



City of Henderson Subdivision Ordinance



134 Rose Avenue
Henderson, NC 27536

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1 Introductory Provisions

1.1 Title

This ordinance shall be known and may be cited as the Subdivision Regulations of the City of Henderson, North Carolina and may be referred to as the Subdivision Regulations. This ordinance is published as a “Technical Ordinance” in accordance with North Carolina General Statutes §160A-177.

1.2 Purpose

The purpose of this ordinance is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the City of Henderson. It is further designed to provide for the orderly growth and development of the City; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or, alternatively, 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, and rights-of-way or easements for street and utility purposes, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to the public health, safety, and general welfare. It is further designed to provide for the more orderly development of subdivision by requiring the construction of community service facilities in accordance with municipal policies and standards. It is furthermore the intent of this ordinance to provide for such other matters as may be permitted under N.C.G.S. 160A-372.

This ordinance is also intended to set forth the design standards governing development that is in the City and in the Extra-Territorial Planning Area”, or, that is requesting connection to City water or sewer system.

1.3 Authority

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

1.4 Jurisdiction

The provisions contained herein, as provided in G.S. 160A, Article 19, shall govern each and every subdivision of land (as herein defined) lying within the City of Henderson and the Extra-Territorial Planning Area. (Amended February 22, 1999)

The design standards of this ordinance shall govern any proposed development where the City Code requires compliance with the standards of this ordinance and particularly any development requesting connection to the City water or sewer system.

1.5 Repeal of Existing Regulations

Upon the date of adoption of these Subdivision Regulations all provisions of Chapter 25, entitled "Subdivisions", of the Code of the City of Henderson, adopted in 1967, and as thereafter amended, are hereby repealed, except for such sections expressly retained herein.

1.6 Prerequisite to Plat Recordation

After the effective date of this ordinance, each individual subdivision plat of land within the City's jurisdiction shall have Sketch, Preliminary and Final Plat approval as set out in this ordinance prior to the Plat being recorded in the office of the Register of Deeds of Vance County, and/or before any lots are sold with reference to said plat. Provided that the ordinance shall not apply to subdivisions heretofore approved by the City pursuant to previously existing ordinances or regulations.

1.7 Effect on Other plans

Each and every development shall comply with the policies of the Land Use Plan, and other officially adopted plans and policies of the City of Henderson.

1.7.1 Thoroughfare Plan

When a proposed development includes any part of arterial, collector or thoroughfare which has been designated as such upon the officially adopted Thoroughfare Plan or Collector Roads Plan of the City, such part of said road shall be platted by the developer in the location shown on the plan and at the width specified in this ordinance, or on said Plan, to whichever standards are greater.

1.7.2 Land Use Plan

The proposed use and density of development, together with the proposed facilities and services in any development shall be consistent with the use and density of development and facilities and services designated in the Land Use Plan.

1.7.3 Zoning Ordinance

Proposed developments must comply in all respects with the requirements of the Official Zoning Ordinance.

1.8 Effect of Dedications

Approval of a plat does not constitute acceptance by the City of Henderson of an offer of dedication of any streets, sidewalks, parks or other public facilities shown on the plat. However, the City may accept any such offer of dedication by resolution or by actually exercising control over and maintaining such facilities.

1.9 Unified Developments

Except as specifically excepted, Architecturally Integrated Developments, Unified Housing Developments, Unified Business Developments, Planned Unit Developments (PUDs), Multi-family Developments and any other style or type of developments which has or will be composed of four or more dwelling units shall comply with the design standards of this ordinance.

1.10 Final Plat to be Recorded.

The Final Plat, with an attached certification by the Subdivision Administrator that it has been officially approved by the Subdivision Reviewing Authority, shall be recorded by the Developer in the office of the Register of Deeds of Vance County before any “development” or “subdivision” (as defined herein) shall be made relative to the property. Provided, however, that this ordinance shall not apply to subdivisions approved by the City prior to the effective date of this ordinance pursuant to previously existing ordinances or regulations.

2 **Definitions**

2.1 Definition of Subdivision

For purposes of this ordinance, “subdivision” means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in the existing streets; but the following shall not be included within this definition not be subject to any regulations enacted pursuant to this ordinance:

- A. The combination or recombination or portions or 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 City as shown by the regulations presented in this ordinance;
- B. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
- C. The public acquisition by purchase or otherwise of strips of land for the widening or opening of streets, and
- D. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the City as shown by the subdivision regulations presented in this ordinance.
- E. Utility tracts and easements. (Amended 9/13/2010)

All subdivisions are developments.

2.2 Other Definitions

For the purpose of this ordinance, certain words or terms used herein shall be defined as follows:

2.2.1 Architecturally Integrated Development

A subdivision or other development in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots. The plans for an architecturally integrated development shall show the dimensions, heights, and location of all such buildings to the extent necessary to comply with the purpose and intent of this ordinance and the Zoning Ordinance.

2.2.2 Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the hundred (100) year flood.

2.2.3 Base Flood Elevation

The elevation (given in feet above mean sea level) to or above which the lowest habitable floor of structures shall be elevated when that elevation is designated on the Flood Insurance Maps or has been otherwise determined in a manner consistent with Article 604A of the Zoning Ordinance.

2.2.4 Bikeway

A new right-of-way or portion of an existing right-of-way restricted for the exclusive use of non-motorized bicycles; or, an off-road easement for the use of non-motorized bicycles and pedestrians.

2.2.5 Block

A parcel of land which is bound by other blocks or lots, streets, highways and/or railroad rights-of-way, parks or open space, undeveloped land, water courses or bodies of water, channels or a combination thereof.

2.2.6 Building Setback Line

A line parallel to the front property line and located a minimum distance from a public or private rights-of-way, and which denotes an area in which no building may be erected or enlarged.

2.2.7 Cluster Subdivision

A subdivision of the land wherein the lot sizes and other dimensional requirements have been reduced from a standard subdivision and the land saved from development placed in Passive Recreation Space.

2.2.8 Corner Lot

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

2.2.9 Council (City Council)

The City Council of the City of Henderson.

2.2.10 Cul-de-sac

A Street with one end opens to traffic and the other permanently terminated by a vehicular turn-around.

2.2.11 Dedication

A gift or tender by the owner to and for the use and benefit of the general public of a right to use of land for a specified purpose or purposes.

2.2.12 Designated Buffer

An area adjacent to a watercourse required to be set aside as Vegetated Open Space and remain undisturbed so as to act as a natural filter for sediment.

2.2.13 Detention

Surface collection, storage, and distribution of stormwater runoff for the purpose of compensating for increased runoff volume and decreased travel time associated with an increase in impervious surfaces, and to allow for the settling-out of pollutants borne by the runoff.

2.2.14 Developer

Any person, firm, or corporation who owns or has an interest in land, and causes it, directly or indirectly, to be divided into a subdivision as defined herein, or to be developed pursuant to a request for connection to the City's water or sewer system, or to be otherwise developed.

2.2.15 Development

That which is done pursuant to an approved plat under this ordinance, or that which is subject to the design standards under this ordinance because those standards have been referred to and therefore incorporated into the issuance of a permit under the Zoning Ordinance or other ordinance of the City, or an improvement or proposed improvement to the land, including the division of the land into lots, to allow, or which results in its use for residential, commercial, institutional, industrial or any other use pursuant to a request for connection to the City's water or sewer system.

2.2.16 Double Frontage Lot

A continuous (through) lot of the same depth as the width of a block and which is accessible from both of the streets upon which it fronts.

2.2.17 Driveway, Private

A roadway serving two (2) or fewer lots, building sites, or other division of land and is not intended to be for public ingress and egress.

2.2.18 Dwelling Unit

An enclosure containing sleeping, kitchen, and bathroom facilities designed for use or held ready for use as a permanent residence by one housekeeping unit.

2.2.19 Easement

A grant by the property owner for use by the public, a corporation, or person(s) of a strip or parcel of land for specified purposes, including but not limited to services and facilities for the following uses: street, parking, bicycle, water and sewer, telephone, electric power, storm water drainage, conservation, open space and pedestrian use. Where a plat indicates no particular purpose for an easement, the entire above are presumed to be intended.

2.2.20 Extraterritorial Planning Jurisdiction

The part of the City's planning jurisdiction which lies outside the municipal limits as enacted by the City Council pursuant to General Statutes and/or as provided in the City Charter.

2.2.21 Floodplain

Any land area susceptible to being inundated by water from the base flood. As used in this ordinance, the term refers to that area designated as subject to flooding from the base or one hundred (100) year flood on the official "Flood Boundary and Floodway Map" prepared by the U.S. Department of Housing and Urban Development.

2.2.22 Floodway

The channel of a creek, stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. As used in this ordinance, the term refers to that area designated as a floodway on the official "Flood Boundary and Floodway Map" prepared by the U.S. Department of Housing and Urban Development.

2.2.23 Habitable Floor

Any floor is usable for living purposes.

2.2.24 Half-road

A Street whose centerline coincides with a development plat boundary, with one-half the street right-of-way width being contained within the development plat. Also, any existing street to which the parcel of land to be developed abuts on only one side.

2.2.25 Highway, Major

An arterial, thoroughfare or superhighway.

2.2.26 Home Owners (or Property Owners) Association

An incorporated, non-profit organization established by a developer or an association of property owners whose membership shall consist of individual property owners within a subdivision or integrated development and operating under recorded legal agreements.

2.2.27 Lot

A tract, plot, or portion of a subdivision or any other parcel of land intended as a unit for the purpose, whether immediate or future, for transfer of ownership or for building development or both.

2.2.28 Lot of Record

A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Vance County prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

2.2.29 Minor Deviation

An insignificant deviation from a design standard.

2.2.30 Official Maps or Plans

Any maps or plans officially adopted by a governing body, including the State of North Carolina or City of Henderson, or bodies created by that body and to which the City Council has delegated the authority to approve maps or plans.

2.2.31 Open Space

An area lacking in man-made structures and surfaces, and reserved for enjoyment in its natural state. Unless specifically identified in a manner to preclude the inference, all

areas identified as open space shall be presumed to be Vegetated Open Space and to be retained as such.

2.2.32 Planned Unit Development (PUD)

The planned residential development in which the developer may have subdivided and unsubdivided tracts or lots, and several styles or types of housing as well as commercial and other uses planned. Such uses could include single family detached and attached, townhouses, and multi-family, hotels and motels, office and retail uses.

2.2.33 Planning Board

The Planning Board of the City of Henderson.

