



## **Town of Beaufort, NC**

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516  
252-728-2141 - 252-728-3982 fax - [www.beaufortnc.org](http://www.beaufortnc.org)

**Town of Beaufort UDO Steering Committee Meeting**  
**9:00 AM Wednesday, June 24, 2026 - Train Depot, 614 Broad Street**

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### **Call to Order**

### **Minutes Approval**

UDO Steering Committee Draft Minutes 5.15.26

### **Items for Discussion and Consideration**

Draft UDO Article 5: Subdivision & Site Design Regulations

### **Adjourn**



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**Town of Beaufort UDO Steering Committee Meeting  
9:30 AM Friday, May 15, 2026 - Virtual via Zoom  
Minutes**

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**Call to Order**

Planner Eitner called the meeting to order at approximately 9:30am. Those in attendance were: John LoPiccolo, Town Commissioner (UDO Steering Committee Member), Paula Gillikin, Town Commissioner (UDO Steering Committee Member), Ryan Neve, Planning Board Chairman (UDO Steering Committee Member), Vic Fasolino, Planning Board Member (UDO Steering Committee Member), Kelly Cousino, White Smith Cousino (UDO Consultant), Tyson Smith, White Smith Cousino (UDO Consultant), Jeremy Ganey, Chief Building Inspector/Floodplain Manager (Town Staff), and Michelle Eitner, Planner (Town Staff).

**Minutes Approval**

UDO Steering Committee Draft Minutes 10.20.25

The UDO Steering Committee meeting minutes from October 20, 2025, were approved by consensus without any changes.

**Items for Discussion and Consideration**

Draft UDO Article 6: Flood Damage Prevention

Kelly Cousino opened by explaining that the Board of Commissioners had directed staff to proceed with UDO modules unaffected by the state's down-zoning legislation. The town attorney confirmed that subdivision regulations and flood damage prevention ordinances are not implicated by that statute; accordingly, Module 4—comprising those two articles—was bumped forward in the work program.

The draft Article 6 incorporates the state NC Department of Emergency Management model flood damage prevention ordinance for coastal communities, with the following key revisions: a reorganization of article structure for consistency with the UDO format; three optional provisions already included in the draft (§6.2.2.D elevated buildings temperature

control prohibition, §6.2.7 breakaway wall flood openings, and §6.3.2.B.2(c) VE/Coastal A zone engineer certification); and an increase in required freeboard from one foot to two feet in Special Flood Hazard Areas with a BFE, and from two feet to three feet in areas without a BFE. The freeboard increase is consistent with the CAMA plan recommendation and helps to maintain the Town's CRS Class 7 standing. Additional freeboard also has the potential to reduce flood insurance premiums, limits repetitive loss exposure, and accounts for sea level rise.

The committee discussed several technical matters. Michelle Eitner and Jeremy Ganey clarified that the three-foot elevation standard for areas without a BFE applies only to AO zones, which are not currently mapped in Beaufort; the provision is included proactively for potential future conditions and CRS credit. The committee noted that preliminary FIRMs—which would establish new Coastal A zones in much of Beaufort—were expected to become effective this past January but remain pending with no confirmed effective date from FEMA. Ganey confirmed that existing NC building and residential codes provide a regulatory backstop in the interim.

John LoPiccolo raised the potential impact of the increased freeboard on historic structures and the business waterfront district. Eitner noted the two-foot freeboard applies uniformly throughout the Special Flood Hazard Area; however, commercial structures may utilize dry floodproofing as an alternative, floodplain variances are available through the Board of Adjustment for historic structures pursuant to FEMA guidance, and the Town's historic preservation standards are being drafted in parallel to address resilience for those buildings.

Vic Fasolino raised a potential conflict in §6.1.0.5 regarding the inclusion of preliminary FIRMs as a basis for establishing SFHAs, given that staff cannot enforce unadopted maps. Staff agreed to review and clarify that language in the next draft. Fasolino also noted that §6.1.0.8 already contains a more-restrictive-standard-prevails clause, addressing a related concern raised by Ryan Neve regarding potential conflicts with the UDO.

The fill discussion prompted Paula Gillikin to raise concerns about grading practices in coastal flood zones, particularly in areas transitioning to Coastal A designation. Staff confirmed that the two-foot nonstructural fill allowance in VE/Coastal A zones derives from federal and state model ordinance language and is not a locally discretionary standard. Broader fill and grading regulations for the town as a whole were identified as a priority for a future UDO module.

The committee discussed the accessory structure provision, noting a change from a 150 to 200 square foot threshold for elevation certificate exemptions, and flagged a potential definitional conflict between "accessory structure" in this article (sheds, garages) and "accessory dwelling units" in the general UDO definitions. Staff agreed to reconcile those definitions going forward.

Optional Provisions for Inclusion. Three additional optional items were presented for committee consideration:

- Tiny Homes/Park Models — The committee reached consensus to include language clarifying that tiny homes on a chassis meeting RV criteria are regulated as RVs (must remain highway-ready, fully licensed, and free of permanent attachments), while those not meeting RV standards must comply as residential structures.

- Floodproofing Operational and Maintenance Plan Requirements — The committee reached consensus to include this provision. It closes an enforcement gap for dry-floodproofed commercial structures and provides additional CRS credit opportunities with minimal staff burden.
- CRS-Related Elevation Certificate Procedures — The committee requested that staff provide the specific model ordinance language before a final decision is made, though there was general openness to including it.

Discussion confirmed that the flood damage prevention ordinance, as a currently separate ordinance from the LDO, could be adopted prior to completion of the full UDO. This was identified as a prudent option given the pending FIRM effective date and the need to have local Coastal A zone standards formally in place in addition to the building code and federal regulations that cover it.

Cousino presented a proposed schedule: a subdivision regulations draft to be distributed approximately June 8; an in-person Steering Committee meeting and community conversation the week of June 22; a final comment deadline of July 5 for both Module 4 articles; a review draft posted August 10; a community comment deadline of August 19; and a joint BOC/Planning Board work session on August 24 with a community conversation to follow. Dates remain tentative pending coordination with Town staff.

**Adjourn**

The meeting adjourned by consensus at about 10:45am.

\_\_\_\_\_ Committee Staff – Approved \_\_\_\_\_



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**Town of Beaufort UDO Steering Committee Meeting  
9:00 AM Wednesday, June 24, 2026 – Train Depot**

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**AGENDA CATEGORY:** Items for Discussion and Consideration  
**SUBJECT:** Draft UDO Article 5: Subdivision & Site Design Regulations

**SUMMARY:**

Following last month’s Flood Damage Prevention Ordinance discussion, we now have a draft Subdivision Regulations article to review. The current regulations were incorporated into the LDO in 2023 as Section 34 but still functions as a sort of stand-alone document with terminology and procedure. This draft Article 5 integrates the regulations into the format of the UDO with cross-referencing, as well as updates language and requirements based on best management practices, legislative requirements and case law, and direction from the Town (particularly outlined in section nine on pages 23 & 24 of the [Code Assessment](#)).

