To provide for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities.
- 6.1.1.2. Within larger subdivisions, to provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or for provision of funds to be used to acquire recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area.
- 6.1.1.3. To provide rights-of-way or easements for street and utility purposes including the dedication of rights-of-way pursuant to G.S. §§ 136-66.10 or 136-66.11.
- 6.1.1.4. To provide for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and the general welfare.
- 6.1.1.5. To provide that the final plat show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice.

6.1.2. *Applicability.* This article shall apply to any subdivision, as defined in appendix A of this ordinance, within the unincorporated area of Lee County and the corporate limits of the City of Sanford and Town of Broadway or any extraterritorial jurisdiction established pursuant to G.S. § 160A-360. Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of this ordinance. However, all existing preliminary plats that were approved under the prior ordinance shall remain valid unless or until the approval expires.

6.1.3. *Authority and jurisdiction.*

- 6.1.3.1. The planning commission is vested with the authority to review, approve, conditionally approve and disapprove applications for preliminary plats (see Table 6-1, below).
- 6.1.3.2. *Department of community development.* The department of community development, administrator or his designee is vested with the authority to review and approve sketch plats and to approve, conditionally approve and disapprove applications for minor plats (minor subdivisions) and/or final plats (major subdivisions) (see Table 6-1).
- 6.1.3.3. *Department of public works.* The department of public works is vested with the authority to review and approve construction plans, subdivision improvement agreements, and maintenance bonds (see Table 6-1).
- 6.1.3.4. *City council, county commission, or town board of commissioners.* The governing body is vested with the authority to accept all public dedications including, but not limited to right-of-way, easements, park facilities, and open space.

6.1.4. *When a subdivision plat is required.*

6.1.4.1. From and after the effective date of this ordinance, the owner or proprietor of any tract of land who desires to subdivide land (to create a "subdivision") shall be required to submit a plat of such subdivision to the department of community development, who is hereby charged with the responsibility for coordinating the processing of such plats. The subdivision plat submitted to the department of community development must be prepared in accordance with the regulations set forth in this article.

6.1.4.2. No person shall subdivide land without making and recording a plat and complying fully with the provisions of this article and all other state and local laws and regulations applying to subdivisions.

6.1.4.3. No person shall sell or transfer ownership of any lot or parcel of land by reference to a plat of a subdivision before such plat has been duly recorded with the register of deeds, unless such subdivision was created prior to the adoption of this ordinance and any other subdivision ordinance applicable thereto.

6.1.4.4. No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of this ordinance, and no construction of any public or private improvements shall be commenced, except in conformity with the requirements of this ordinance.

6.1.4.5. A final subdivision plat shall be approved by the department of community development before the subdivision of a parcel may be recorded. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the department of community development in accordance with these regulations, except that which is permitted within subsection 6.1.5, below.

6.1.5. *When subdivision plat approval is not required.* Pursuant to G.S. §§ 153A-335 and 160A-376, a subdivision plat shall not be required for any of the following (see definition of "Subdivision" in Appendix A):

6.1.5.1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County of Lee as shown in this ordinance;

6.1.5.2. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.

6.1.5.3. The public acquisition by purchase of strips of land for the widening or opening of streets.

6.1.5.4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in this ordinance.

6.1.6. *Recordation of unapproved plat prohibited.* The register of deeds shall not file or record any subdivision plat required by this ordinance until such plat shall have been approved, and such approval evidenced thereon, in accordance with the regulations set forth in this article.

6.1.7. *Sale of property in violation of this ordinance prohibited.* No land described in this section shall be subdivided or sold, or transferred until each of the following conditions has occurred in accordance with these regulations:

6.1.7.1. The subdivider or his authorized agent has submitted a conforming sketch plat of the subdivision to the department of community development; and

6.1.7.2. The subdivider or his authorized agent has obtained approval of the sketch plat, a preliminary plat (when required), and a final plat as provided in this article; and

6.1.7.3. The subdivider or his authorized agent files the final plat with the register of deeds.

6.1.8. *Classification of applications.* Before any land is subdivided, the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the procedures established in this article 6.

6.1.9. *Coordination of flexible zoning applications with subdivision approval.* An application for a site plan (section 3.6) or a conditional use district (section 3.4) may be initiated concurrent with the initiation of an application for approval of a preliminary subdivision plat.
(Ord. of 9-19-2005)

6.2. Minor subdivisions.

6.2.1. *Minor subdivision defined.*

6.2.1.1. *City of Sanford.* The City of Sanford, including the ETJ, defines a minor subdivision as any subdivision which contains not more than six lots with frontage on an existing publicly-maintained street, and does not involve the extension of any public or private street for access to interior property; does not involve the extension of public water, sewer, or other public improvements; does not adversely affect the remainder of the parcel or adjoining property; or require an exception from any requirement of this ordinance.