2.2.34 Plat

A map or plan which delineates:

- A. A tract or parcel of land which is to be, or which has been, subdivided;
- B. A tract or parcel of land to be officially dedicated for public or private use;
- C. A right-of-way for street or utility purposes to be dedicated for public or private use;
or
- D. Any combination thereof.

The word "plat" shall include the terms "map", "plot", and "plan."

2.2.35 Plat, Final

A plat prepared in accordance with the requirements of this ordinance in a form suitable for recording.

2.2.36 Plat, Preliminary

A plan prepared in accordance with the requirements of this ordinance, which delineates the proposed layout of the development and which precedes the final plat preparation.

2.2.37 Property Owners Association

For purposes of this ordinance, this term is synonymous with Home Owners Association.

2.2.38 Public Water System

The water system owned and operated by the City of Henderson.

2.2.39 Public Sewer System

The sewer system owned and operated by the City of Henderson.

2.2.40 Quasi-Public Sewer Supply

A sewer system serving twenty-five (25) or more units, which is owned by a Home Owners Association, and which is approved by the North Carolina Department of Natural Resources and Community Development, or such other approving authority as may be designated by the State of North Carolina.

2.2.41 Quasi-Public Water Supply

Any water supply serving fifteen (15) or more residences and which is approved by the North Carolina Department of Natural Resources and Community Development, or such other approving authority as may be designated by the State of North Carolina.

2.2.42 Regulations

The Subdivision Regulations of the City of Henderson as provided herein.

2.2.43 Reservation

An obligation by a property owner to keep designated property free from development for a specified period of time for a specified purpose. No transfer is normally involved in a reservation.

2.2.44 Retention

Surface collection, storage, and reduction of storm water runoff for the purpose of providing infiltration of runoff into the soil.

2.2.45 Reverse Frontage Lot

A continuous lot of the same depth as the width of a block accessible from only the minor of the two streets upon which it fronts.

2.2.46 Road, Private

A right-of-way for motor vehicle use, which has not been dedicated and accepted by the City.

2.2.47 Road, Public

A dedicated and accepted public right-of-way which affords the principal means of access to abutting properties for vehicular traffic. Unless specifically identified as "private road (street)," any road or street is presumed to be a public road.

2.2.47.1 Superhighway

Major thoroughfare consisting of interstates, freeways, expressways or parkway links that are characterized by limited access control.

2.2.47.2 Major Arterial

A major street in the city's street system that serves as an avenue for the circulation of traffic into, out, or around the City and carries high volumes of traffic. It is designed to carry more than twelve thousand (12,000) but less than twenty four thousand (24,000) trips per day.

2.2.47.3 Minor Arterial

A major street in the City's street system that serves as an avenue for the circulation of traffic into, out, or around the City and carries high volumes of traffic. It is designed to carry more than five thousand (5,000) but less than twelve thousand (12,000) trips per day.

2.2.47.4 Collector

A street whose principal function is to carry traffic between minor, local, and subcollector streets and arterial streets but that may also provide direct access to abutting properties. It is designed to carry more than two thousand five hundred (2,500) but less than five thousand (5,000) trips per day. Typically, a collector is able to serve, directly or indirectly, between two hundred and fifty (250) and five hundred (500) dwelling units.

2.2.47.5 Sub collector

A street whose principle functions is both to carry traffic between minor and local streets and collectors, or to join two collectors, or a collector and an arterial, and to serve abutting properties. It is designed to carry more than five hundred (500) but less than two thousand five hundred (2,500) trips per day. Typically, a subcollector is able to serve, directly or indirectly, between fifty (50) and two hundred fifty (250) dwelling units.

2.2.47.6 Local Road

A street whose sole function is to provide access to abutting properties. It is designed to carry more than one hundred fifty (150) but less than five hundred (500) trips per day. Typically, a local road is able to serve, directly or indirectly, between fifteen (15) and fifty (50) dwelling units.

2.2.47.7 Minor Street

A street whose sole function is to provide access to abutting properties. It is designed to carry one hundred fifty (150) or less trips per day. Typically, a minor street serves fifteen (15) or fewer dwelling units.

2.2.47.8 Frontage or Service Road

A road parallel to a superhighway and functioning to provide access to adjacent land.

2.2.48 Septic System

An on-lot sewage disposal system utilizing ground absorption for the treatment of wastes and approved by the Vance County Health Department.

2.2.49 Single-tier Lot

A lot which backs upon a limited access highway, a railroad right-of-way, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

2.2.50 Sketch Plan

A plan prepared in accordance with the requirements of this ordinance, which takes full consideration of the constraints to development and which preliminarily sets out the proposed layout of the roads, utilities, facilities and structures or lots in a proposed development and which precedes the preliminary plat preparation.

2.2.51 Stream

A body of water flowing in a natural surface channel.

2.2.52 Structure

Any combination of material(s) to form a construction. All buildings are structures.

2.2.53 Subdivider

Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as defined herein. All subdividers are developers.

2.2.54 Subdivision Reviewing Authority (or Authority)

The person or Board designated with authority to approve, approve with conditions or deny, the development or subdivision Sketch, Preliminary Plat or Final Plat.

2.2.55 Subdivision Administrator (or Administrator)

The person or persons responsible for the administration of this ordinance.

2.2.56 Surface, Impervious

Any man-made coverage of land that prevents the natural infiltration of water into the soil. Porous parking materials shall not be considered to be impervious surfaces.

2.2.57 Technical Review Committee (or Committee)

An administrative review committee composed of the City Manager and such individuals as he may designate.

2.2.58 Vegetated Open Space

Open Space characterized as being wooded, or intended for planting in order to make it wooded, and which is suitable or intended to be made suitable for passive recreation activities including walking and picnicking.

2.3 Division of Property with 2 or More Single Family Dwelling Units

Wherever two or more single family dwelling units were erected on a lot prior to the effective date of this ordinance, and where a subdivision of the lot will not result in a conforming lot for each dwelling unit, then nothing in this ordinance shall prevent the uses or sale of any house on the tract provided each dwelling unit is provided its own lot and, either, as many conforming lots as possible are created, or, the degree of nonconforming for all lots created is minimized.(Added on 2/23/2015).

3 Procedure for Review and Approval of Subdivisions

3.1 Plat Required on Any Subdivision

Pursuant to N.C.G.S. 160A-372, a final plat shall be prepared, approved and recorded pursuant to the provisions of this ordinance prior to any “development” or “subdivision,” as defined herein, being made relative to the property.

3.2 Approval Requisite to Recordation

Pursuant to N.C.G.S. 160A-373, no final plat of a subdivision or development reviewed pursuant to this ordinance and within the jurisdiction of the City of Henderson as set out in this ordinance shall be recorded by the Register of Deeds of Vance County until it has been approved by the City, with an attached certification by the Subdivision Administrator indicating that it has been officially approved by the Subdivision Reviewing Authority, as provided herein.

3.3 Procedure for Subdivisions Review

Except as provided herein, each and every subdivision shall comply with the following procedure. Subdivisions, with less than four (4) lots, are exempted from presenting a Sketch Plan.

The Subdivision Administrator may exempt a proposed development from having to comply with any of the informational requirements of the Sketch Plan or Preliminary Plat where he finds the information likely to result from complying with the requirement is unnecessary for a full review of the development proposal. Unless the Subdivision Administrator specifically and in writing waives the requirement, it is presumed that there is no waiver.

3.3.1 Sketch Plan

3.3.1.1 Procedure

Every proposed subdivision shall submit for review by the Subdivision Administrator a Sketch Plan which meets the requirements of this ordinance.

Where a proposed development, other than a subdivision, refers to the design standards of this ordinance, the developer shall submit a Sketch Plan which allows a level of review equivalent to that which would have been provided for subdivisions under this subsection. All such developments shall comply with the requirements for a Sketch Plan except to the extent they are exempted by the Administrator or Subdivision Reviewing Authority.

3.3.1.1.1 Media

The Sketch Plan should be superimposed on a topographic map and at a scale suitable for review.

3.3.1.1.2 Complete Sketch Plan

If the Subdivision Administrator preliminarily determines that the proposed Sketch Plan has sufficient information to process as a Sketch Plan under this ordinance, he will accept the Sketch Plan. If within five (5) days he determines that the Sketch Plan is incomplete, he will notify the developer, informing him which items are needed to complete the Sketch Plan.

3.3.1.1.3 Administrator's Review

The Administrator shall review the Sketch Plan and determine if the proposed development is in general conformity, or likely to be in conformity, with the requirements of this ordinance.

3.3.1.1.4 Notice of Action

The Administrator shall advise the developer of his recommendations and any changes that are necessary or desirable within fourteen (14) days of submittal. (This stage is intended to benefit the developer by identifying the more obvious problems that might exist from the City's point of view. The failure to identify a particular problem shall not preclude the Administrator or the Technical Review Committee from raising the problem during the Preliminary Plat Review.)

3.3.1.2 Information Required

- A. The name of the proposed development.
- B. A vicinity map showing the location of the proposed development in relation to neighboring tracts, developments, roads, and waterways. The zoning districts lines should be shown on this map if the development is in more than one district.
- C. Name, address, and telephone number of the owner and/or developer.
- D. North arrow and scale.
- E. The location of existing structures (and an identification of the uses of those structures), lot lines, streets, easements, water and sewer lines, storm drainage facilities, and nearby parks, including dimensional information on pavement width and right-of-way for existing streets, on the size of lines for water and sewer and storm drainage facilities, nearby parks and schools, etc. (Maps showing existing water and sewer lines are available from the City.)
- F. The boundaries of the tract and the total acreage of the tract to be developed.
- G. Land contours with vertical intervals of not more than ten (10) feet in mean sea level. (U.S.G.S. maps meeting these requirements are available from the City.)

- H. The base flood elevation line, the floodplain and floodway. (Floodplain maps are available from the City.)
- I. A soils map showing soil types and identifying soil problems anticipated, if any. (Soils maps are available from the City.)
- J. Areas with slopes exceeding 20% vertical slope.
- K. The proposed street right-of-way and approximate lot layout or development design indicating approximate location of buildings by type.
- L. The proposed layout for the water and sewer lines and other facilities.
- M. An indication on how surface drainage will be addressed.
- N. The proposed location of open space and recreation facilities and the total acreage and type facilities proposed for such areas.
- O. The proposed approximate location of structures, if any, with an identification of uses. If dwelling units are proposed, the approximate number of units. If non-residential units, the approximate square footages
- P. Total number of lots and approximate lot sizes.

3.3.1.3 Waiver of Sketch Plan

The Subdivision Administrator may waive the requirement for a Sketch Plan where he determines that the information presented in the Preliminary Plat also includes all the information required for a Sketch Plan, or where the information that is missing is not necessary for a full review of the Preliminary plat.