**REQUESTED ACTION:**

Presentation on Article 5: Subdivision and Site Design Regulations  
Discussion of draft regulations and recommendations

**EXPECTED LENGTH OF PRESENTATION:**

60 Minutes

**SUBMITTED BY:**

Michelle Eitner  
Town Planner



# Article 5: Subdivision & Site Design Regulations

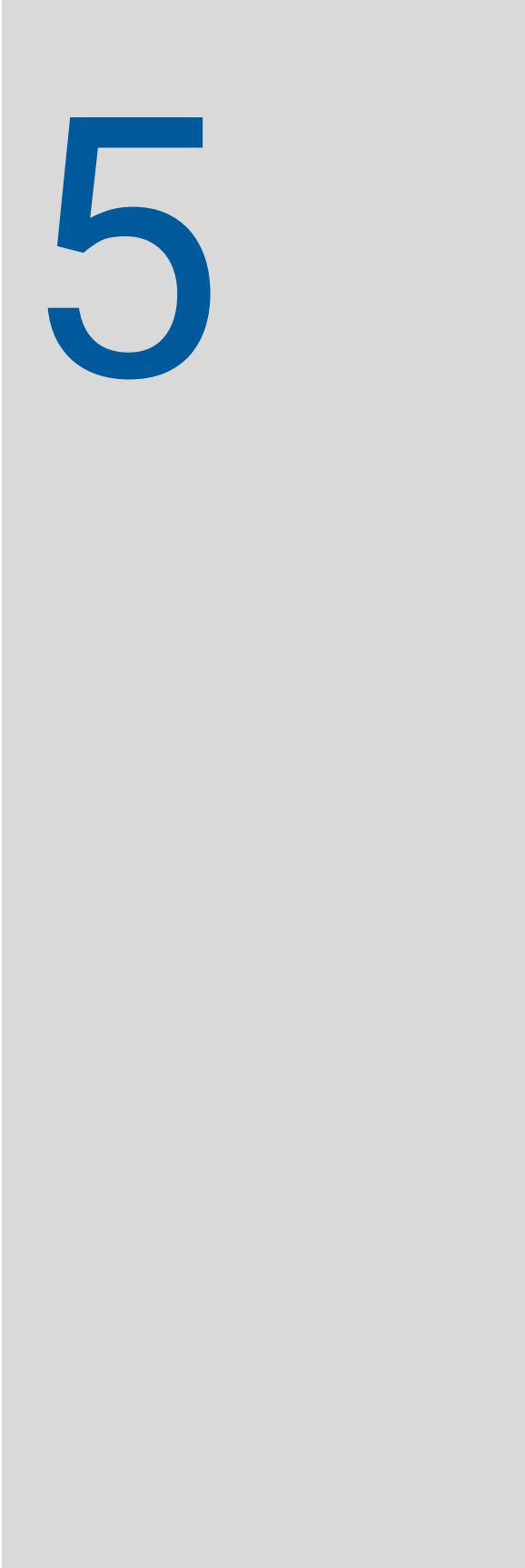
Steering Committee Review Draft | June 10, 2026



Town of Beaufort, NC | Unified Development Ordinance

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# Article 5: Subdivision Regulations

## 5.1. General Provisions

### 5.1.1. Purpose<sup>1</sup>

- A. This Article regulates the subdivision of land within the Town's planning and development regulation jurisdiction for the:
1. Orderly growth and development of the Town;
  2. Coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and
  3. Distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.
- B. These Subdivision Regulations are designed to further facilitate adequate provision for water, sewerage, parks, schools, and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

### 5.1.2. Applicability<sup>2</sup>

- A. **Generally.** This Article applies to every subdivision in the Town's planning and development regulation jurisdiction.
- B. **Land Suitability.** Land subject to flooding, improper drainage, or erosion, or that is for topographical or other reasons unsuitable for residential use, as determined by the Board of Commissioners, shall not be platted for residential use nor for any other uses that will continue or increase the danger to health, safety, or property unless the hazards can be and are corrected.
- C. **Solid Waste Fill Areas.**
1. Areas that have been used for the disposal of solid waste shall not be subdivided into commercial or residential building sites unless the developer presents the written opinion and certification of a registered engineer or architect that:

<sup>1</sup> Carries forward LDO Section 34.A.2, Purpose.

<sup>2</sup> Carries forward LDO Sections 34.B.2, Jurisdiction, and 34.H.2, Suitability of Land. Removes 34.H.2.01, Prevention of Flood Damage since it is unnecessary.

- (a) These areas are safe; and
  - (b) The construction of buildings and improvements in the area will not be affected by the previous use of these areas.
2. This includes areas that have been used for the disposal of trash, demolition waste, and other waste materials.

### 5.1.3. Approval & Recordation Required <sup>3</sup>

- A. **Approval Required Prior to Subdivision.** A person must first secure approval from the Town as provided in this Article and **Article 7, Procedures**, prior to commencing or proceeding with a subdivision of land.
- B. **Subdivision Plats.**
- 1. A plat must be prepared, approved, and recorded whenever a subdivision of land takes place.
  - 2. Prior to filing or recording a subdivision plat:
    - (a) All subdivisions must be submitted to and approved by the Town as required by this Article and **Article 7, Procedures**; and
    - (b) The Town Manager and Town Clerk must certify this approval by signing the subdivision plat.
  - 3. Pursuant to N.C.G.S. [§ 47-30.2](#):
    - (a) The review officer shall only certify a subdivision plat that has been approved in accordance with this Section; and
    - (b) The clerk of superior court must not order or direct the recording of a plat if the recording would conflict with this Section.
- C. Decisions on approval or denial of preliminary or Final Plats may be made only on the basis of standards explicitly set forth in these Subdivision Regulations.<sup>4</sup>

### 5.1.4. Compliance with Other Regulations

- A. **Soil Erosion and Sedimentation Control.** In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, or other drainage

<sup>3</sup> Carries forward and reorganizes LDO Section 34.C, Plat Approval and Recordation, with revisions to state requirements in the positive (e.g., “all subdivisions must” vs. “no subdivisions shall”) and remove reference to Town’s planning and development regulation jurisdiction since Section 5.1.3 already addresses applicability.

<sup>4</sup> This sentence may be relocated to UDO Article 7: Administration & Procedures.

networks, the developer must comply with all state and federal requirements pertaining to same and with any applicable local sediment control ordinances.<sup>5</sup>

**B. Placement of Monuments.<sup>6</sup>**

1. The Standards of Practice for Land Surveying in North Carolina, as adopted by the N.C. State Board of Examiners for Engineers and Surveyors under provisions of N.C.G.S. Chapter 89C, apply:
  - (a) When conducting surveys for subdivisions;
  - (b) To determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties;
  - (c) To determine the location, design, and material of monuments, markers, control corners, and property corner ties; and
  - (d) To determine other standards and procedures governing the practice of land surveying for subdivisions.
2. The Suburban Land Survey (Class B) criteria apply to all subdivisions in the Town's planning and development regulation jurisdiction except for commercial and industrial surveys.