6.2.1.2. *Lee county and the Town of Broadway.*

6.2.1.2.1. Lee County and the Town of Broadway, including the ETJ, defines a minor subdivision as either of the following:

- (a) Any subdivision which contains not more than six lots with frontage on an existing publicly-maintained street, and does not involve the extension of any public or private street for access to interior property; does not involve the extension of public water, sewer, or other public improvements; does not adversely affect the remainder of the parcel or adjoining property; or require an exception from any requirement of this ordinance.
- (b) Any subdivision which contains not more than three lots, and does not involve the extension of any public or private street for access to interior property; does not involve the extension of public water, sewer, or other public improvements; or require a variance from any requirement of this ordinance, provided that:
 - No lot is less than the required minimum lot size of the respective zoning district.
 - Access to interior lots is provided by a perpetual, private access easement, which has a minimum width of 30 feet, and connects directly to an existing publicly maintained road.
 - Each lot fronts or abuts the private access easement or an existing, publicly maintained road.
 - No more than three lots are created along the 30-foot easement.

6.2.1.2.2. Any property which was included as part of a minor subdivision under either of the options as set forth in subsection 6.2.1.2.1 shall be limited to a maximum cumulative total of six lots, including the parent tract.

6.2.2. *General submission requirements.*

6.2.2.1. Only a final plat is required for approval of a minor subdivision.

6.2.2.2. Applications for final plat approval shall be submitted to the administrator for completeness review. appendix B outlines the information that is to be submitted with an application for any type of subdivision plat. The administrator shall determine whether the application is complete and complies with the submission requirements set forth in appendix B. If the application is incomplete or the submission requirements have not been complied with, the administrator shall so notify the applicant, specifying the deficiencies. Incomplete and/or non-compliant submissions shall not be processed.

6.2.2.3. The administrator shall render a determination as to whether the plat is approved, approved with conditions or denied pursuant to section 6.2 of this ordinance and G.S. §§ 153A-331 and 160A-372. If disapproved, the administrator shall advise the subdivider of such action and shall indicate the reasons for denial.

6.2.3. *Recording a final plat.*

6.2.3.1. Within 90 days of final plat approval, the applicant shall file the plat with the register of deeds as provided by law. The final plat approval shall expire within the above-referenced time period, unless the administrator has granted an extension. The administrator may grant up to two extensions of final plat approval, each of up to six months. Failure to record the final plat within the time frame noted shall cause the final plat approval to be void. the applicant shall return a reproducible (mylar) copy of the recorded plat to the office of the administrator.

6.2.3.2. As required by G.S. § 47-30.2, a plat to be recorded shall be submitted to a review officer before the map or plat is presented to the register of deeds for recording. The review officer shall certify the map or plat if it complies with all statutory requirements for recording. A certification shall be substantially similar to that found in appendix B. The register of deeds shall not accept for recording any map or plat required to be submitted to the review officer unless the map or plat has the certification of the review officer affixed to it.

(Ord. of 9-19-2005)

6.3. Major subdivisions.

6.3.1. *Major subdivision defined.* A major subdivision is defined as any subdivision which is not classified as a minor subdivision including, but not limited to (1) subdivisions of six or more lots; or (2) any size subdivision which requires the extension of a public or private street; or (3) any size subdivision which requires the extension of public water, sewer or other public improvements; or (4) any size subdivision which requires an exception from the requirements of this ordinance. The following steps are required:

- Sketch plat
- Preliminary plat
- Final plat

6.3.2. *Sketch plat submission requirements.*

6.3.2.1. *Purpose.* The sketch plat approval process and preapplication conference provides an opportunity for the applicant to present its basic concept to local planning officials and receive their input, suggestions and concerns. This procedure permits the developer to go before the department of community development with the description, but not full engineering details of the project. The sketch plat lays out the approximate location of existing features and planned construction and provides ownership information. Because of the preliminary and summary description of the development, the sketch plat does not permit development. However, the developer is given the opportunity to learn of suggestions which can be incorporated into the formal preliminary plan application without incurring significant expenditures.

6.3.2.2. *Initiation.* The applicant shall schedule an appointment and meet with the department of community development to discuss a sketch plat. The department of community development shall also advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. If the plat is to be submitted in two or more phases, a master plan shall be submitted which shows the sketch plat and preliminary plat for the entire subdivision.