3.3.2 Preliminary Plat

3.3.2.1 Procedure

Except as otherwise provided, every proposed subdivision shall submit for review by the Subdivision Administrator a Preliminary Plat which meets the requirements of this ordinance.

Where a development, other than a subdivision, refers to the design standards of this ordinance, the developer shall submit a Preliminary Plat which allows a level of review equivalent to that which would have been provided for subdivisions under this subsection. All such developments shall comply with the requirements for a Preliminary Plat except to the extent they are exempted by the Administrator or Subdivision Reviewing Authority.

3.3.2.1.1 Media

The Preliminary Plat should be at a scale and the information being presented in such a way as to make it suitable for review. (An acceptable scale for most developments is 1" = 100'; a preferred scale is 1" = 50'.)

3.3.2.1.2 Copies

The developer shall submit six (6) copies plus one copy for each Agency to be afforded review under section 3.3.4. One copy should be suitable for reproduction. (The developer shall have the option of submitting the review copies required under section 3.3.4 at a different scale.) A resubmission of a Preliminary Plat intended to comply with or meet the objections raised by the Technical Review Committee shall be submitted with five (5) copies, one of which should be suitable for reproduction.

3.3.2.1.3 Complete Preliminary Plan

If the Subdivision Administrator preliminarily determines that the proposed Preliminary Plat is complete and provides sufficient information to process as a Preliminary Plat under this ordinance, he will accept the Preliminary Plat, notify the developer that he has determined that the Preliminary Plat appears to be complete, and submit the Plat to the Technical Review Committee and other Agencies provided review under Section 3.3.4.

3.3.2.1.4 Fees

The developer shall submit a fee for review of the Sketch Plan and Preliminary Plat. The fee shall be \$100 plus \$10 per proposed lot or dwelling unit. This fee must be paid prior to the Administrator submitting the Plat for review to the Committee.

3.3.2.1.5 Technical Review Committee Review

The Technical Review Committee shall meet and review the Preliminary Plan. The Committee shall determine:

- (A) if the Preliminary Plat is complete and provides sufficient information to review fully for compliance with this ordinance; and,
- (B) If it finds that it is complete, if the development proposed in the Preliminary Plat meets the requirements of this ordinance.

The Committee shall recommend that the development be approved, approved with conditions or denied. The Committee may require that changes be made to the Plat and that the Plat be resubmitted to it for additional review. The Committee should meet and review the Preliminary Plat within thirty (30) days of receiving the Plat. Any resubmission addressing comments raised by the

Committee should be reviewed by the Committee within five (5) working days of receiving the Plat.

3.3.2.1.6 Appealing a Finding of Incompleteness

Where the Committee finds that a Preliminary Plat is incomplete and declines to make a recommendation concerning the Plan, such a finding may be appealed to the Subdivision Reviewing Authority. If the Authority finds that the application is complete, it may refer the matter back to the Committee for a recommendation, or it may proceed with action under subsection 3.3.2.1.7.

3.3.2.1.7 Review by the Subdivision Reviewing Authority

Subject to the procedure set out below, the Administrator shall place the Preliminary Plat (or a resubmission of the Preliminary Plat which addresses the comments of the Technical Review Committee) for review before the Subdivision Reviewing Authority if he finds that:

- (A) The Committee has found the Plat to be complete and has made a recommendation regarding approval or denial;
- (B) The developer has provided sufficient copies of the Plan for review by the Subdivision Reviewing Authority;
- (C) The developer has paid any fees for reviewing the Plat;
- (D) If the Committee has recommended a Plan be approved with conditions, the developer has indicated whether he accepts or rejects the conditions. (The Administrator may require a resubmission if he believes that it would assist the Authority in its review.)

If the Administrator finds that the developer has rejected significant conditions of the Committee, the recommendation shall be treated as a denied application for purpose of determining the procedure for review by the Subdivision Reviewing Authority.

3.3.2.1.7.1 Applications Recommended Approved

Plans reviewed by the Committee and bearing a recommendation of approved or approved with conditions – which conditions were substantially accepted by the developer – should be scheduled peremptorily on the next agenda of the Subdivision Reviewing Authority.

3.3.2.1.7.2 Applications Recommended Denied

Plans reviewed by the Committee and bearing a recommendation of denied or approved with conditions – but which conditions were not accepted by the developer – should be scheduled by the Authority on a date when no other contested matter is likely to be heard, and in any event no later than sixty (60) days from date on which the Committee completed its review. The Administrator should attempt to set up a special meeting of the Authority in the

event that a Plat cannot be heard at the first meeting following the Committee's recommendation.

3.3.2.1.7.3 Notice of Action by the Committee

The Administrator shall advise the developer of the recommendation of the Committee and any changes that it requests.

3.3.2.1.8 Disposition by Subdivision Reviewing Authority

The Subdivision Reviewing Authority shall approve, approve with conditions or deny the Preliminary Plat. If the Authority approves the Preliminary Plat, such approval shall be noted on the original and two (2) copies of the Plat. One copy (1) shall be forwarded by the City Manager to the Planning Board and one (1) copy of the Plat shall be given the developer. If the Authority disapproves the Plat, it shall indicate the reasons for its disapproval in writing.

3.3.2.1.9 Effect of Approval

Upon approval of the Preliminary Plat by the Authority, the developer may proceed with the preparation of the Final Plat, and the installation of or arrangement for required improvements in accordance with the approved Preliminary Plat and this ordinance.

Prior to the approval of a Final Plat, the developer shall have installed any improvements (water, sewer, roads, recreation facilities, etc.,) in accordance with the approved Preliminary Plat or guaranteed their installation as provided in this ordinance. Preliminary Plat approval shall in no way be construed as constituting an official action of final approval of the Subdivision as required by this ordinance but only preliminary approval as a unit of all of the proposed improvements shown on the Preliminary Plat.

3.3.2.2 Information Required

Except to the extent that a requirement is waived by the Subdivision Administrator, as provided in section 3.3 above, or by the Subdivision Reviewing Authority, the information to be provided in the Preliminary Plat shall be noted in subsection 3.3.5 below.

3.3.2.3 Revocation of a Preliminary Plat

The Subdivision Reviewing Authority may revoke its grant of approval of a Preliminary Plat for an unphased development where the Final Plat has not been recorded and over three years have passed since approval of the Preliminary Plat, or, it may revoke its grant of approval for any phase of a phased development for which a Final Plat has not been approved, if over two years have passed since the approval of a Final Plat for any phase indicated on the Preliminary Plat and no significant construction (roads, water, sewer, or dwelling units), relating to any phase for which a Final Plat has not yet

been approved, has occurred. Prior to taking action to revoke a Preliminary Plat, the Subdivision Reviewing Authority shall give the developer a notice and an opportunity to be heard.

3.3.3 Final Plat

Every Final Plat shall comply with all of the following requirements.

3.3.3.1 Procedure

Every proposed subdivision shall submit for review by the Subdivision Administrator a Final Plat which meets the requirements of this ordinance.

Where a development, other than a subdivision, refers to the design standards of this ordinance, the developer shall submit a Final Plat which allows a level of review equivalent to that which would have been provided for subdivisions under this subsection. All such developments shall comply with the requirements for a Final plat except to the extent they are exempted by the Administrator of Subdivision Reviewing Authority.

3.3.3.1.1 Media

Final plats shall be of a size suitable for recording with the Vance County Register of Deeds and, where practical, should be at the same scale as the Preliminary Plat. Maps contained on more than one sheet shall have designated match lines.

3.3.3.1.2 Copies

Five (5) copies of the Final Plat shall be submitted; one shall meet the legal requirements for recording with the Vance County Register of Deeds; two (2) of these shall be suitable for reproduction (drawn in ink on linen, vellum, or film or a reverse sepi).

3.3.3.1.3 Survey

The Final Plat shall be prepared by a surveyor licensed and registered to practice in the State of North Carolina. The final plat shall substantially conform to the provisions for plats, subdivisions, and mapping requirements as set forth in N.C.G.S. 47-30.

3.3.3.1.4 Stages

The plat shall constitute only that portion of the Preliminary Plat which the developer proposes to record and develop at this time or in the reasonably near future; such portion shall conform to all requirements of this ordinance. No Final Plat shall be approved unless and until the developer has installed in that area represented on the Final Plat all improvements required by this ordinance or shall have guaranteed their installation as provided in this ordinance.

3.3.3.1.5 Review by Subdivision Reviewing Authority

The Subdivision Reviewing Authority shall review every plat for conformity with the Preliminary Plat and to determine if it meets the requirements of this ordinance.

Except to the extent provided below, no additional requirements shall be added after Preliminary Plat approval. The Authority shall approve the Final Plat unless it finds that

- (A) the proposed Final Plat does not conform with the approved Preliminary Plat; or,
- (B) the improvements required by the Preliminary Plat have not been completed or their completion guaranteed; or,
- (C) the proposed Final Plat does not meet the requirements of Section 3.3.5; or,
- (D) The Preliminary Plat has been revoked.

3.3.3.2 Information Required

The information to be provided in the Final Plat shall be set out in subsection 3.3.5 below.

3.3.4 Agency Review

The following is a checklist of agencies to be provided review of proposed subdivision and development plans subject to review under this ordinance. The review provided herein is intended to offer an opportunity to be heard only. An adverse comment or objection by an agency below shall not commit or bind the Subdivision Reviewing Authority, which shall make decision solely on the basis of the standards in this ordinance.

3.3.4.1

Agency or Board	Sketch Plan	Preliminary Plat	Final Plat
Technical Review Committee		X	
Carolina Power and Light		X	
Army Corps of Engineers (if any part of the site lies in an official flood hazard area)		X	
Soil and Water Conservation District		X	

N.C. Department of Transportation (if the development Involves State maintained Streets)	X
N.C. Division of Archives (if the property affects property on the National Register of Historic Places)	X
Henderson Appearance Commission	X
Waste Industries, Inc. (if the Development has non-residential uses or more than four Multi-family dwelling units)	X

[The Subdivision Administrator may elect to provide review of a proposed development upon the Sketch Plan, without waiting for the Preliminary Plat. If review is provided in this manner, the Administrator shall not be required to provide review at the Preliminary Plat review stage.]

3.3.5 Information to be provided with Preliminary and Final Plats

The Preliminary and Final Plats shall depict or contain the information indicated in the following table. An “X” indicates that the information is required on the Plat; an “O” indicates the information need not be shown on the Plat, but must be submitted with the Plat for review.