**5.1.5. Review by Other Agencies<sup>7</sup>**

The following agencies must be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved:

- A. The NCDOT District Engineer as to proposed state streets, state highways, and related drainage systems;
- B. The Carteret County Health Director or local public utility, as appropriate, as to proposed water or sewerage systems;
- C. The N.C. Department of Natural & Cultural Resources, Office of Archives and History, if the site includes a cultural resource area (see Section 5.5.6); and
- D. Any other agency or official required by state law or designated by the BOC.

<sup>5</sup> Carries forward LDO Section 34.H.6, Sedimentation Pollution Control.

<sup>6</sup> Carries forward LDO Section 34.H.14, Placement of Monuments, an updates references to licensing board and related statute and administrative rules.

<sup>7</sup> Carries forward LDO Sections 34.F.3, Review by Other Agencies, and the notification requirement from 34.H.5, Historic Properties and Natural Assets. This Section may be relocated to Article 7, Procedures.

## 5.2. Required Improvements

### 5.2.1. Summary of Required Improvements<sup>8</sup>

#### A. Required Improvements.

1. Developers must install improvements as specified in this Section prior to submittal of the Final Plat application unless the developer posts a performance guarantee as allowed by Section 5.8.
2. Table 5.2.1-1 summarizes the types of improvements required by subdivision type.

#### B. Optional Improvements.

1. Street lighting and street trees are optional if the subdivision is located in the R-20, R-8, R-8A, and R-8MH districts.
2. Curb and gutter are optional if the subdivision is located in the R-20 District.

**Table 5.2.1-1: Required Improvements by Subdivision Type**

Required Improvement	Minor Subdivision	Major Subdivision
<u>Boat Ramps &amp; Docks</u>		✓
<u>Curb &amp; Gutter</u>		✓
<u>Drainage</u>	✓	✓
<u>Driveways</u>		
Graded Streets & Lots	✓	✓
<u>Paved Streets</u>	✓	✓
<u>Pedestrian &amp; Bicycle Facilities</u>		✓
<u>Street Lighting</u>		✓
<u>Street Trees</u>		✓
<u>Underground Power Lines</u>	✓	✓

<sup>8</sup> Carries forward the table in LDO Section 34.H.1, General. Revises to specify improvements by subdivision type. Combines “central water and hydrants” and “public sewer” as “Water & Sewer Systems (including Fire Hydrants).”

Required Improvement	Minor Subdivision	Major Subdivision
<u>Water &amp; Sewer Systems (including Fire Hydrants)</u>	✓	✓
<u>Oversized Improvements</u>	As needed	As needed

**Key:** ✓ = Improvement is required | [blank cell] = Improvement is optional

### 5.2.2. Construction & Design Standards<sup>9</sup>

The Town of Beaufort *Manual for Design and Construction Streets, Water and Wastewater Systems* specifies the required construction and design standards.

### 5.2.3. Boat Ramps & Docks<sup>10</sup>

- A. **Purpose.** The purpose of these facilities is to provide all lot owners in the subdivision with direct access to the water.
- B. **Applicability.** This Section applies to all major subdivisions adjoining a creek, river, or similar water area.
- C. **Standards.**
  1. The water access must include boat docks or boat launching ramps at least every one-quarter mile along the shoreline of the subdivision.
  2. Such facilities must meet the lot area requirements, off-street parking requirements, and other applicable regulations established by this UDO, and must be directly accessible by a State- or Town-maintained street.
- D. **Existing Public Dock or Ramp.** Where a public boat dock or launching ramp is provided by the state, county, or other agency within or contiguous to the area to be subdivided, such facility may count toward meeting the requirements of this Section.

### 5.2.4. Curb & Gutter<sup>11</sup>

In major subdivisions:

<sup>9</sup> Carries forward the first sentence of LDO Section 34.H.1, General.

<sup>10</sup> Carries forward and reorganizes LDO Section 34.H.13, Design Standards for Boat Launching Ramps and Docks. Clarifies there must be an access point *at least* every one-quarter mile.

<sup>11</sup> **DISCUSSION TOPIC:** The UDO Steering Committee should discuss whether to continue requiring curb and gutter, allow a choice between curb and gutter or grass swales, or require one or the other based on development context. If grass swales are allowed/required, they should be part of the development's stormwater management system, and the water should infiltrate within a certain amount of time.

- A. All streets abutting lots of 12,000 square feet or less must have curbs and gutters constructed to [NCDOT standards](#).
- B. The decision-making body may require curbs and gutters on streets abutting larger lots if it is deemed appropriate for the control of surface drainage and/or to facilitate street cleaning and maintenance.

### 5.2.5. Drainage<sup>12</sup>

- A. The developer must provide an adequate drainage system for the proper drainage of all surface water.
- B. The stormwater drainage system must meet all requirements in Town Code [Chapter 54, Stormwater](#), and the following standards:
  - 1. Surface water shall not be channeled or directed into a sanitary sewer;
  - 2. Where feasible, the developer must connect to an existing stormwater drainage system;
  - 3. Where an existing stormwater drainage system cannot feasibly be extended to the subdivision, a surface drainage system must be designed to protect the proposed subdivision from water damage;
  - 4. Surface drainage courses shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding; and
  - 5. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one foot in each 300 feet of horizontal distance.

### 5.2.6. Driveways

All driveways that abut a public right-of-way must meet the specifications in the [NCDOT Roadway Design Manual](#), including the minimum separation distance.

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<sup>12</sup> Carries forward LDO Section 34.H.7, Storm Water Drainage, except section 7.06, which is relocated to [Section 5.25](#). Deletes “the design of such a system shall be subject to the approval of the Planning Board and BOC” since the standards in this Section and in the Town’s stormwater ordinance are not discretionary. Revises text to state requirements in the positive (e.g., “surface water shall not...” vs. “no surface water shall...”).

### 5.2.7. Pedestrian & Bicycle Facilities<sup>13</sup>

#### A. Purpose.

1. These regulations are intended to promote walking, safe routes to school, and other forms of non-motorized transportation to allow citizens to reap significant social, environmental, and health benefits that are not often available in auto-oriented places.
2. This will be achieved by ensuring safe, convenient, and comfortable trails, sidewalks, and multiuse paths that provide opportunities for exercise and socialization and give children and others who do not drive mobility options.

#### B. Exemptions. Pedestrian and bicycle facilities are not required when:

1. The Planning Director determines an existing adjacent multi-use path provides a superior level of pedestrian and bicycle connectivity; and/or,
2. The proposed subdivision will occur on a lot that was a part of a subdivision previously approved by Carteret County prior to expansion of the ETJ and that was not designed to accommodate pedestrian or bicycle facilities due to road ditches or other such situations.