6.3.3. *Preliminary plat.*

6.3.3.1. *Purpose.* The preliminary plat application involves an examination of the proposal in much greater detail than at the sketch plat stage, since this stage determines whether the project will be approved, and if so, the conditions that will be required. Preliminary plat approval is the key discretionary decision-making point in the approval process. The applicant is required to submit, as applicable, detailed information as to all aspects of the development, including street layout, preservation of natural site features, and recreational and parking facilities, in order to assure that the decision-makers and all parties interested in the project have the opportunity to review all significant facets of the project.

6.3.3.2. *Applicability.* Approval of a preliminary plat is required for any tract where the eventual platting of the property involves a major subdivision. No final plat shall be approved until a preliminary plat for the property has been approved.

6.3.3.3. *Initiation.* After the department of community development has approved a sketch plat for a major subdivision, then the subdivider may file an application for approval of a preliminary plat. The application shall be filed with the department of community development.

6.3.3.4. *Decision.*

- (a) After the application for preliminary plat approval is certified as complete, the department of community development shall place the plat on the agenda of the next regularly-scheduled meeting of the appropriate local planning board.
- (b) The department of community development shall refer copies of the plat and any accompanying material to those public officials and agencies concerned with new development, including, but not limited to, the building inspector, Lee County Health Department, Lee County School Board, the district engineer of the North Carolina Department of Transportation, the appropriate county soil conservation service office, and any consulting engineer retained by the jurisdiction, for review and recommendation. Such agencies may review and comment as to whether the application satisfies the requirements of this ordinance or any other requirements of state or federal law applicable to subdivision plats. A preliminary plat shall not be placed on the local planning board agenda until it has been deemed complete by the department of community development.
- (c) The planning board shall review and take action on each preliminary plat. The planning board shall approve, disapprove, or conditionally approve the application for a preliminary plat subject to the following:
 - Approval shall be noted on at least two copies of the preliminary plat. One copy shall be retained by the community development department, and one copy shall be given to the subdivider.
 - If the preliminary plat is disapproved, the minutes shall specify the reasons for such action in writing. One copy of such reasons shall be retained by the local planning board, and one copy of such reasons shall be given to the applicant. If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat.
 - If the preliminary plat is conditionally approved, the minutes shall specify the reasons for such action in writing. One copy of such reasons shall be retained by the planning commission, and one copy of such reasons shall be given to the applicant. If the preliminary plat is conditionally approved, the subdivider may make the recommended changes and submit a revised preliminary plat to the administrator for review.
 - A timely decision of the planning board to approve, disapprove, or conditionally approve the application for a preliminary plat shall be considered final and shall be referred to the appropriate governing body for review.

- (d) The preliminary plat shall then be transmitted to the governing body for consideration at their next regular meeting. A timely decision of the governing body to approve or disapprove, the application for a preliminary plat shall be considered final.

6.3.3.5. *Scope of approval.*

6.3.3.5.1. Approval of the preliminary plat by the governing body shall allow a subdivider to proceed with the preparation of the final plat.

6.3.3.5.2. Approval of the preliminary plat by the governing body without approved construction plans shall not constitute the necessary approval for submittal of the final plat.

6.3.3.5.3. Should the plat be approved subject to conditions or labeling corrections, the plat shall be revised and resubmitted to the department of community development with all corrections within 60 days of the governing body's approval. Failure to return a corrected plat within this time period shall constitute a violation. Additionally, no final plat may be approved until a corrected copy of the preliminary plat has been filed with the department of community development.

6.3.3.5.4. The preliminary plat shall serve as a guide in the preparation of the final subdivision plat, which must be submitted for final approval and recordation upon fulfillment of the requirements of this article.

6.3.3.5.5. The preliminary plat shall be valid for two years after its final approval. A preliminary plat shall become void if a final plat is not approved within this time period. Final approval of a phase or portion of a preliminary plat shall re-establish the effective date for measuring the time period of a preliminary plat approval.

6.3.3.6. *Revising approved preliminary plat.*

6.3.3.6.1. *Minor amendments.* The department of community development shall have the authority to approve the following deviations from an approved preliminary plat:

- A change in the location of not more than ten percent of the number of lots;
- A change in the location of any part of open space acreage by not more than ten percent of the gross acreage of the proposed subdivision; or
- A change in the location of any part of proposed street alignment and lot configuration of more than ten percent of the gross acreage so long as the number of external access points is not decreased and the minimum street connectivity ratio as set forth in article 10 is maintained.
- Changes to within parcel boundaries which do not affect external property lines.