3.3.5.1

Type Information	Preliminary Plat	Final Plat
Name of the subdivision or development	X	X
Names, addresses and telephone numbers of all owners, registered surveyors, land planners, architects, landscape architects, and professional engineers responsible for the development	O	O
Vicinity map showing the relationship between the proposed development and surrounding area	O	

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Registration numbers and seals of professional engineers and registered surveyors		X
Date of Plat preparation	X	X
Date of Survey	X	X
Scale denoted both graphically and numerically	X	X
North arrow and declination	X	X
Corporate limits, township boundaries, county lines if on the development tract	X	X
Zoning classifications of the tract to be developed and of adjoining properties	O	
Boundaries of the tract to be developed, with all bearings and distances shown	X	X
Topographic map showing vertical contours at five or two foot intervals	X	
Type Information	Preliminary Plat	Final Plat
Name and location of any property within the development or on adjoining property that is listed on the National Register of Historic Places	O	
Base flood elevation line for the 100 year flood, if applicable	X	X
Minimum building setback lines, if applicable	X	X
Wooded areas, marshes, swamps, rock outcrops ponds or lakes, streams or stream beds and any other natural features affecting the site, if any	X	
Setbacks along streams, if applicable	X	X
Existing and proposed lot lines with all bearings and distances shown	X	X
Existing and proposed buildings and other structures with an identification of the use	X	X

intended, but only if an architecturally integrated development, planned unit development, or unified development

Existing and proposed street rights-of-way	X	X
Existing and proposed street details including pavement widths, approximate grades, design engineering data for all corners and curves, typical street cross section, curb and gutter and sidewalk details	O	
Existing and proposed railroad right-of-way and bridges	X	X
Existing and proposed utility layouts, including sanitary sewer mains, storm sewers, water mains, natural gas, telephone and electric service	X	X
Details of above showing components and location thereof, and details, such as line sizes, blowoffs, manholes, pumps, force mains, gate valves, street lighting.	O	
Type Information	Preliminary Plat	Final Plat
Other existing and proposed facilities and easements, including bike and pedestrian ways or paths, parking and vehicle accommodation areas, school sites and other public or quasi public areas together with use intended, if applicable	X	X
Existing and proposed active and passive recreation areas and facilities, if applicable	X	X
Large trees to remain or be removed; tree planting or retention of trees to achieve a tree lined street; screening of other uses	X	
Street names	X	X
Future ownership of roads, recreation, open space, and other land or facilities intended to be placed in common ownership or dedicated to the City	O	O
Home Owner’s Association documents, if	O	O

applicable

Letters of tentative and final approval for water supply and sewage disposal plans by appropriate state authorities, if applicable

Deed restrictions

Site calculations, including total acres in tract to be developed, in parks and other non-recreational uses, and in vegetated open space; total number of parcels created; acreage of the smallest lot; linear feet in streets

Cluster and Architecturally Integrated Calculations

Locations and descriptions of all monuments, markers and control points

Type Information

Preliminary Plat

Final Plat

Blocks numbered consecutively throughout the subdivision and lots numbered consecutively throughout each block

Certificates required by this ordinance

3.3.6 Resubdivision Procedure

Replatting and resubmission of land shall follow the same procedure as prescribed for original submissions.

3.3.7 Minor Deviations from Preliminary Plats

The Subdivision Reviewing Authority may allow minor deviations, modifications or changes from the standards of Section 4 of this ordinance in the Preliminary Plat and Final Plat. The Subdivision Administrator may allow insignificant deviations, modifications or changes from the Preliminary Plat.

4 Minimum Standards of Design

Each subdivision shall contain the improvements specified in this Section, which shall be installed in accordance with the requirements of this ordinance and paid for by the developer. Each subdivision shall be required to reserve and dedicate land as specified in this Section, and shall adhere to the minimum standards of design established herein.

4.1 General

In addition to the requirements established herein, all subdivision plats and developments shall comply with the following ordinances or laws or regulations to the extent they might apply to the subdivision or development of land:

- (A) All applicable statutory provisions;
- (B) The Henderson Zoning Ordinance, the State Building Code, the Minimum Housing Code and other ordinances in the City Code;
- (C) The Henderson Land Use Plan, Transportation Plan and other officially adopted Plans;
- (D) The rules of the North Carolina Department of Transportation, Department of Natural Resources and Community Development, and other State departments and agencies.

4.2 Miscellaneous Provisions

4.2.1 Subdivisions and Unsubdivided Developments

Whenever the standards of this ordinance are referred to with the intent of making them applicable to developments that are not subdivisions, then the term "subdivision" shall be changed to read "development," the term "subdivider" shall be changed to read "developer," and the term "subdivide" shall be changed to read "develop," and all standards of this ordinance shall apply except where specifically excluded or where the context and language used make it clear that the standard is not intended to apply.

4.2.2 Suitability of Land

Every subdivided lot or tract shall have sufficient suitable building area for the use intended. In determining whether suitable area for development exists, the following areas need to be subtracted from the subdivided lot or tract:

- (A) Land within the one hundred year floodplain or floodway;
- (B) Land with slopes in excess of 20%
- (C) Land subject to utility easements;
- (D) Land subject to setbacks and setins.

A suitable building area for one single family residential dwelling is presumed to be 3,000 square feet.

4.2.3 Names

The name of the development shall not duplicate nor closely approximate the name of an existing development in the City of Henderson or within three miles of the City.

4.3 Design

4.3.1 Lot Arrangement

Lots shall be arranged in such a manner that there will be no foreseeable difficulties in obtaining building permits and any required on-lot sewage disposal and other development related permits which might be obtained subsequent to the Final Plat approval.

4.3.2 Lot Dimensions

Lot dimensions shall comply with the minimum standards of the Henderson Zoning Ordinance. Where lots are more than double the minimum required area for the zoning district, lots may be required to be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots. Where practical, side lot lines should be set at right angles to street right-of-way lines. Dimensions of corner lots shall be large enough to allow for the erection of buildings, observing the minimum front-yard setbacks from both streets.

Lot dimensions for property which is not zoned by the City shall be as follows: (Constrained lots are those on which one or more of the following characteristics are present on over fifty percent (50%) of the lot; whereas partially constrained lots are those on which one or more of the following characteristics are present on over twenty-five percent (25%) of the lot.)

- (A) Slopes over twenty percent (20%);
- (B) Soils with plasticity index greater than forty eight percent (48%); or with rock within three (3) feet of the surface; or with water table within one (1) foot of surface;
- (C) Floodway or floodplain of one hundred (100) year flood;
- (D) Farther than two thousand (2,000) feet from an existing or planned collector or arterial;
- (E) Wetlands;
- (F) Within one hundred (100) feet of major electric power transmission lines.

Lot size (in square feet)

Lot Characteristics	Constrained	Partially Constrained	Unconstrained
Lots with Public or Community Water and Sewer	20,000	15,000	10,000
Lots with only Public	40,000	30,000	20,000

or Community Sewer			
Other Lots	60,000	45,000	30,000

Lot Width (in feet)

Lot Characteristics	Constrained	Partially Constrained	Unconstrained
Lots with Public or Community Water and Sewer	100	85	75
Lots with only Public or Community Sewer	150	125	100
Other Lots	200	175	150

4.3.3 Non-buildable Lots

Nothing shall prevent the developer from creating non-buildable lots providing they are clearly denoted as such on all plats and plans.

4.4 Streets

Streets, whether private or public, shall be classified on the number of trips anticipated to be crossing a selected imaginary line across that street on a typical day. These loads shall consider both the situation of the street at the time it will be completed, serving both the development and nearby areas, and as it might be used in the reasonably foreseeable future. For purposes of this ordinance, the foreseeable future shall be the horizon used in the Transportation Plan or Land Use Plan, whichever is greater. In anticipating or projecting loads (numbers of trips per day) occurring on a street, the Subdivision Reviewing Authority shall consider the trip generation tables for specific uses as developed by the Institute of Traffic Engineers, as well as other pertinent information.

The following table classifies streets by the maximum trips which can be accommodated; the maximum numbers of dwellings which can be served are presented only as a guideline.

Type Street	Maximum Number of Motor Vehicle Trips Per Day	Approximate Number of Dwellings Served
Minor	150	15
Local	500	50
Subcollector	2500	250
Collector	5000	500
Minor Arterial	12000	1000
Major Arterial	24000	2000

4.4.1 Topography and Road Layout

Roads shall be related appropriately to the topography. Subcollector, local and minor roads shall be curved wherever possible to avoid conformity of lot appearance. Grades of streets shall conform as closely as possible to the original contours.

4.4.2 Frontage on Improved Streets

No subdivision shall be approved unless all the lots, other than those marked “non-buildable”, shall have frontage on a previously existing dedicated and accepted public street or street built to public road standards as provided in this ordinance, and, where the development is anticipated to generate one hundred fifty (150) or more trips per day (being the anticipated trips generated by fifteen (15) or more dwelling units or buildable lots), unless the development has direct or indirect access to a collector, arterial or state maintained rural highway, or, such access is via streets built to public road standards as provided in this ordinance.

The Subdivision Reviewing Authority may relieve the developer of the burden of improving any part or all of the streets between the development and a collector, arterial, or state maintained rural highway, where it determines

- (A) That the need to improve the road is not substantially related to the development; or;
- (B) That the costs of improving the road would fall disproportionately and unfairly on the developer as opposed to adjacent property owners and/or the general public.

(This section is intended to allow the Authority the opportunity to balance competing interests and to arrive at reasonable solutions.)

4.4.3 Coordination with Existing Street System

All streets shall be properly integrated with the existing and proposed system of thoroughfares, arterials and collectors as established on the Henderson Thoroughfare Plan and Henderson Collector Road Plan. Where a development is proposed for a tract of land over which a collector is planned, the developer shall set aside the right-of-way for said road, build the road to standards as set out in this ordinance, and integrate the road into the development. Where a development is proposed for a tract of land over which an arterial or superhighway is planned, the developer shall dedicate the right-of-way.

All streets shall be properly related to specific substantial traffic generators, such as schools, churches, shopping centers, commercial, institutional and industrial sites.

Whenever possible, new streets will continue existing streets. Except where a street would continue an already existing street, no new street shall be designed or constructed which will intersect a subcollector, collector or arterial street at a distance closer than the minimum distance for separation from another intersecting street, as provided in the table below. (All dimensions are in feet. The type new street is in the first column; the other intersecting street is across the top.)