#### C. Pedestrian & Bicycle Facilities Defined. Pedestrian and bicycle facilities include:

1. Sidewalks;
2. Bike lanes; and
3. Multi-use paths, which include sidepaths (in the street right-of-way), greenway trails (within natural corridors), and other paved facilities built for both bicycle and pedestrian traffic.<sup>14</sup>

#### D. Timing of Improvements. Pedestrian and bicycle facilities must be installed prior to Final Plat approval unless they are included in a performance guarantee (see Section 5.8).

#### E. Required Locations.

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<sup>13</sup> Carries forward and reorganizes LDO Section 17, Bicycle and Pedestrian Facilities. Adds long-term maintenance provisions. Simplifies language.

<sup>14</sup> This definition is from [WalkBikeNC](#), North Carolina's Bicycle and Pedestrian Plan (p. 6-12).

1. Sidewalks or sidepaths must be constructed within the right-of-way on both sides of all new streets.<sup>15</sup>
2. In addition, pedestrian and bicycle facilities must be provided in the locations shown in the Carteret County [Comprehensive Transportation Plan](#) and the Town of Beaufort [Bicycle & Pedestrian Master Plan](#).

**F. Design and Construction Standards.**

1. The construction of pedestrian and bicycle facilities must comply with:
  - (a) All the applicable requirements of the Town’s Manual for Design and Construction of Streets, Water and Wastewater Systems;
  - (b) AASHTO’s [Guide for the Development of Bicycle Facilities](#);
  - (c) AASHTO’s [Guide for the Planning, Design, and Operation of Pedestrian Facilities](#);
  - (d) NCDOT [Bicycle and Pedestrian Design Guidance](#);
  - (e) The applicable standards of this Section; and
  - (f) Any/all other adopted Town ordinances, policies, and plans.
2. Bicycle and pedestrian facilities must connect with existing or planned facilities at property boundaries.
3. Sidewalks must be at least five feet<sup>16</sup> wide and shall consist of a minimum thickness of four inches of reinforced concrete.<sup>17</sup>
4. Multi-use paths<sup>18</sup> must be at least 10 feet<sup>19</sup> wide and constructed of concrete, asphalt, brick, textured pavers, or a combination of these materials.

<sup>15</sup> This expands current requirements. The current LDO only requires sidewalks on one side of the street in subdivisions with 10,000+ square foot lots.

<sup>16</sup> Proposes to increase the minimum sidewalk width from four feet to five feet. The [NCDOT Roadway Design Manual](#) specifies five feet as a “desirable” sidewalk width in residential areas and a minimum width in commercial areas and for school routes.

<sup>17</sup> Carries forward a portion of LDO Section 34.H.3, Sidewalks.

<sup>18</sup> Revises from “bicycle facilities.”

<sup>19</sup> Proposes to increase the minimum width of a multi-use path from eight feet to 10 feet. The [NCDOT Roadway Design Manual](#) specifies a minimum width of 10 feet for shared-use paths, sidepaths, and greenways with eight feet allowed in constrained areas, such as bridges.

5. Except in areas where asphalt, brick, or pavers are used, all public bicycle and pedestrian facilities shall maintain a brushed concrete finish for safety.
6. Pedestrian facility street crossings at all intersections may be raised above adjacent street levels as a traffic calming measure. When used, pedestrian crossings must be raised above the pavement and must be of a different contrasting material or striped for safety.

**G. Maintenance Standards.<sup>20</sup>**

1. The property owner, homeowners' association, property owners' association, or other responsible entity identified on the approved Final Plat must maintain all private pedestrian and bicycle facilities in a condition that is safe, accessible, and functional.
2. Required maintenance includes, but is not limited to:
  - (a) Repair of surface deterioration, cracking, heaving, settlement, or ponding;
  - (b) Removal of vegetation or debris that obstructs the facility;
  - (c) Maintenance of signs, pavement markings, and wayfinding elements; and
  - (d) Upkeep of lighting, railings, and other safety infrastructure associated with the facility.
3. Prior to Final Plat approval the developer must execute a maintenance agreement in a form acceptable to the Town Attorney and record it with the Carteret County Register of Deeds. The agreement must identify the responsible party, describe the facilities subject to maintenance, and specify the maintenance standards required by this Section.
4. Where a homeowners' association or property owners' association is established to own or maintain common areas that include pedestrian or bicycle facilities, the association's governing documents must expressly assign maintenance responsibility for those facilities. Evidence of such assignment must be submitted with the maintenance agreement required by Paragraph 3 above.

**H. Flexibility in Administration Required.**

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<sup>20</sup> These standards are new and intended to ensure perpetual maintenance of pedestrian and bicycle facilities located outside the public right-of-way.

1. The BOC recognizes that, as a result of the particularities of any given subdivision, the inflexible application of Section 5.2.7.F, Design and Construction Standards, may result in a subdivision with either insufficient facilities or one that cannot reasonably comply with the standards in this Section. In addition, there may be other suitable construction methods or materials available as technology advances.
2. Therefore, the Planning Director, after consultation with the Director of the Town's Public Works Department, may accept or require alternate designs, construction methods, or materials not specifically prescribed herein. Whenever such flexibility is utilized, the reasons and specific conditions which are imposed must be documented. In addition, the Planning Director may impose specific conditions when granting flexibility.

### 5.2.8. Street Lighting<sup>21</sup>

- A. **Purpose.** The purpose of these standards is to ensure the safety of motorists and pedestrians while not adversely affecting land uses or adjacent properties.
- B. **Street Lighting Plan Required.** The developer must submit a street lighting plan in conjunction with the Preliminary Plat application.
- C. **Standards.** All proposed lighting must:
  1. Consist of fully shielded LED luminaires;
  2. Be provided by the current utility provider; and
  3. Be spaced at intervals of at least one light every 400 feet;
- D. **Decorative Street Lighting.** The use of decorative street poles and lights may be allowed by the Town's decision-making body; however, the homeowners' or property owners' association will be responsible for the total expense of installation and operation thereafter.

### 5.2.9. Street Trees<sup>22</sup>

See [Section 4.3.9, Street Trees](#).

*Note: We will recommend an approach for street trees after the May Board of Commissioners' meeting discussion with the Steering Committee in June. We understand that the BOC will discuss the planting and removal of street trees along Front Street at that time, and the discussion should provide direction on street trees in general.*

<sup>21</sup> Carries forward LDO Section 34.H.18, Street Lighting. Simplifies the text.

<sup>22</sup> **DISCUSSION TOPIC:** Also see note in Section 5.4.6, Landscaping & Tree Preservation.

### 5.2.10. Underground Power Lines<sup>23</sup>

Power lines must be placed underground in the subdivision types specified in Table 5.2.1-1: Required Improvements by Subdivision Type, except when:

- A. The power lines existed above ground at the time of first approval of a plat by the Town, whether or not the power lines are subsequently relocated during construction of the subdivision; or
- B. The power lines are located outside the boundaries of the parcel of land that contains the subdivision.