6.3.3.6.2. *Major amendments.* All other changes to an approved preliminary plat that do not meet the standards of this section shall require the filing and approval of a new preliminary plat.

6.3.3.7. *Phasing of preliminary plat.*

6.3.3.7.1. A preliminary plat may be approved with multiple phases where it is the intent of the landowners to proceed to final plats covering only a portion of the tract at any one time.

6.3.3.7.2. For each approved phase, the developer shall have up to two years to submit the final plat for that respective phase.

6.3.3.7.3. The applicant may submit for an extension of the approved phase beyond the two year limit. Application shall be made to the department of community development for forwarding and review by the planning commission at their next regular meeting.

6.3.4. *Final plat.*

6.3.4.1. *Purpose.* This section establishes procedures for the administrative approval of final plats. The purpose of a final plat is to ensure that all the conditions attached to preliminary approval (in the case of a major subdivision) and this ordinance (in the case of major or minor subdivisions) are complied with. This section also permits a subdivider to take necessary actions to prepare maps, plats and documents, post a performance bond, and perform other minor acts. This section does not permit the department of community development to attach new conditions to final approval or to deny final approval for reasons not presented during preliminary approval.

6.3.4.2. *Applicability.* There shall be a final plat for each subdivision which receives preliminary plat approval. No final subdivision plat shall be recorded until a final plat has been approved as provided in this section.

6.3.4.3. *Initiation.* The materials required by appendix B shall be submitted to the department of community development for a determination as to whether it complies with the approved preliminary plat. The subdivider may submit final plat copies for only that portion of the approved preliminary plat which is proposed for recordation and development at that time, if such portion conforms to all requirements of this article. The final plat shall conform to the approved preliminary plat. Any deviation from the approved preliminary plat which does not constitute a minor amendment as set forth in subsection 6.4.3.7 shall require additional review and approval by the planning commission.

6.3.4.4. *Decision.*

6.3.4.4.1. Upon submittal of the copies of the final plat and other required materials, the department of community development shall review the application for completeness and shall initiate and coordinate review by affected local and state agencies in order to determine substantial compliance with the approved preliminary plat and general compliance with the provisions of this ordinance and other applicable laws and regulations.

6.3.4.4.2. The final plat and related materials shall be approved or disapproved by the department of community development. Approval shall be in the form of a written letter to the subdivider (or contact person as listed on the application) advising that the final plat meets all requirements of this ordinance and that the original final plat may be submitted to the department of community development.

6.3.4.4.3. Upon receipt of all necessary signatures of the final plat, the applicant shall record it with the register of deeds.

6.3.4.4.4. Except as provided in subsection 6.4.6 (Subdivision improvement agreements), all applicants shall complete, all street, sanitary, and other public improvements of the subdivision as required by this ordinance before the final plat is recorded. Such public improvements shall be accepted by the department of community development, the department of public works (within the incorporated area and ETJ of the city), the North Carolina Department of Transportation (as applicable), and any other agency with jurisdiction to review and inspect such improvements.

6.3.4.4.5. The final subdivision plat application shall be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks, and easements, in a form approved by the respective attorney; and the subdivision plat shall be marked with a notation indicating the formal offers of dedication as provided in appendix B.

6.3.4.4.6. Whenever a subdivider applies for approval of a final plat which contains only a portion of the land encompassed in the approved preliminary plat and which includes required open space, the subdivider shall either apply for dedication of the land as included in the phase or provide a financial contribution which is proportional to the population expected to reside in the area of the final plat. The financial contribution shall be calculated in the same manner as set forth in subsection 6.5.4 of this ordinance.

6.3.4.5. *Recording a final plat.* The applicant shall file the plat with the register of deeds as provided by law within 90 days after final approval. The final plat approval shall expire within the above-referenced time period, unless the department of community development has granted an extension. Failure to record the final plat within the time frame noted shall cause the final plat approval to be void, and shall require a new application. The applicant shall return a reproducible (mylar) copy of the recorded plat to the office of the department of community development.

6.3.5. *Subdivision improvement agreements.*

6.3.5.1. *Completion of improvements.*

6.3.5.1.1. The department of community development may delay the requirement for the completion of required improvements prior to recordation of the final plat if the applicant enters into a subdivision improvement agreement by which the applicant agrees to complete all required on-site and off-site public improvements no later than one year following the date upon which the final plat is recorded. Such period may be extended for up to an additional six months upon its expiration upon approval by the appropriate governing body. The applicant shall bear the responsibility to prepare a subdivision improvement agreement. The City of Sanford, Town of Broadway, or Lee County Attorney shall approve any subdivision improvement agreement as to form.