New Street	Minor, Local Subcollector	Collector, Arterial	Superhighway
Minor, Local or Subcollector	400	650	650
Collector or Arterial	650	1000	1000
Superhighway	650	1000	1000

Except where a street would continue an already existing street, no new street shall be designed or constructed which will intersect a local or minor street at a distance closer than the minimum distance for separation from another intersecting street, as provided in the table below.

New Street	Minor, Local Subcollector	Collector, Arterial	Superhighway
Minor, Local or Subcollector	250	400	400
Collector or Arterial	400	400	400
Superhighway	400	400	400

4.4.3.1 Turnlanes and/or Deceleration Lanes at Intersections

Turnlanes or deceleration lanes may be required to be constructed within one hundred fifty feet (150') of any intersection, or at or near any point of ingress or egress where a substantial number of conflicting turning movements is anticipated, if the Authority determines that the construction of such a lane is necessary to protect the safety of pedestrians or motorists at or near the intersection or point of ingress or egress, or where it would substantially improve the movement of pedestrians or motor vehicles through the intersection or near the point of ingress or egress.

4.4.3.2 Angles of Streets at Intersections

All streets shall intersect as nearly as possible at right angles and no street shall intersect at an angle of less than seventy-five (75) degrees.

4.4.4 Private Roads

Private streets shall meet and be designed to public road standards as set out in this ordinance. Unless a street is identified as “private” on the plat, it shall be presumed to be public. Streets required to be built to collector or arterial road standards, or which are anticipated to serve more than one development shall be public streets, other streets may be private streets. Every lot shall have frontage on a previously existing dedicated and accepted public street or street built to public road standards.

4.4.5 Access to Adjacent Property

Every development shall provide access to adjacent development (in the nature of stubouts to those developments) where the access is necessary or desirable to provide an adequate system of streets in the general area of which the development is a part. Without restricting the above principle, access shall be required for adjacent properties whenever the boundary of any side of a tract of land proposed for development exceeds one thousand five hundred (1,500) feet in length. However, access shall not be required on a side of a tract where physical barriers would prevent a road from practically being continued, as where the boundary of the tract is a creek which could be crossed only with a bridge or a steep slope which could not be graded to an acceptable slope for the road intended. For purposes of applying this standard, sides of the tract shall be combined to constructively create a three or four-sided polygon.

4.4.6 Access to or from Arterials and Collectors

Direct access from individual lots to collector or arterial streets is discouraged. Instead, lots adjacent to said streets should fully utilize joint and shared driveways, access drives, and alleys. To the extent necessary to implement this provision, lots shall be exempted from zoning and other City requirements that mandate direct access to a public street or road build to public road standards. Access drives and alleys may be restricted to one-way traffic with a minimum pavement width of ten feet per lane and an additional ten feet of right-of-way per lane and be otherwise constructed to City standards.

4.4.7 Street Names

Proposed streets which are continuations of existing streets shall be given the same name. In assigning new street names, names shall not duplicate or be phonetically similar to existing street names. For purposes of applying this section, a different suffix, such as road or street or place or court, shall not make a name which is otherwise phonetically similar or duplicative, dissimilar.

The developer shall be required to provide and erect street name signs to City standards at all intersections within the development.

4.4.8 Street Design Standards – in the City and the Extra Territorial Planning Area

Except as provided in subsection 4.4.9 all streets shall meet the following minimum requirements. (Unless otherwise indicated, distances are minimum distances in feet; design speed is minimum speed in miles per hour; slopes are maximum slope in percent change in elevation; “Yes” means required; “No” means not required.) All pavement widths on curb and gutter sections are from face of curb to face of curb.

Design Aspect	Minor	Local	Subcollector	Collector	Arterial	Super-highway
Right-of-Way with Curb & Gutter	50	50	60	60	75	Not Allowed

Right-of-Way Without Curb & Gutter	60	60	Not Allowed	Not Allowed	Not Allowed	125
Pavement Width Curb & Gutter	20	22	27	34	44	Not Allowed
Pavement Width Without Curb & Gutter	20	22	Not Allowed	Not Allowed	Not Allowed	48
Curb & Gutter	Yes *See below	Yes *See below	Yes	Yes	Yes	No
Joint Drives	No	No	Yes	Yes	Yes	No
Sidewalk	No	1 side	1 side	2 sides	2 sides	No
Design Speed	15	25	35	35	45	55
Slope or Grade	15	12	10	8	8	5

An additional ten (10) feet of right-of-way may be required within one hundred fifty (150) feet of the intersection of any street other than a minor street with any other street to allow for the possibility of a future turning lane.

*Curb and Gutter is required on all streets in all residential developments. As an incentive, commercial and industrial developers may choose to install curb and gutter at the reduced (50') right of way width or use the ditch method and meet the 60' right of way requirement. The plat approval authority may require additional right of way for utilities depending on the topography of the land. (Amended January 10, 2000)

4.4.9 Street Design Standards – Outside City

All streets, except for previously platted and accepted streets, lying outside the City limits shall, at a minimum, meet the standards set out in subsection 4.4.8 above, even if those standards exceed the State Road Standards. If a portion of a residential subdivision lying outside the City limits has been previously platted and recorded at the Vance County Register of Deeds and there are plans to continue/extend existing minor and local streets that do not meet the City standards (built without curb and gutter) and the developers will dedicate those streets to the public use, those streets may be continued/extended and built to the current State standard whether such streets are built with curb and gutter or by typical shoulder design.

4.4.10 Special Street Provisions

4.4.10.1 One-Way Streets

One-way streets are discouraged; however, where an adequate transportation system is possible throughout a development or portion thereof with the use of one-way streets, such a system is allowable provided that the City Council determines that:

- (A) Two way streets are impractical;

- (B) The use of one-way streets will not significantly decrease the City's ability to provide fire protection to potential buildings on the street, or substantially increase the costs of providing other public services.

The Authority may reduce the pavement width, right-of-way and other road standards for approvable one-way streets. In the event a one-way system can be utilized, the minimum road section for the portion of the street system that is one-way may be reduced to sixty percent (60%) of the minimum required right-of-way, and the pavement width to fifty percent (50%).

4.4.10.2 Medians and Divided Streets

The developer may elect, or the Subdivision Reviewing Authority may require, that the developer provide or continue a median and/or divided highway in a development. In the event that a median or divided highway is provided, the minimum standards shall remain the same. Pavement requirements shall apply to the divided sections when aggregated together. Thus, the developer may meet a twenty-four (24) foot pavement width with two (2) divided sections of twelve (12) feet each. The right-of-way shall be sufficient to allow five (5) feet to the outside on each side where the curbing is used and twelve (12) feet to the outside where it is not. The minimum right-of-way shall in no event be less than that required under subsection 4.4.8. Furthermore, the Subdivision Reviewing Authority may require additional right-of-way where the size of the median or the facilities to be provided on the road make such additional width appropriate.

4.4.10.3 Dual Entrances and Exits

Except where an additional entrance or exit would result in a violation of the street standards dealing with minimum separation of intersecting streets, developments anticipated to generate more than two hundred and fifty (250) trips per day (typically, housing for more than twenty-five (25) dwelling units) are required to provide a dual entrance or exit. The second entrance or exit may, if it is in the public interest, be closed to normal vehicular access and be for emergency access only.

4.4.10.4 Cul-de-sacs

Cul-de-sacs may be either permanent or temporary. A temporary cul-de-sac exists where the street is stubbed out for extension into an adjacent tract or for a future phase of the same development. In this instance the cul-de-sac should comply with the above standards and temporary measures for vehicle turnaround shall be provided. Permanent cul-de-sacs may be allowed on a minor or local road provided a circular turning radius is provided at the closed end of the street with a pavement radius and right-of-way as set out below.

Circular offsets are encouraged with grassed islands or medians. Pavement widths and right-of-way shall be appropriate considering the type of street, whether it has curb and gutter and whether it is offset, with or without a median. Cul-de-sacs anticipated carrying substantial amounts of commercial or truck traffic shall have a minimum

turning radius of forty-seven (47) feet, otherwise thirty-five (35) feet is presumed adequate.

4.4.11 Site Distances and Superelevations

The standards for minimum sight distances on vertical curves, the minimum superelevation rate for minimum radius, the rate of vertical curvature for minimum sight distance shall be as set out in “Subdivision Roads: Minimum Construction Standards” by the North Carolina Department of Transportation, 1983 and as amended.

4.4.12 Other Street Details

4.4.12.1 Street Grades

The minimum grade on all streets shall be one (1) percent. Grades within one hundred (100) feet of an intersection shall not exceed five (5) percent. Curb and Gutter shall be required on all streets that have grades in excess of eight (8) percent.

4.4.12.2 Reverse Curves

Back to back reverse curves shall be separated by a straight section of at least one hundred (100) feet unless the topography or other physical constraints make such a separation impractical.

4.4.12.3 Curb and Gutter

Except where the Subdivision Reviewing Authority specifically allows the use of valley curbs, whenever curb and gutter is required, curb and gutter shall be designed of standard concrete two feet in width by six inches in height.

4.4.13 Sidewalks

Where sidewalks are required to be constructed on one side of a street, they shall be constructed on the side that already has a sidewalk partially on it, or in the event that neither or both have a sidewalk on it, then on the side closest to a park or school, if one exists in the neighborhood, or if that is inapplicable, on the north or east sides of the street, or in the event that a north or east side can not be determined, then on both sides of the street.

Whenever sidewalks are required pursuant to this ordinance, such sidewalks shall be constructed to the following minimum standards:

Type Street	Pavement Width	Construction Details (Minimum Thickness)
Minor or Local	Three (3) feet	Four (4) inches of concrete, four (4) inches gravel and 1.5 inches asphalt, or brick
Other	Four (4) feet	Four (4) inches of concrete,

		four (4) inches gravel and 1.5 inches asphalt, or brick
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4.4.14 Wheelchair Ramps

In accordance with N.C.G.S. 136.44.14, all street curbs being constructed or reconstructed for maintenance procedures, traffic operations, correction of utilities or altered for any reason, shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at any other major point of pedestrian flow.

4.4.15 Bridge Sections

The minimum pavement width for the cross-section of a bridge shall be the same as for the street of which it is a part, plus an additional four feet for each side of the street upon which a sidewalk is required.

4.4.16 Grading and Improvement Plan

Roads shall be graded and improved to conform to construction standards and specifications of the City of Henderson and shall be approved as to design and specification by the City Engineer in accordance with the construction plans required to be submitted prior to final plat approval. At a minimum these standards shall meet the Pavement Design Standards as set out in "Subdivision Roads: Minimum Construction Standards," by the North Carolina Department of Transportation, 1983 or as amended, other standards as set out herein, or such other standards as set forth in applicable sections of the City Code.