### 5.2.11. Water & Sewer Systems<sup>24</sup>

- A. The Preliminary Plat must be accompanied by satisfactory evidence as to the proposed method and system of water supply and sanitary sewage collection and disposal.
- B. Where the system will be connected to a system owned and operated by a governmental entity but will not be constructed by such governmental entity, the Preliminary Plat must be accompanied by a complete set of construction plans for the proposed system, prepared by a registered engineer, and approved by the engineer of the public sewer system or public water system and the appropriate state agency.
- C. Water and sewer lines should be installed in the street rights-of-way where possible.
- D. Water supply systems must be approved by the Town's Water Division and Fire Department as to location of hydrants and size of mains as required by the North Carolina Fire Code. All mains must be:
  - 1. At least eight inches inside diameter; and
  - 2. Laid out so as to create a complete circuit, with no dead-end lines in excess of 300 feet. A blowout shall be placed at the dead-end.
- E. Where public or community water supply and/or sewerage systems are not available or to be provided, a written statement from the Carteret County Health Department must be submitted with the Preliminary Plat indicating that each lot

<sup>23</sup> Carries forward LDO Section 34.H.19, Power Lines. Adds cross-reference to the summary table of required improvements.

<sup>24</sup> Carries forward and slightly reorganizes LDO Section 34.H.8, Water and Sewerage Systems, except for Section 8.02 which is proposed for deletion. It is unclear what Section 8.02 refers to. Also, clarifies the "water and fire departments" are Town departments and that these departments must (rather than "should") approve hydrant locations and main size.

has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal.

1. The statement from the Health Department must be based upon a field investigation.
2. The field investigation for sewage disposal shall include a sufficient number of percolation tests (at least one per acre) to determine the absorption capacity of the soil and test holes at least six feet deep (as needed) to determine the depth to the ground water table, and the presence of rock formations or other impervious strata.

### 5.2.12. Oversized Improvements<sup>25</sup>

The Town may require installation of certain oversized facilities, such as water mains in excess of eight-inch diameter, when it is in the interest of future development. The Town shall pay for the portion of the improvement that exceeds the standards set forth in this Article.

### 5.2.13. Construction Procedures<sup>26</sup>

- A. **Commencement.** Construction or installation of improvements shall not commence in a proposed subdivision until:
  1. The Preliminary Plat has been approved; and
  2. All plans and specifications have been approved by the appropriate authorities.
- B. **Permits.** Building or other permits shall not be issued for erection of a structure on any lot of record at the time of adoption of these Subdivision Regulations until all the requirements of these Subdivision Regulations have been met.
- C. **Access.** The Planning Director shall have access to premises and structures during reasonable hours to make any inspections they deem necessary to ensure compliance with this Ordinance.
- D. **Inspection.** The developer, prior to commencing any work within the subdivision, shall make arrangements with the Planning Director to provide for adequate inspection.

<sup>25</sup> Carries forward LDO Section 34.H.16, Oversized Improvements.

<sup>26</sup> Carries forward LDO Section 34.H.15, Construction Procedures, except Subsection 15.06, Existing Flora, as those provision are better addressed through the revised landscaping and tree preservation regulations in Article 4. Expands to include construction in developments other than subdivisions. Revises to state requirements in the positive (“construction shall not...” vs. “no construction shall...”).

- E. **Erosion Control.** The developer shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected.
- F. **Construction Area.** At any given time, construction must be confined to the smallest practical area and for the shortest practical period of time.

#### 5.2.14. Acceptance of Improvements<sup>27</sup>

- A. The approval of a plat does not constitute the acceptance by the Town or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the BOC may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within the Town's planning and development regulation jurisdiction.
- B. Prior to the BOC's formal acceptance of the improvements, the developer must submit:
  - 1. An as-built survey of all improvements for review by the Town Engineer;
  - 2. A formal instrument of conveyance for all improvements for review by the Town Attorney.
- C. Acceptance of dedication of lands or facilities located within the Town's planning and development regulation jurisdiction but outside its corporate limits shall not place on the Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility. The Town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

#### 5.2.15. Maintenance of Privately-Owned Improvements<sup>28</sup>

When any of the improvements required by this Section are to remain privately owned and maintained:

- A. The Final Plat must include a note to this effect; and
- B. The developer must record a deed restriction that includes:
  - 1. A statement allocating maintenance responsibilities and establishing guidelines for the maintenance of the improvements;

<sup>27</sup> Carries forward LDO Section 34.D.3, Acceptance of Improvements, with minor edits to simplify the language in the first and third sentences (paragraphs A and C). Expands to include site plans.

<sup>28</sup> These provisions are new and intended to ensure the long-term maintenance of required improvements.

2. Cost estimates for all maintenance, operation, and insurance needs, if any, for the required improvements, as well as a plan that outlines the means by which funds will be obtained for such expenses; and
3. Criteria for enforcement of the maintenance plan.

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## 5.3. Streets<sup>29</sup>

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### 5.3.1. Conformance with Comprehensive Transportation Plan<sup>30</sup>

Where a proposed subdivision includes any part of a new or widened street identified in the [Carteret County Comprehensive Transportation Plan](#) (“CTP”), the developer must plat such part of the street in the location shown in the CTP and at the width specified in Section 5.3.11, Right-of-Way Widths.

### 5.3.2. Conformance with NCDOT Policies

The design of all streets within the Town shall be in accordance with applicable North Carolina Department of Transportation (NCDOT) policies.

### 5.3.3. Conformance with Town Specifications

All streets must comply with the standards in this Section and the technical standards in the Town’s *Manual for Design and Construction of Streets, Water and Wastewater Systems*.

### 5.3.4. Density Credits or Severable Development Rights

- A. Density credits or severable development rights for dedicated rights-of-way shall be provided to a developer pursuant to N.C.G.S. [§ 136-66.10](#) or [§ 136-66.11](#).
- B. The Town reserves the right to determine whether density credits or severable development rights shall be provided in any particular case.

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<sup>29</sup> Carries forward LDO Section 1.X, Density Credits or Severable Development Rights, and portions of LDO Section 34.H.9, Streets. Proposes to relocate technical standards in Sections 34.H.9.10.01, 9.11, 9.12, 9.13, 9.14, 9.18, 9.19, and 9.20 to the Town’s *Manual for Design and Construction of Streets, Water and Wastewater Systems*.

<sup>30</sup> Carries forward LDO Section 34.F.1, Thoroughfare Plans. Proposes to delete a similar section, 34.F.2, School Plans. There are relatively new elementary and middle schools that will likely be sufficient to serve the student population for the near future because the population of school age children in the town is declining.

### 5.3.5. Subdivision Street Disclosure Statement

- A. In accordance with N.C.G.S. [§ 136-102.6\(b\)](#), all streets shown on the Final Plat must be designated either "public" or "private."
- B. Designation as "public" is to be conclusively presumed an offer of dedication to the public.
- C. Plats showing private streets must include the following plat notation:  

"The streets shown on this plat are private streets. They are not dedicated to the public and will not be maintained by the Town of Beaufort or the North Carolina Department of Transportation. Maintenance is the sole responsibility of the <insert responsible party>. These streets are not eligible for addition to the State highway system without reconstruction to then-current NCDOT standards at the owners' expense."