6.3.5.1.2. At the discretion of the department of public works, the department of public works may enter into a subdivision improvement agreement with the applicant for a development containing multiple final plats concerning the timing and sequence of roadway, water, wastewater, drainage, public school, and park or open space dedication and improvements. Notwithstanding any provision in this ordinance to the contrary, the subdivision improvement agreement shall determine the time when the required improvement or dedication for multiple final plat developments shall occur.

6.3.5.2. *Performance security.*

6.3.5.2.1. Whenever the department of public works permits an applicant to enter into a subdivision improvement agreement. The applicant shall provide sufficient security to ensure completion of the required public improvements. The security shall be in the form of an irrevocable letter of credit, cashiers check or a surety bond.

6.3.5.2.2. The letter of credit, cashiers check or surety bond shall be in an amount approved by the department of public works as reflecting 125 percent of the cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the subdivision improvement agreement.

6.3.5.2.3. In addition to all other security, when the County of Lee participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the County of Lee as a co-obligee.

6.3.5.2.4. The issuer of any surety bond shall be subject to the approval of the County of Lee attorney and the department of public works.

6.3.5.2.5. If security is provided in the form of a cash escrow, the applicant shall deposit with the Finance Department of Lee County, the Town of Broadway, or the City of Sanford, as applicable, a cash amount or certified check in an amount not less than the amount specified by the department of public works.

6.3.5.2.6. The surety bond or cash escrow account shall accrue to the County of Lee for administering the construction, operation and maintenance of the improvements.

6.3.5.2.7. Where oversized facilities are required, the department of public works and applicant shall specify a reimbursement procedure in the subdivision improvement agreement.

6.3.5.3. *Release of performance security.* Upon completion of all improvements as covered by the subdivision improvement agreement, the department of public works (or his/her designee) shall inspect the work. If the department of community development determines that the work is satisfactory and complete, the letter of credit, cash escrow, or surety bond shall be released.

6.3.5.4. *Failure to complete improvements.* If a subdivision improvement agreement has been executed and security has been posted and required public improvements are not installed pursuant to the terms of the agreement, the department of public works may:

- Declare the agreement to be in default 30 days prior to the expiration of the guarantee instrument, and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
- Obtain funds pursuant to the surety and complete the public improvements by itself or through a third party;
- Assign its right to receive funds pursuant to the surety in whole or in part to any third party, including a subsequent owner of the subdivision or addition for whom the public improvements were not constructed, in exchange for the subsequent owner's agreement to complete the required public improvements; and/or
- Exercise any other rights available under the law.

6.3.5.5. *Maintenance guarantee.*

6.3.5.5.1. The applicant shall guarantee the improvements against defects in workmanship and materials for a period of one year from the date of acceptance of such improvements.

6.3.5.5.2. The applicant shall construct and pay for all costs of temporary improvements required by the department of public works and shall maintain said temporary improvements for the period specified by the department of public works.

6.3.5.5.3. Thirty days prior to the expiration of the maintenance guarantee instrument, if any defects in workmanship and/or materials are not repaired to the satisfaction of the department of public works, the subdivider shall be required to make all necessary repairs immediately.

6.3.6. *Subdivision exceptions.*

6.3.6.1. Subdivision exceptions shall be available only for major subdivisions in conjunction with the application for preliminary plat approval.

6.3.6.2. Where the planning board and governing body finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve exceptions to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that the exception shall not have the effect of nullifying the intent and purpose of these regulations.

6.3.6.3. All such exceptions shall be approved by the governing body, upon recommendation from the planning board, as part of the preliminary plat approval.

(Ord. of 9-19-2005)

6.4. **Reserved.**

Editor's note—An ordinance adopted on May 7, 2007, deleted § 6.4 in its entirety. Former § 6.4 pertained to cluster subdivisions and derived from an ordinance adopted on Sept. 19, 2005.

6.5. Open space standards.

6.5.1. *Purpose.* The provisions of this section require new development to provide open space. The provision of accessible open space, and the preservation of resource lands, provide the following benefits for landowners, applicants, and the community:

- Protection of property values;
- Protection of public health by the provision of recreational opportunities and opportunities for exercise and participation in community activities;
- Protection of health and safety through flood control, protection of water supply, cleansing of air, and separation from hazards;
- Protection of environmentally sensitive areas and natural systems such as wetlands, marshes, streams, rivers, and wildlife diversity and habitat;
- Provision of boundaries between incompatible uses and edges from continuous development;
- Protection of water quality by the retention of existing vegetation and soils;
- The long-term stabilization of property tax rates by providing higher quality development; and
- Minimizing traffic congestion by providing for recreational opportunities within walking distance of new homes and businesses.