Except as otherwise provided in this ordinance, other design and construction criteria related to roads shall meet the standards set out in said manual.

4.5 Utilities

4.5.1 Water

Every developed lot shall have connection to the public water system if the development of which it is a part, or any part thereof, is within the distances set out for the size of the development as set out below:

Maximum Number of Dwelling Units Allowable in Development	Distance from Water System (in feet)
Under 5 units	300
More than 5 but less than 15 units	450
More than 15 but less than 25 units	600
Over 25 units	1000

It shall be the responsibility of the developer to provide said connection at his own expense.

4.5.1.1 Water Mains

Water mains shall be extended to where the street right-of-way intersects the boundaries of an adjacent tract.

Every lot shall have direct service from a City water main. No water main shall be less than eight (8) inches in diameter, unless otherwise specified herein below for those in certain residential cul-de-sacs (which cannot be reasonably extended for the future because of topography or adjacent development) provided that said smaller mains are directly connected to a water main with a diameter of at least 8 inches and are also within 500 feet of a fire hydrant (located on a water main of at least 8 inches in diameter); said smaller moans shall be permitted on such cul-de-sacs provided both the maximum foreseeable length of the cul-de-sac and also maximum number of (housing) units to be served meet the following criteria:

Maximum Foreseeable Number of (Housing) Units Served	Maximum Foreseeable Length of Cul-de-Sac	Minimum Size of Water Main
1-3 Units	200 feet or less	2 inches
4-6 Units	400 feet or less	4 inches

The Authority may require lines in excess of eight (8) inches if it determines that such line sizes are necessary to adequately insure sufficient pressure for fire protection. In determining line sizes the Authority is specifically authorized to consider the zoning classification of adjacent and nearby tracts which will also be served by the lines if extended, including the lack of City zoning, the potential number of units that might be served, and the City’s master plan for extending water to an area. Where a master plan has not been adopted such a plan may be inferred from City actions and requirements near the proposed development. The City shall pay the additional cost of any water main required to be in excess of eight (8) inches in diameter.

Except as provided below, all mains shall be laid out so as to create a complete circuit without dead-ends. Dead-end lines may be allowed where service is along the street and the street is a permanent cul-de-sac, or where the dead-end line is temporary in that the service is along the street and anticipated to be extended to another phase of the same development, or to another development or developments which can then provide for a complete circuit.

In the event that a dead-end is allowed it shall be terminated with a hydrant or a blow-off.

All mains shall be constructed in accordance with City standards and shall either lie in the public right-of-way or the developer shall acquire and dedicate a thirty (30) foot easement to the City for utility purposes for the entire length.

All mains shall be approved by the Director of Public Utilities and the City Engineer.

4.5.1.2 Fire Hydrants

Every developed lot shall be within five hundred (500) feet of a fire hydrant as measured along the street right-of-way; and every dwelling unit or structure other than a single family dwelling unit shall be within five hundred (500) feet of a fire hydrant (of which no more than one hundred feet, and preferably the last hundred, can not be reached by laying hose along the street right-of-way or paved vehicle accommodation area).

4.5.2 Sewer

Every developed lot shall have connection to the public sewer system if the development of which it is a part, or any part thereof, is, without resort to crossing a ridge line such that the pumping of wastes would be necessary, within the distances set out for the size of the development as set out below:

Maximum Number of Dwelling Units Allowable in Development	Distance from Sewer System (in feet)
Under 5 units	300
More than 5 but less than 15 units	450
More than 15 but less than 25 units	600
Over 25 units	1000

It shall be the responsibility of the developer to provide said connection at his own expense.

4.5.2.1 Sewer Mains

Sewer mains shall be extended to the boundaries of adjacent property whenever a proposed street is extended by dedication.

Every lot will have direct access to a sewer main and no sewer main shall be less than eight (8) inches in diameter. The Authority may require lines in excess of eight (8) inches if it determines that such line sizes are necessary to adequately insure the proper functioning of the system. In determining line sizes the Authority shall consider the depth, grade, and location of the tract and/or proposed lines, and the potential and proposed number of units to be served. The Authority is specifically authorized to consider the zoning classification of adjacent and nearby tracts which will also be served by the lines if extended, including the lack of City zoning, the potential number of units that might be served, and the City’s master plan for extending sewer to an area. Where a master plan has not been adopted such a plan may be inferred from City actions and requirements near the proposed development. The City shall pay the additional cost of any sewer main required to be in excess of eight (8) inches in diameter.

All mains shall be constructed in accordance with City standards and shall either lie in a public right-of-way or the developer shall acquire and dedicate a thirty (30) foot easement to the City for the utility purpose for its entire length.

All mains shall be approved by the Director of Public Utilities and the City Engineer.

4.5.3 Community Water or Sewer System

In the event that connection to public water and/or sewer service is not required pursuant to the above subsections or elsewhere in the City Code, then a community water or sewer system may be provided if:

- (A) The system is approved by the North Carolina Department of Natural Resources and Community Development, and/or the Department of Human Resources, and such other State and local agencies as may be required under North Carolina law;
- (B) The system is designed and constructed to serve more than twenty-five (25) dwelling units;
- (C) The ownership and maintenance of the facility is in the hands of a Home Owners Association, or an entity approved by the North Carolina Public Utilities Commission;
- (D) In the case of community sewer system, the system will be designed so that each pump is provided with an emergency backup pump and electric power supply, and storage capacity to handle twenty-four (24) hour flow in the event of failure; will be operated by a person or persons licensed to operate such a system by the State; and will be monitored daily. The City may require a performance bond or letter of credit to insure maintenance and upkeep of the system including all pumps and lift stations, and shall require a performance bond or letter of credit if the system is anticipated to be connected to the City sewer system at some time within the planning period
- (E) In the case of a system anticipated to be connected to the public system within the planning period, is built and designed to provide for the connection to said system.

4.5.4 On Lot Sewage Disposal Systems

On lot sewage disposal systems shall not be allowed in the City within the distances as set out in subsection 4.5.2. Outside the City such systems shall be allowed provided that City sewer system is not within the distances set forth herein, subject to approval of the Vance County Health Department and provided that a suitable area is found and reserved for future use in the event that the proposed sewage disposal area becomes unsuitable at some future date.

4.5.5 Water and Sewer Construction Plans

Any water and/or sewer system elements shall be designed and constructed to conform to construction standards and specifications of the City of Henderson and shall be approved as to design and specification by the City Engineer in accordance with the construction plans required to be submitted prior to final plat approval.

4.6 Surface Water Drainage

Subject to the following provisions, each development shall provide all necessary facilities, including but not limited to, underground conduit, inlets, catch basins, open drainage, ditches and/or channels to provide for the adequate disposal of surface and subsurface water.

Approval of such design by the City hereunder shall not constitute a representation by the City that any of said proposed facilities shall be adequate to provide for said disposal properly.

4.6.1 Storm Drainage and Sanitary Sewers

No surface water shall be channeled or directed into a sanitary sewer.

4.6.2 Design

Except as provided below, the developer shall provide a surface water drainage system capable of discharging water from the ten (10) year design storm. The City makes no representation as to the adequacy of said standards to provide a proper system.

- (A) Under North Carolina law an upland landowner is allowed to change the quantity and/or quality of the water running off his property if his use is reasonable. For purposes of applying that principle to this ordinance, the City has established a presumption that a use that results in more than 35% of a tract in impervious surface is an unreasonable use, whereas one that results in less than 35% of the tract in impervious surface is a reasonable use. The City does not however represent that the standards would be deemed reasonable for any other purpose or in any other form.
- (B) An unreasonable use as set out in (A) above is required to make off-site improvement to the storm drainage system of downhill or lower lying properties in the same subbasin, and the immediate basin into which the subbasin flows, to insure that such properties are capable of discharging water from the ten (10) year design storm without significant problems.
- (C) A reasonable use as set out in (A) above is not required to make off-site improvements for purposes of this ordinance only.
- (D) Developments may be exempt from complying with (B) above where the developer constructs retention or detention facilities which are capable of managing storm water on site and reducing downhill flow to a level that would be less than would result from development with less than 35% impervious surface.
- (E) Where and to the extent that the drainage relates to road design, the developer shall provide a surface water drainage system constructed to the standards of the North Carolina Department of Transportation, as reflected in "The Handbook for the Design of Highway Surface Drainage Structures."
- (F) Where feasible, all drainage shall be channeled to a point of appropriate discharge, such as a natural or man-made water course, a lake, pond, or ditch or storm drainage system. The developer shall provide all necessary rights-of-way to reach the point of appropriate discharge and shall accomplish all work to construct the system.
- (G) All drainage systems shall be designed to prevent debris being trapped in the system, thereby causing flooding or the improper functioning of the system.

4.6.2.1 Slopes on Drainage Courses

Surface drainage courses shall have side slopes of at least three (3) feet of horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area.

The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.

4.6.2.2 Existing Storm Drainage System

Where feasible, the developer shall connect and continue existing storm drainage systems. Systems utilizing piping shall be constructed so that the diameters of downstream pipes are equal to or greater than upstream pipes and so that connections shall be as smooth and flush as practical. When an existing storm drainage system cannot feasibly be extended to the development, measures will be taken to protect the upstream development from water damage.

4.6.2.3 General Effect

Nothing in this ordinance shall be construed as varying the duties and responsibilities of upland and lowland landowners as set out under North Carolina Law. Unless specifically identified as public on the plat, and unless an offer of dedication has been made and clearly accepted by the City, any storm drainage system shall be a private system and nothing herein shall be construed to impose any obligation, liability or responsibility on the part of the City relative to such system, or any part thereof, except as provided by the City Code relative to those facilities, or parts thereof, which have been accepted by the City for regular maintenance. The acceptance of a passive recreation or open space easement shall in no way imply the acceptance of a surface drainage easement.

4.7 Flooding

All developments shall be designed in such a way as to minimize flood damage throughout the development. Furthermore, all developments shall locate and construct public utilities and facilities, including sewer, gas, and water systems in such a way as to minimize flood damage.

Lots shall be designed so that adequate building space exists outside the floodplain to permit a dwelling unit or other proposed structure without violating other provisions in this ordinance.

All developments will comply with the flood protection provisions in the Zoning Ordinance and in Chapter 26B of the City Code.

4.8 Soil and Erosion Control

Except as otherwise provided in Chapter 23A of the City Code, any development involving land disturbance and undertaken on 21,780 sq. ft. (one-half acre) or more of land shall comply with the Soil and Erosion Control Ordinance, Chapter 23A, of the City Code. All

developments are required to take measures to minimize erosion during construction and after development.