### 5.3.6. Private Streets<sup>31</sup>

- A. **Applicability.** Private streets are allowed:
  - 1. In any minor subdivision; and
  - 2. When the applicant demonstrates that:
    - (a) Compliance with the Town's public street design standards is physically infeasible due to the location of a floodplain or waterbody or irregular parcel geometry; and
    - (b) No reasonable subdivision design alternative exists that would permit public street dedication.
- B. **Construction Standards.**
  - 1. All private streets must be designed and constructed in accordance with NCDOT's [Subdivision Roads Minimum Construction Standards](#).
  - 2. When physical access to a private street is restricted by a gate, the Town's Police Chief and the Carteret County Emergency Services Director must review and provide recommendations, if any, on the subdivision plat to ensure the gate will not limit emergency access or response time.
- C. **Access Easement Required.**

<sup>31</sup> **DISCUSSION TOPIC:** This Section removes the prohibition on private streets in LDO Section 34, paragraph 9.03. The UDO Steering Committee should discuss whether this is appropriate and whether these are appropriate situations in which to allow private streets.

1. Prior to or at the time of recording the Final Plat, the developer must dedicate an access easement over all private street rights-of-way to the Town of Beaufort. The easement must allow access by Town employees, agents, and authorized contractors for emergency services, law enforcement, code enforcement, utility infrastructure inspection and maintenance, and solid waste collection.
2. The Final Plat must show the easement, and the maintenance agreement required by Paragraph D below must incorporate the easement by reference.
3. The existence of a gated or access-controlled entry does not limit or condition access by authorized Town personnel and emergency responders.

**D. Maintenance Agreement Required.**

1. Prior to or at the time of recording the Final Plat, the developer must record a private street maintenance agreement that:
  - (a) Identifies all lots with access rights to the private street(s);
  - (b) Establishes a maintenance funding mechanism, including a reserve fund for future resurfacing and structural repair;
  - (c) Assigns maintenance responsibility to a homeowners' association, property owners' association, or other legally constituted entity with authority to assess and collect maintenance fees;
  - (d) Runs with the land and bind all current and future owners of lots served by the private street(s); and
  - (e) Provides that, in the event the responsible entity fails to maintain the private street(s), the Town may, but is not obligated to, perform necessary maintenance and assess the costs against the benefited lots as a lien.
2. The developer must submit the maintenance agreement with the Final Plat application.
3. Where a homeowners' or property owners' association is designated as the responsible maintenance entity, evidence of HOA/POA formation, including recorded declaration, bylaws, and articles of incorporation, must be submitted with the Final Plat application.

**E. Prohibition on Public Acceptance.**

1. The Town shall not accept any private street for public dedication or maintenance unless:
  - (a) The street has been reconstructed to meet all then-current Town street design and construction standards at the sole expense of the petitioning property owners; and
  - (b) The Town Council affirmatively votes to accept the street.
2. No representation made at the time of subdivision approval shall constitute a commitment by the Town to accept future dedication.

### 5.3.7. Reserve Strips<sup>32</sup>

Reserve strips are prohibited.

### 5.3.8. Coordination and Continuation of Streets

The proposed street layout within a subdivision must be coordinated with the existing street system of the surrounding area and, where possible, existing streets must be extended.

### 5.3.9. Access to Adjacent Properties

Where, in the opinion of the Board of Commissioners, it is necessary to provide for street access to an adjoining property, proposed streets must be extended by dedication to the boundary of such property, and a temporary turnaround must be provided.

### 5.3.10. Street Names

- A. Proposed streets that are obviously aligned with existing streets must be given the same name.
- B. In assigning new names, duplication of existing names shall be avoided, and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc.
- C. Street names are subject to approval by Carteret County E911 and the Planning Board.

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<sup>32</sup> This Section continues the prohibition on reserve strips (or “spite” strips) in LDO Section 34, paragraph 9.03.

### 5.3.11. Right-of-Way Widths<sup>33</sup>

#### A. Minimum Width.

1. Rights-of-way must meet the minimum widths specified in NCDOT's [Subdivision Roads Minimum Construction Standards](#).
2. These widths apply except where the [Carteret County CTP](#) specifically sets out right-of-way requirements.

#### B. Maximum Width.

1. The developer is only required to dedicate a maximum of 100 feet of right-of-way.
2. In cases where over 100 feet of right-of-way is desired, the developer is required only to reserve, but not dedicate, the amount in excess of 100 feet.
3. In all cases where right-of-way is sought for an access-controlled facility, the developer is required only to make a reservation.

### 5.3.12. Half Streets

- A. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision.
- B. The dedication of half streets at the perimeter of a new subdivision is prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the developer.<sup>34</sup>
- C. However, a partial width right-of-way<sup>35</sup> may be dedicated when adjoining undeveloped property is owned or controlled by the developer, if the width or a partial dedication allows the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way must be dedicated.

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<sup>33</sup> Eliminates the minimum width provisions in LDO Section 34.H.9, Paragraph 9.09, Right-of-Way Widths, and instead provides a cross-reference to NCDOT standards. N.C.G.S. [§ 136-102.6](#) requires subdivision streets to comply with NCDOT standards.

<sup>34</sup> Removes "of less than 60 feet" from the first sentence since it appears the intent is to prohibit half streets altogether, except when the adjacent property is under the same ownership. Sixty feet is greater than the entire right-of-way width required for a local street.

<sup>35</sup> Removes the 60-foot minimum width requirement since that is greater than the entire right-of-way width required for a local street.

### 5.3.13. Cul-de-sacs

Permanent dead-end streets:

- A. Shall not exceed 500 feet in length unless necessitated by topography; and
- B. Must be provided with a turnaround having the dimensions specified in NCDOT's [Subdivision Roads Minimum Construction Standards](#).

### 5.3.14. Alleys<sup>36</sup>

- A. An alley must be provided to the rear of all lots used for non-residential purposes.
- B. The Board of Commissioners may allow alleys in residential blocks when:
  - 1. The alleys will be owned and maintained by a homeowners' or property owners' association; and
  - 2. The subdivision is designed in accordance with traditional neighborhood development (TND) or new urbanist principles, and alleys are an integral component of the street and block design framework, including rear-loaded garages and active front building facades;
  - 3. The subdivision contains townhouse or narrow-lot detached dwelling units where lot widths are insufficient to accommodate front-loaded garage access without eliminating usable front yard or pedestrian amenity space;
  - 4. The subdivision abuts or is located within an established neighborhood where a platted alley network exists on adjacent blocks, and the proposed alley would extend or connect to that existing network; or
  - 5. The subdivision fronts a street where elimination of driveway curb cuts is a stated objective of an applicable small area plan, corridor plan, or adopted design standard.
- C. All alleys must be designed in accordance with NCDOT specifications and standards and meet the requirements in Table 5.3.14-1: Dimensional Standards for Alleys.