This section implements the following provisions of the land use plan:

- Provide adequate and accessible park and recreation facilities (Parks, recreation and open space, Goal 1)
- Achieve quality growth in the community (Land use, Goal 2)
- Provide long term quality development and attractive public space (Urban design, Goal 2)
- Preserve stream valleys for open space corridors and passive recreation (Environmentally-sensitive areas, Goal 1)

6.5.2. *Applicability.*

6.5.2.1. Open space as set forth in this section 6.5 shall be required only for major subdivisions or multi-family developments which are located within a R-6, R-10, R-12SF, R-12, R-14, MF-12, or PUD zoning district and include 100 or more cumulative lots/dwelling units. Open space within a traditional neighborhood development (TND) shall be governed as set forth in section 4.10 of this ordinance.

Development within all other zoning districts other than those listed above shall be exempt from required open space.

6.5.2.2. For the purposes of this section, "cumulative lots/dwelling units" shall include the total number of lots or dwelling units as created within any single or multi-phased development or subdivision. Multiple developments that are adjoining one another and are developed under the same general ownership shall be considered as cumulative.

6.5.2.3. *Exemption.* Major subdivisions or multi-family developments located within one-half mile from an existing or planned public park (or a public school with recreation facilities accessible to the general public) are exempt from the open space requirements. For purposes of this section, a "planned public park" means a park which is included in a capital improvements program or capital budget of the County of Lee, Town of Broadway, or City of Sanford.

6.5.2.4. The amount of open space to be reserved shall be the percentage of gross land area as set forth below:

<i>Total Number of Lots and/or Dwelling units</i>	<i>Total Amount of Open Space</i>
0—99	Not required
100—249	5%
250+	10%
Note: A maximum of fifty percent (50%) of the total required Open Space area can be within a FEMA designated Floodway. There is no limit on the amount used within a floodway fringe ("floodplain") area.	

For the purposes of this section, "gross land area" shall include the total amount of acreage as included within an undeveloped tract or group of parcels as planned or platted for development.

6.5.3. *Access to open space.* All areas to be preserved for open space shall be accessible to pedestrians by one of the following:

- Frontage (width as required in this section) on a public street right-of-way; or
- A recorded pedestrian easement at least 15 feet wide; or
- Fee simple property.

6.5.4. *Fees in lieu of open space.*

6.5.4.1. In lieu of land dedication, the planning commission may permit the subdivider to contribute a cash payment to Lee County. The value of such payment shall be the pre-development tax value for the amount of dedicated land from the parcel for which the open space is being reserved as required under subsection 6.5.2 and the cash value of the minimum required improvements for the particular category of parks or open space. The specified contribution shall be determined by the tax value at the time final plat approval is granted. Such tax value shall consider zoning district changes that occur at any time up until final plat approval. Tax deferrals of any kind shall not be used in the calculation of the fees.

6.5.4.2. If, at the option of the planning commission it is determined that a cash dedication shall be made, said cash shall be paid to the finance department of Lee County, and shall be deposited into a special parks and recreation service area fund prior to final plat approval. Money in the fund, including accrued interest, shall be expended solely for acquisition, development or rehabilitation of park land or improvements related thereto.

6.5.4.3. Collected fees shall be appropriated by Lee County for a specific project to serve residents of the subdivision in a budgetary year within seven years upon receipt of payments or within seven years after the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not so committed, these fees shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lots bears to the total area of all lots in the subdivision.

6.5.5. *Connection to existing public parks, open space and/or greenways.* The department of community development shall require connection to a community parks and/or open space network and/or trails system (greenways) if the proposed development is adjacent to the boundary of a park and/or open space area as included in a parks or open space plan adopted by the County of Lee which specifically recites this section. The open space/trail system shall be maintained by the applicant or subsequent owners provided, however, that the applicant may request to publicly dedicate any trail specifically delineated in the plan.

6.5.6. *Maintenance.*

6.5.6.1. *Generally.* Land designated as open space shall be maintained as a park or open space and may not be separately sold, subdivided, or developed except as provided below.

6.5.6.2. *Open space maintenance plan required.* Any areas reserved as parks or open space shall be indicated on a preliminary and/or final subdivision plat. An open space maintenance plan shall be submitted as a part of the application for development approval including the project phasing schedule. This plan shall designate and indicate the boundaries of all open-space areas required by this ordinance. The plan shall:

- Designate areas to be reserved as open space; and
- Specify the manner in which the open space shall be perpetuated, maintained, and administered.