4.9 Street Lighting

Each development shall provide street lighting along every street in the development to the following illumination standards based on the classification of the street: (all illumination ratings are at 3 to 1 uniformity ratio).

Street Classification	Minimum Illumination Level in Foot Candles
Arterials	1.5
Collectors	0.7
Subcollectors	0.4

4.9.1 Other Spacing Standards

Every local or minor street shall have at least one street light placed on each block on the street. Where block lengths exceed six hundred (600) feet or where the streets are winding, or in the vicinity of schools, hospitals, parks, additional street lights may be required. Street lights shall be placed at six hundred (600) feet intervals on all other streets.

4.9.2 Street Lighting at Intersections

Except where the Subdivision Reviewing Authority determines that one light is sufficient to adequately light an intersection, two street lights shall be placed diagonally from each other and overhanging opposite streets at each intersection.

4.10 Underground Electric and Telephone Utility Lines

Whenever the costs of installing all utilities underground are determined by the public electric power utility to be less than \$250 per dwelling unit or per two thousand square feet of non-residential building space, then any utility lines for the local distribution of electric power and communications service, including cable television lines, shall be installed underground. Such underground wiring shall be installed in accordance with the standards and requirements of the applicable electric supplier and Communications Company. Except as provided below, in determining costs in a development the costs shall be the costs to the developer from the main transmission lines or point of connection thereto to the transformer serving the lot. In determining costs in an architecturally integrated development, or unified development, or a multi-family development or any other development in which the structures are being shown and approved by the Authority as part of its review, then the costs shall also include the costs to normal point of delivery, which is the closest place that the lines would tie to the structure intended to be served.

4.11 Active and Passive Recreation Space

4.11.1 Active Recreation Space

The City has declared it a public policy that it is the duty and responsibility of developments to provide such active recreation facilities as may be necessary or desirable for the health, safety and general welfare of the residents of the development and neighborhood. To that end, every residential development shall provide active recreation areas and facilities to such an extent that the sum total of recreation points assigned to each recreation area and facility under this sub-section equals or exceeds the number of recreation points required of that development.

4.11.1.1 Recreation Point Per Facility

A recreation point is a unit of measurement that allows various types of recreational areas and facilities to be compared with one another. The principal criterion upon which recreation points are assigned to various facilities is the cost associated with the development of the facilities.

Type Facility	Typical Size in Square Feet	Typical Points	Points Per Square Foot
Swimming Pool	768	353	.459
Swimming Pool Patio	2820	44	.016
Tennis Court	7200	215	.030
Basketball Court	2400	128	.053
Volleyball Court	1800	19	.011
Walking Trail	4000	46	.012
Fitness Station	400	7	.018
Picnic Shelter	250	36	.143
Gazebo	314	101	.322
Clubhouse	1200	604	.503
Play Equipment	1275	131	.103
Ball Field	67500	358	.005
Green	43560	144	.003

4.11.1.2 Recreation Points Per Dwelling Unit

The minimum total of recreation points required of any development shall equal the sum of the recreation points assigned to each type of dwelling unit or lot proposed for development.

With respect to development other than those where the dwelling units are shown on the tract, each lot that is large enough to accommodate more than one dwelling unit and which is not limited by restrictive covenants to prevent future subdivision shall be deemed to house the largest number of dwelling units allowable under this ordinance and the Henderson Zoning Ordinance.

Type of Residence	Points Required Per Dwelling Unit
Single Family Detached	5.0
Mobile Home	6.5
Duplex	5.0
Multi-family residence -- one bedroom	3.0
Multi-family residence – two bedroom	4.5
Multi-family residence – other	6.0

4.11.1.3 Design

Active recreation facilities and areas should be located so that they can be safely and easily reached by their anticipated users. Such facilities should be on land that is suitable for the use intended, have a minimum of twelve hundred (1200) square feet per area, and be sufficiently screened to minimize impacts on adjacent residences.

4.11.1.4 Ownership

Land and facilities set aside in active recreation space may, at the option of the developer, be retained in single ownership, be placed in a Home Owners Association, or, if the City is willing to accept a dedication of the land and facilities may be given to the City.

4.11.1.5 Exemptions and Fee in Lieu

Any development may satisfy the active recreation space and facility requirement by depositing a fee with the City equal to fifty dollars (\$50) per each point required pursuant to subsection 4.11.2 for facilities that would have been required to be provided. The City may accept this offer if it finds that it may be able to use the funds, either by themselves, or in conjunction with other funds from similar projects, to acquire land and/or provide facilities which would serve this purpose in the immediate area, or if it determines that the fee could be used to purchase additional facilities for a neighborhood park and that this development could reasonably use the facilities provided in that park. In the event that the City determines that it can not use the funds as provided above, and that an active recreation facility is not feasible due to the size or location of the development, then the Subdivision Reviewing Authority may waive the requirements of subsection 4.11.1.

4.11.2 Passive Recreation Space

Every development shall set aside at least fifteen percent (15%) of the total land in the development for vegetated open space. Where a tract is in a wooded state prior to development, a mature wooded area shall be retained and designated as passive recreation area in satisfaction of this requirement. Where less than fifteen percent (15%) of the tract at the time of development has mature wooded vegetation, the area designated as vegetated open space may either be planted so as to create a wooded area, or it may be landscaped for ballfields and picnic areas.

Land set aside in passive recreation space may, at the option of the developer, be retained in single ownership, be placed in a Home Owners Association, or, if the City is willing to accept a dedication of a conservation, open space and pedestrian easement, or a dedication of the fee, may be given to the City, if acceptable to the City Council.

Non-residential developments and residential developments with less than fifteen (15) dwelling units may satisfy this requirement by depositing a fee with the City equal to three thousand five hundred dollars (\$3,500) per acre of land that would have been provided had the land been set aside following development. The City may accept this offer if it finds that it may be able to use the funds, either by themselves, or in conjunction with other funds from similar projects, to acquire land which would serve a similar purpose in the nearby area.

Land in passive recreation space dedicated to the City and accepted by it may be constructively used to satisfy minimum lot size requirements for adjacent tracts in a traditional subdivision, or may be used to reduce lot sizes throughout a cluster or architecturally integrated development. In the event that the City determines that it can not use the funds as provided above, and that passive recreation space is not feasible due to the size or location of the development, then the Subdivision Reviewing Authority may waive the requirements of subsection 4.11.1.

4.12 Setbacks from Streams

In the absence of a variance, no building shall be placed within forty (40) feet of the floodway, or where the floodway is not known within forty (40) feet of the banks, of any permanent or intermittent stream or creek which drains twenty-five (25) acres or more of land, or which is shown as a watercourse on the U.S. Geologic Survey maps. In order to enforce this provision, every development shall denote a building setback line from any such stream or creek. Land within forty feet may, at the option of the developer, be placed in single ownership, or in a Home Owners Association, or if the City is willing to accept dedication of a conservation, open space and pedestrian easement, or a dedication of the fee, may be given to the City. In the event, a dedication of the fee is made to the City and accepted by it, the land within the setback may be constructively given to as many lots within the development as the developer so chooses in order to satisfy minimum lot size and other requirements under this ordinance.

4.13 Vegetation

All developments will comply with the landscaping requirements in Article 600A of the Zoning Ordinance.

4.14 Easements

4.14.1 Utility Easements

Easements for utilities shall be provided where necessary, and normally along lot lines. Easements shall be at least thirty (30) feet wide.

4.14.2 Drainage Easements

Where a development is traversed by a water course or drainageway, a private drainage easement encompassing the water course and such additional lands as might be necessary for construction and maintenance of the system or any part thereof shall be provided to adjoining property owners. Nothing herein shall make the same a part of any municipal drainage system and the City shall not be responsible for maintenance of the same unless maintenance is expressly accepted by the City Council.

4.14.3 Pedestrian Easements

When a development is located in the proximity of schools, parks, shopping centers, and other facilities and uses which generate substantial pedestrian travel or where a development consists of long blocks, a pedestrian easement may be required. The presence or absence of sufficient sidewalks in the area shall be considered in making this determination. Pedestrian easements shall be fifteen (15) feet in width. Paths for pedestrian travel shall be a minimum of four (4) feet in width and constructed with several inches of crushed stone and bordered with landscape timbers, or with other appropriate materials.

4.14.4 Buffer Easements

When a development borders on a collector, arterial or superhighway, a railroad track or stream or creek, a private buffer easement may be required if it is determined necessary to buffer development or other uses, or to protect the environment or provide additional protection from flood damage. Such a buffer may be as much as fifty (50) feet in depth. Where such an easement is created existing healthy vegetation shall be preserved and maintained, and new tree planting may be required. The cutting of paths for pedestrian travel, nor the clearing or cutting of noxious weeds or undergrowth, nor the mowing of grass, shall not be deemed inconsistent with its use as a buffer easement.

4.15 Cluster Subdivisions

In any single family residential subdivision containing fifteen (15) lots or more, a developer may create lots that are smaller than those required by the Zoning Ordinance or this ordinance's provisions dealing with lot dimensions provided the lot size and lot width are not less than 75% of the otherwise minimum required lot dimension, and provided that any land "saved" by so doing is placed in vegetated open space.

4.16 Architecturally Integrated Subdivision

In an architecturally integrated subdivision, the developer may create lots and construct buildings without regard to any minimum lot size or setback restrictions except that:

- (A) The setback requirements shall apply where and to the extent that the subdivided tract abuts land that is not part of the development; and
- (B) Each lot shall have sufficient size and dimensions to support and appropriately site the structure to be located on it; and
- (C) Any "land saved" by reducing lot sizes is set aside as passive recreation space; and
- (D) The development contains fifteen (15) lots or more.

The number of dwelling units in an architecturally integrated subdivision shall not exceed the density authorized under the Zoning Ordinance or this ordinance. Where the density is not directly stated, the density shall be determined by dividing the minimum lot size for the style of housing proposed into 43,560 (the number of square feet in an acre).

[Architecturally integrated subdivisions allow a slightly higher density than other subdivisions because of the manner in which density and lot sizes are determined.]

4.17 Home Owners Associations

Home Owners Association or similar legal entities that are responsible for the maintenance and control of common areas, including recreation facilities and open space, shall be established in such a manner that:

- (A) Provision for the permanent establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
- (B) The association or similar entity has clear legal authority to maintain and exercise control over such common areas and facilities;
- (C) The association or similar entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities.