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<sup>36</sup> This Section adds criteria for when the Board of Commissioners may allow alleys in residential subdivisions. The current LDO prohibits alleys in residential blocks "unless approved by the Planning Board" but does not specify the conditions under which the Planning Board could approve alleys. Changes approval authority to the BOC since the BOC acts on plats (the Planning Board only provides recommendations).

**Table 5.3.14-1: Dimensional Standards for Alleys**

Standard	Dimension (min)
ROW Width	20 ft
Property Line Radius at Alley Intersection	15 ft
Centerline Radius when Deflection Angle of More Than 10° Occurs	35 ft
Turnaround Diameter of Dead-End Alley (ROW Width)	80 ft

**Key:** ROW = right-of-way | ft = feet | min = minimum required

### 5.3.15. Marginal Access Streets

- A. Where a tract of land to be subdivided adjoins a principal arterial street, the Board of Commissioners, upon recommendations from the Town Engineer or NCDOT, may require the developer to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial.
- B. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial street.<sup>37</sup>

### 5.3.16. Collector and Minor Streets

- A. Collector and minor streets must be laid out to discourage use by through traffic.
- B. Streets shall be designed to ensure convenient access to parks, playgrounds, schools, and other places of public assembly.

## 5.4. Subdivision Standards

### 5.4.1. Subdivision Classification<sup>38</sup>

- A. **Generally.** Subdivisions are classified into the types listed below. The specific review procedure (see [Article 7, Procedures](#)) for the subdivision depends upon its classification.
  1. Minor subdivisions; and
  2. Major subdivisions.

<sup>37</sup> Replaces “expressway” with “principal arterial.”

<sup>38</sup> Proposed here is to add minor subdivisions to streamline the approval process for small subdivisions. Article 7, Procedures, will establish an administrative (staff) review process.

- B. **Minor Subdivisions Defined.** Minor subdivisions:
1. Result in five or fewer lots, including any residual portion of the parent parcel;
  2. Are located on an existing public street, with all lots having frontage along that street;
  3. Do not propose to create new public improvements; and
  4. Do not require a variance.
- C. **Major Subdivisions Defined.** Major subdivisions are any subdivision not classified as minor.

#### 5.4.2. Subdivision Designs

- A. This Article establishes three types of subdivision design:
1. Conventional subdivision design;
  2. Cluster subdivision design; and
  3. Townhouse subdivision design.
- B. Conventional subdivision design may be used for residential and commercial subdivisions in any zoning district. Conventional subdivisions must comply with zoning district dimensional standards and all other applicable UDO standards.
- C. Cluster subdivision design may be used for residential subdivisions in any zoning district. Cluster subdivisions must comply with Section 5.5.8 and all other applicable UDO standards.
- D. Townhouse subdivision design is required for all new townhouse developments. Townhouse subdivisions must comply with Section 5.7 and all other applicable UDO standards.

#### 5.4.3. Blocks<sup>39</sup>

- A. **Generally.** The lengths, widths, and shapes of blocks shall be determined with due regard to:
1. Provision of adequate building sites suitable to the special needs of the type of use contemplated;

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<sup>39</sup> Carries forward LDO Section 34.H.10, Design Standards for Blocks.

2. Zoning requirements as to lot sizes and dimensions;
  3. Needs for vehicular and pedestrian circulation, control, and safety of street traffic;
  4. Limitations and opportunities of topography; and
  5. Convenient access to water areas.
- B. **Block Length.** Blocks must be at least 400 feet but not more than 1,320 feet in length.
- C. **Block Width.** Blocks must have sufficient width to allow two tiers of lots of minimum depth except where single-tier lots are required to separate residential development from vehicular through traffic or another type of use or when abutting a water area.
- D. **Pedestrian Crosswalks.** Where deemed necessary, the decision-making body may require a pedestrian crosswalk at least 15 feet in width to provide safe and convenient public access to a public area, such as a park or school, or to a water area, such as a stream, river, or lake.<sup>40</sup>

#### 5.4.4. Lots<sup>41</sup>

- A. **Generally.** The lot size, width, depth, shape, and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. **Street Frontage Required.** All lots must front on a public or private street. Access easements to existing landlocked lots may be established as provided in 5.4.5.C, Access Easements.
- C. **Subdivisions Subject to Zoning Ordinance District Regulations.** Lots must conform to all dimensional standards required by the applicable zoning district.
- D. **Large Tracts or Parcels.** Where land is subdivided into larger parcels than ordinary building lots, such parcels should be so arranged as to allow for the opening of future streets and logical further re-subdivision.
- E. **Flag Lots.**<sup>42</sup>

<sup>40</sup> Changes Planning Board to decision-making body to accommodate potential future changes in the plat review process. Adds the word "safe."

<sup>41</sup> Carries forward LDO Section 34.H.11, Design Standards for Lots. Simplifies and streamlines language pertaining to flag lots.

<sup>42</sup> Removes reference to R-15 zoning district since the district no longer exists. Adds a vertical clearance requirement for the access corridor consistent with Building Code requirements for fire apparatus access roads. Removes setback standards for flag lots since they are the same as the R-20 District.

1. Flag lots may be approved only where the configuration of the parcel or site features warrant such a lot design. Authorizing a flag lot design is intended to accommodate a particular extenuating circumstance that makes traditional lot design unfeasible. Therefore, flag lots should be judiciously approved.
2. Flag lots are allowed only in the R-20 district if they conform to the following standards:
  - (a) The access corridor (the “flagpole”) must be at least 20 feet in width with at least 13 feet, six inches unobstructed vertical clearance;
  - (b) The maximum length of the access corridor is 400 feet;
  - (c) The access corridor shall not be included in the minimum lot area, width, or depth calculations or be used to provide off-street parking;
  - (d) The access corridor must be part of the flag lot and not simply an access easement across another lot;
  - (e) The lot line at the end of the access corridor lying generally parallel to the street to which the access corridor connects is considered the front lot line for setback and yard purposes.
  - (f) When a flag lot is created from an existing lot of record, any existing structure shall not be made nonconforming as to setbacks as a result of the creation of the new lot;
  - (g) Adequate lot area must exist to permit a vehicular turnaround that enables vehicles to exit the flag lot by driving straight onto the street rather than backing onto the street;
  - (h) Where public water is available, any building on the flag lot must be within 1,000 feet of a fire hydrant measured along the access street and access corridor of the lot; and
  - (i) Re-subdivision of a flag lot is prohibited unless each new lot created by the subdivision meets or exceeds the standards for a flag lot, and any structure on the original flag lot is not rendered nonconforming by the re-subdivision.