6.5.6.3. *Maintenance requirements.*

6.5.6.3.1. Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved, and maintained by any of the following mechanisms or combinations thereof:

6.5.6.3.2. Dedication of open space to the County of Lee, an appropriate public agency, or a non-profit entity (such as a land conservancy) if such an agency or entity is willing to accept the dedication and is financially capable of maintaining such parks and/or open space.

6.5.6.3.3. Common ownership of the open space by a property owner's association which assumes full responsibility for its maintenance. The restrictive covenants shall provide that, in the event the homeowner's association fails to maintain the open space according to the standards of this ordinance, the County of Lee may, following reasonable notice:

- Demand that the maintenance deficiency be corrected; or
- Enter the open space to maintain same.

The cost of such maintenance shall be charged to the homeowners association.

(Ord. of 9-19-2005)

6.6. **Lot design standards.**

6.6.1. *Applicability.*

6.6.1.1. The provisions of this section 6.6 shall apply to any newly created or proposed lot or parcel resulting from a subdivision of land as provided for this article.

6.6.1.2. All newly created lots shall meet or exceed the zoning district dimensional standards of section 4.7 and shall be designed for their potential uses, so that adequate buildable area is provided and adequate room for required setbacks (see section 4.7) and buffer yards (see article 7) will exist on the lot.

6.6.2. *Corner lots.*

6.6.2.1. Side lot lines of lots abutting a public or private right-of-way shall, to the extent practicable:

- Run at right angles to the right-of-way line, or
- In the case of cul-de-sacs or curvilinear street right-of-ways, radial to the curve.

6.6.3. *Lot frontage requirements.*

6.6.3.1. Unless otherwise permitted herein, every lot resulting from a subdivision of land as provided for in article 6 of this ordinance shall abut and have direct access to a publicly maintained street or other public right-of-way legally dedicated, except as provided in this section.

6.6.3.2. For proposed subdivisions with frontage on an arterial or collector street, the maximum number of lots to be created shall be limited to six lots. Any proposed subdivision proposing more than five lots shall require the additional lots to be served by a newly constructed internal public street.

6.6.3.3. Frontage on a public street shall not be required in the following situations; provided, however, that an easement providing access to the public street shall be recorded and substituted with the application for development approval:

- Minor subdivisions in which a private access easement is permitted pursuant to section 6.2 of this ordinance.
- Outparcel lots within nonresidential subdivisions;
- Townhouse or rowhouse lots where the individual lots are separated from a public right-of-way by a strip of land under common ownership by the owners of the lots;
- Lots fronting on approved private shared driveways/roadway as part of an approved conditional zoning (planned development).

6.6.4. *Cul-de-sac lots.*

6.6.4.1. A lot located on a cul-de-sac shall provide:

- A minimum lot frontage of at least 35 feet;
- A minimum lot width of 60 feet at the building line; and
- A lot area equal to or greater than the minimum lot area.

6.6.5. *Public utility lots exempt.*

6.6.5.1. Lots to be created for the express purposes of public utilities, using land or an unoccupied building of generally less than 2,500 square feet of site area, are exempt from minimum lot standards of this ordinance. Exempted utility lots which exceed 2,500 square feet may be permitted subject to review and approval by the administrator.

(Ord. of 9-19-2005)

6.7. Street design standards.

6.7.1. *Street design.*

6.7.1.1. *Continuation of streets.* Where necessary to provide access or to permit the reasonable future subdivision of adjacent land, rights-of-way shall be extended to the boundary of the development. A temporary turnaround may be required where the dead end exceeds 500 feet in length. The platting of partial width rights-of-way shall be prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated or established by other means.

6.7.1.2. *Access.*

6.7.1.2.1. Secondary access shall be provided for major residential subdivisions of 30 or more lots.

6.7.1.2.2. All exterior points of access streets should be designed so as to avoid hazard areas such as floodways.

6.7.1.3. *Sight distance and site triangles.* Sight distance and site triangles shall comply with the North Carolina Department of Transportation, Subdivision Roads — Minimum Construction Standards (July 1, 1985), G.2 and Figures 3 and 4 in the unincorporated area of the county, and with the public work's Policy Manual (Chapter 3) in the incorporated areas of Lee County.

6.7.1.4. *Cul-de-sac streets.*

6.7.1.4.1. Cul-de-sacs shall be subject to the same design guidelines as local roads, above, except as modified herein.

6.7.1.4.2. The radius for the circular terminus, or turnaround, shall be not less than 40 feet. If the radius exceeds 50 feet, an island may be planted in the center of the turnaround. The island shall have a minimum radius of ten feet.