4.18 Completing Development in Phases

If a development is to be built in phases or stages, then the phases shall be clearly indicated on the Preliminary Plat and the developer will submit a proposed schedule for completion of phases and improvements as part of the application. The schedule will relate completion of improvements to completion of the phases or stages of the entire development. Once a schedule is approved by the Subdivision Reviewing Authority, no buildings may be occupied and no subdivision lots may be sold except in accordance with the schedule.

The order of phases set out in the phasing plan may be changed and the schedule otherwise modified with the approval of the Subdivision Reviewing Authority provided no part of a facility or improvement intended to benefit several phases of the project will be significantly delayed by the change.

4.19 Permanent Reference Points

Except as otherwise provided in this ordinance, the placement of monuments, control corner, markers and property corner ties, the determination of the location of property and other surveying lines, and the determination of the accuracy of those lines, and all other matters relating to the practice of land surveying shall meet the standards and the state of the art for the practice of land surveying as set out in the Manual of Practice for Land Surveying as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors, pursuant to N.C.G.S. 89-16.

5 Improvements Guarantees

5.1 Issuance of Construction Permits

Upon approval of the preliminary plat, the developer may secure a construction permit from the Department of Planning and Development.

Construction permits must be issued prior to the installation of any improvements. The construction permit shall allow the developer to commence construction of all approved improvements. Such improvements shall be installed in accordance with the approved plans and in compliance with this ordinance and all other City standards.

5.2 Improvements Bond and Security Guarantee

If the developer should petition the Planning Commission for final plat approval prior to the completion of the required improvements, the developer shall provide a bond with security for said improvements in an amount not less than the contract price for improvements of the proposed final plat which have not been completed and approved by the City at the time of final plat submission.

The amount of the bond shall be set by the Subdivision Reviewing Authority. The developer shall provide the Authority with a list and description of the improvements to be covered and the time frame within which they will be completed. The security shall be in a form acceptable to the City and may include any of the following:

- (A) An irrevocable letter of credit from a bank or other reputable financial institution deposited with the City Clerk;
- (B) The pledge of a savings account with any properly insured financial institution;
- (C) A deposit of cash or certified check with the City Clerk;
- (D) The giving of a performance or surety bond executed by a company duly licensed to engage in such a business in the State of North Carolina.

5.3 Default

If any portion of the required improvements for which security was given as set out in the above subsection shall fail to be completed and accepted or dedicated in accordance with the Preliminary and Final Plat and the terms and conditions for allowing the improvements to be completed subsequent to Final Plat approval and pursuant to a surety arrangement, then the City shall notify the developer and the surety of the default and seek a formal explanation of the reason for the default. If the Subdivision Reviewing Authority finds that there is good cause for the improvements not being made on time, or that only a small delay in completing the improvements appears likely, then, upon a showing that the existing surety arrangement is still in effect or can be continued, the terms for the completion of the improvements may be modified. In any other event, the Subdivision Reviewing Authority shall report to the City Council that the bond is in default, and the City Council may take such actions as it deems necessary to enforce and collect the security, and shall use the proceeds to finance the completion of the improvements or the rebuilding of such improvements to proper specifications, and the completion of such other actions as may

have been contemplated under said surety arrangement. Unused portions of the proceeds, if any, shall be returned to the surety.

5.4 Protection Against Defects

At the time of the Final Plat approval and the release of any bond and security provided in the above subsections, the developer shall provide a bond by one of the methods set out above, guaranteeing to the City, against defects for one year, all utility taps, curbs, gutters, street pavement, sidewalks, drainage facilities, water and sewer lines and other improvements. Such amount shall be determined by the Subdivision Reviewing Authority. If the developer shall correct and rectify all defects arising within one year, then the bond and its security shall be released, otherwise the Subdivision Reviewing Authority shall notify the City Council, the developer and surety that a default has occurred, and the City Council may proceed in accordance with the subsection on defaults in security arrangements as set out above. In addition, the developer shall provide any bonds and other requirements for pump lift stations to be in effect for the times and purposes set forth in other applicable sections of the City Code.

5.5 Maintenance Guarantee

Prior to Final Plat approval, the developer shall deposit with the City Clerk a letter in which he shall agree to maintain the backfill and any improvements located thereon and therein and any ditch which has been dug in connection with the installation of said improvements and shall be responsible for any damages arising from storm sewer or surface water runoff created as part of the development.

5.6 Release

Upon completion of the improvements and other actions guaranteed by the security arrangement, and the acceptance and approval of the same, the City Council shall release the bond and security to the developer.

6 Flexibility of Administration Authorized

The requirements set forth in this ordinance concerning the amount, size; location and nature of facilities and space to be provided in connection with developments are established by the City Council as presumptive standards. The City Council recognizes that due to the particular nature of a tract of land or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Subdivision Reviewing Authority is authorized to permit minor deviations from these standards whenever it determines that

- (A) The objectives underlying these standards can be met without the strict adherence to them; and
- (B) Because of the peculiarities in the developer's tract of land or the facilities proposed, strict adherence to these standards would be unreasonable.

Whenever the Subdivision Reviewing Authority authorizes a deviation from any standard the record shall reflect the action taken and the reasons for allowing it.

7 Other Provisions

7.1 Certificates and Seals

All subdivisions shall contain the endorsements listed below:

7.1.1 Certificate of Approval

I hereby certify that all streets and other improvements shown on this plat have been installed or completed or that their installation or completion has been ensured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat complies with the Subdivision Regulations of the City of Henderson, and therefore that this plat has been approved by the City of Henderson Planning Board, subject to its being recorded within 30 days of the date below.

City of Henderson
Planning Board

By: _____ [seal] _____
Chairman Date

This is to certify that _____, Chairman of the City of Henderson Planning Board, personally appeared before me and acknowledged the execution of the foregoing Certification. Witness my hand and official seal, this ____ day of _____, 20 ____.

Notary Public

My commission expires: _____

7.1.2 Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property described herein, that this property is subject to the subdivision regulations jurisdiction of the City of Henderson, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space and easements, except those specifically indicated as private, and that I will maintain all such areas until the offers of dedication are respectively accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the City Council in the public interest.

_____ [seal] _____
Owner Date

State of North Carolina _____ County

This is to certify that _____ personally appeared before me this day and acknowledged the execution of the foregoing Certificate. Witness my hand and official stamp or seal, this the ____ day of _____, 20 ____.

Notary Public
My commission expires: _____

7.1.3 Certificate of Survey and Accuracy

I, the undersigned, certify that this plat was drawn under my supervision from an actual survey made under my supervision on ____ day of _____, 20 ____; that this plat was prepared in accordance with N.C.G.S. 47-30. Witness my original signature, registration number and seal, this the ____ day of _____, 20 ____.

[Seal]
Surveyor

Registration Number

This is to certify that _____, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing Certificate. Witness my hand and official stamp or seal, this the ____ day of _____, 20 ____.

Notary Public
My commission expires: _____.

7.2 Certificates under Special Circumstances

In the event that a street is to be placed on the State Highway system for maintenance, or that the development is to be financed or insured by the United States Government, the following certificate(s) shall be included:

7.2.1 Division of Highways District Engineer Certificate

I hereby certify that the public streets designated as

_____ and shown on this plat have been completed or that a performance bond or other sufficient surety has been posted to guarantee their completion,

in accordance with at least the minimum specifications and standards of the N.C. Department of Transportation for acceptance of subdivision streets on the State Highway system for maintenance.

_____ [seal] _____
 District Engineer Date

This is to certify that _____, the District Engineer for the Department of Transportation, personally appeared before me this day and acknowledged the execution of the foregoing Certificate. Witness my hand and official stamp or seal, this the _____ Day of _____, 20 _____.

 Notary Public
 My commission expires: _____

7.2.2 Certificates for Federally Funded Project

I hereby certify that the specifications for street grading, drainage improvements, and paving for the group housing development shown on this plat, which development is being financed or insured under regulations of the United States Government, are equal to or exceed that required by the Subdivision Regulations of the City of Henderson, and in the case of roads to be maintained by the State, the North Carolina Department of Transportation.

_____ [seal] _____
 Subdivision Administrator Date

This is to certify that _____, the Subdivision Administrator of the City of Henderson, personally appeared before me this day and acknowledged the execution of the foregoing Certificate. Witness my hand and official stamp or seal, this the _____ day of _____, 20 _____.

 Notary Public
 My commission expires: _____

_____ [seal] _____
 District Engineer Date

This is to certify that _____, the District Engineer for the Department of Transportation, personally appeared before me this day and

acknowledged the execution of the foregoing Certificate. Witness my hand and official stamp or seal, this the _____ Day of _____, 20 ____.

Notary Public

My commission expires: _____

7.3 Enforcement and Review

Violations of the provisions of this ordinance shall constitute a misdemeanor punishable as provided in N.C.G.S. 14-4.

Any act constituting a violation of this ordinance shall also subject the offender to a civil penalty of twenty-five (\$25.00) dollars. If the offender fails to pay this penalty within ten (10) days after being notified of the violation, the penalty may be recovered by the City in a civil action in the nature of a debt.

This ordinance may also be enforced by any appropriate equitable action.

Each day that any violation continues after notification that such a violation exists by the Administrator shall be considered a separate offense for purposes of the penalties and remedies specified in this action.

Any one, all, or any combination of the foregoing remedies may be used to enforce this ordinance.

7.4 Judicial Review

Review of final decisions of the Subdivision Reviewing Authority shall be by way of writ of certiorari filed with the Clerk of Superior Court of Vance County within 30 days from the date of that decision. A copy of the writ of certiorari will be served on the City by serving a copy on the City Manager for the City of Henderson.

7.5 Variances

A variance may be granted consistent with the standards and procedures set out in Article 800 of the Zoning Ordinance.

7.6 Amendments

The City Council of the City of Henderson may from time-to-time amend the terms of this ordinance but no amendment shall become effective unless it shall have been submitted to the Planning Board for its review and recommendation. The City Council may act thirty (30) days after submission regardless of whether a recommendation is made.

No amendment shall be adopted by the City Council until a public hearing has been held on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the City of Henderson at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) days or less than ten (10) days prior to the hearing date. In computing the time period above, the date of publication is not to be counted, but the date of the hearing is.

7.7 Separability

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

7.8 Administrator

The Director of Planning and Development of the City of Henderson shall be the Administrator of this ordinance.

7.9 Subdivision Reviewing Authority

The Planning Board of the City of Henderson shall be the Subdivision Reviewing Authority referred to herein.

7.10 Effective Date

This ordinance shall take effect and be in force from and after **November 24, 1987.**