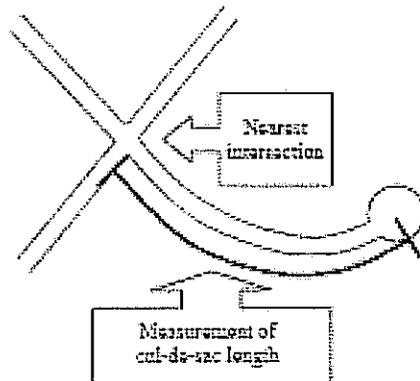
6.7.1.4.3. The length of a cul-de-sac street shall be measured from the center of the cul-de-sac terminus to the first point of an intersection. Except as allowed in subsection 6.7.1.4.4, In no event shall the cul-de-sac exceed the lengths set forth in Table 6.7-1 below.

TABLE 6.7-1 Maximum Length for Cul-de-sac Streets

Average Lot Size*	Maximum Length (in feet)
20,000 sq. ft. or greater	1,000
Less than 20,000 sq. ft.	600

* Average lot size shall be determined by calculating the average of all the lot sizes as proposed within a subdivision.

FIGURE 6.7-1 Example of how a cul-de-sac street is measured.



6.7.1.4.4. *Exemption to maximum cul-de-sac length.* A subdivision which is designed to include only one street which is terminating in a cul-de-sac may be allowed to exceed the maximum length as stated in subsection 6.7.1.4.3 provided certain physical conditions exists which prohibit the logical or practical extension of additional streets. The planning board shall make this determination as part of their review of an application for preliminary subdivision plat approval.

6.7.1.5. *Curb and gutter.*

6.7.1.5.1. New single-family residential subdivisions composed of lots with a minimum lot size of less than 20,000 square feet shall be required to provide curb and gutter. In determining the lot size for a given development, the following shall be considered:

- The actual lot sizes as proposed, not the underlying zoning, shall be used in determining if the project will be required to provide curb and gutter.

- For projects with a range of lot sizes, the average of all the lots shall be calculated and used to determine if the project will be required to provide curb and gutter.

6.7.1.5.2. Specific design standards for the curb and gutter shall be obtained from the respective jurisdiction's engineering department or other authorized agency.

6.7.2. *Block design.*

6.7.2.1. The purpose of this section is to encourage appropriately sized street blocks that encourage street connectivity and efficiency of public and safety services.

6.7.2.2. All new subdivision streets shall maintain a minimum block length of 400 feet, except that cul-de-sac streets shall be governed in accordance with subsection 6.7.1.4 of this ordinance.

6.7.2.3. All new single-family residential subdivisions composed of lots with a minimum lot size of less than 20,000 square feet shall be limited to a maximum of 1,200 feet for block lengths. In determining the lot size for a given development, the following shall be considered:

- The actual lot sizes as proposed, not the underlying zoning, shall be used in determining if the block design standards of this subsection 6.7.2 shall be applied.
- For projects with a range of lot sizes, the average of all the lots shall be calculated and used to determine if the project will be subject to a maximum block length.

6.7.3. *Sidewalks.*

6.7.3.1. New single-family residential subdivisions composed of lots with a minimum lot size of less than 20,000 square feet shall be required to provide pedestrian sidewalks along one side of a new public street. In determining the lot size for a proposed subdivision, the following shall be considered:

- The actual lot sizes as proposed, not the underlying zoning, shall be used in determining if the subdivision will be required to provide sidewalks.
- For subdivisions with a range of lot sizes proposed, the average of all the lots shall be calculated and used to determine if the project will be required to provide sidewalks.

6.7.3.2. Specific design standards for sidewalks shall be obtained from the respective jurisdiction's engineering department or other authorized agency.

6.7.4. *Buffer yard required along specific thoroughfares.*

6.7.4.1. A class "D" buffer yard per section 7.5 of this ordinance shall be required along the perimeter of a residential subdivision where abutting the following thoroughfares:

- U.S. 1
 - U.S. 15-501
 - U.S. 421
 - N.C. 42
 - N.C. 78
 - N.C. 87
 - All other U.S. or N.C. numbered highways

6.7.4.2. Public streets and/or pedestrian accessways shall be allowed to cross the buffer yard. All required buffer yards shall be platted as common areas and may be included as "open space" subject to the standards and criteria as set forth in section 6.5 of this ordinance.

(Ord. of 9-19-2005)