### 5.4.5. Easements<sup>43</sup>

- A. **Utility Easements.** Easements for underground or aboveground utilities must be provided where necessary across lots or preferably centered on rear or side lot lines and shall be at least 10 feet in width.
- B. **Drainage Easements.** Where a subdivision is traversed by a stream or drainage way, an easement must be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.
- C. **Access Easements.** Access easements may be established for existing lots of record that do not have direct street access.<sup>44</sup>

### 5.4.6. Landscaping & Tree Preservation<sup>45</sup>

*Note: We will recommend an approach for landscaping and tree preservation after the May Board of Commissioners' meeting and discussion with the Steering Committee in June. We understand the BOC will discuss the planting and removal of street trees along Front Street at that time, and the discussion should provide direction on landscaping and tree preservation in general.*

- A. **Landscaping for Gated Subdivision Entries.**<sup>46</sup> When the streets within a subdivision are private and the developer or owner chooses to limit access by installing a gate, the following landscaping must be planted within 100 feet of the gate mechanism:
  - 1. At least two canopy trees, one on each side of the gate;
  - 2. At least four understory trees, distributed on both sides of the gate;
  - 3. At least 20 shrubs, distributed throughout the planting area on both sides of the gate;
  - 4. All unpaved areas must be covered with turf grass, ornamental grasses, mulched planting beds, or groundcover plants.

<sup>43</sup> Carries forward LDO Section 34.H.12, Design Standards for Easements. Removes Section 12.03, Buffer Strips, since there are no criteria identifying when the Planning Board should apply this buffer, and buffer requirements are already addressed in Section 4.33, Buffers & Screening.

<sup>44</sup> Carries forward a portion of LDO Section 34.H.11, Design Standards for Lots, Paragraph 11.04.04 (related to flag lots).

<sup>45</sup> **DISCUSSION TOPIC:** This Section may carry forward, revise, or eliminate portions of LDO Section 34.H.17, Landscape Plans.

<sup>46</sup> **DISCUSSION TOPIC:** UDOs typically include minimum "stacking" or "queuing" distance requirements (e.g., for drive-thru uses, gated entrances, etc.) in the parking regulations. Should we instead include the requirements for gated entries in this Article?

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## 5.5. Open Space<sup>47</sup>

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### 5.5.1. Purpose

The purposes of these open space requirements are to:

- A. Provide active and passive recreational areas and other open space for residents of the proposed subdivision;
- B. Connect neighborhoods, open space, and employment areas;
- C. Protect historical and cultural resources;
- D. Preserve existing vegetation and important wildlife habitat;
- E. Protect the community from impacts of flooding through the preservation of natural areas and natural drainage patterns; and
- F. Enhance the aesthetic and environmental quality of development.

### 5.5.2. Applicability

- A. This Section applies to all new major residential subdivisions.
- B. This Section does not apply to individual dwellings located on lots within residential subdivisions.

### 5.5.3. Minimum Amount of Open Space Required

- A. **Active Recreation Area Required.** At least 50% of the required open space must be comprised of Active Recreation Area.
- B. **Cultural Resource Protection Area.** If a cultural resource exists on or immediately adjacent to the subdivision site, it must be protected in accordance with Section 5.5.6.
- C. **Greenways.** If the Carteret County [Comprehensive Transportation Plan](#) or the Town of Beaufort [Bicycle & Pedestrian Master Plan](#) shows a multi-use path on or

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<sup>47</sup> This Section updates and significantly expands current LDO Section 34.I, *Public Facilities*, with the following changes: 1) updates the reference to family size to household size; 2) updates the external reference to the most recent Decennial Census to the average family size reported in the 2020 Decennial Census; 3) increases the level of service; 4) eliminates the option to sell to the land for dedication to the Town and requires a dedication or fee in lieu; 5) removes option to dedicate land in an off-site location; 6) replaces the \$10,000 per acre cap on the fee in lieu with the assessed tax value or an optional appraisal process; 7) adds standards for dedication; 8) removes the variance procedure for unique tracts of land because the section allows the payment of a fee in lieu, which should be sufficient for unique situations.

adjacent to the proposed subdivision site, the open space must include a greenway containing the multi-use path.

**D. Amount of Open Space Required.**

1. *Generally.* The minimum amount of open space required in all developments subject to this Section is the greater of:
  - (a) The amount required under Paragraph 2(a) below; or
  - (b) One-half acre.
2. *Calculating the Required Acreage.*
  - (a) The amount of land required to be maintained as open space is based on:
    - (1) An average household size of 1.95, the average household size for the Town reported in the 2020 Decennial Census;
    - (2) A minimum park and recreation level of service standard of 12.9 acres per 1,000 persons (.0129 acres per person); and<sup>48</sup>
    - (3) A variable density factor that requires more recreation area for more dense developments, as provided in Table 5.5.3-2: Variable Density Factor Table.
  - (b) The amount of open space required is determined by the following formula:
 

*The total number of dwelling units or lots x 1.95 persons per household x .0129 acres per person x The variable density factor = The amount of acreage required for dedication or reservation.*
  - (c) This formula is illustrated in Table 5.5.3-1: Examples of Minimum Recreation Dedication Calculation.

<sup>48</sup> Proposed is to increase the Level of Service (LOS) from 8 acres per 1,000 persons (population) to 12.9 acres per 1,000 persons. The [National Recreation & Park Association](#) (NRPA) finds 10.2 acres per 1,000 persons to be the average LOS. However, for communities with a population less than 20,000, the average is 12.9 acres per 1,000 persons. The Town's Parks & Recreation Comprehensive Plan recommends establishing a LOS for parks. Since the Town doesn't currently have a local LOS, using the NRPA average is rational.

**Table 5.5.3-1: Examples of Minimum Recreation Dedication Calculation**

Total Number of Dwelling Units or Lots	X	Average Household Size	X	.0129 Acres per Person	X	Variable Density Factor [1]	=	Minimum Dedication
200 Units or Lots	X	1.95	X	.0129	X	1.2	=	6.037 acres
27 Units or Lots	X	1.95	X	.0129	X	0.7	=	0.5 acres (greater than result of 0.475 acres)
50 Units or Lots	X	1.95	X	.0129	X	1.4	=	1.761 acres

[1] The variable density factor varies based on the lot size and is provided in Table 5.5.3-2: Variable Density Factor Table.

**Table 5.5.3-2: Variable Density Factor Table**

Average Acreage per Dwelling Unit or Lot	Variable Density Factor
.0 to .1	1.8
.1 to .2	1.6
.2 to .3	1.4
.3 to .4	1.2
.4 to .5	1.0
.5 to .6	0.9
.6 to .7	0.8
.7 to .8	0.7
.8 to .9	0.6
.9 and Over	0.5

3. *Calculating the Variable Density Factor.*
  - (a) Acreage average per dwelling unit or lot is computed by dividing the combined total acreage of all dwelling units or lots by the number of dwelling units or lots.
  - (b) For computation purposes, land dedicated or reserved for other purposes, such as streets, sidewalks, access alleys, utilities,

drainage, or other purposes, shall not be used in determining average acreage.

**5.5.4. Types of Open Space<sup>49</sup>**

- A. Required open space must be comprised of Recreation Area and at least one of the other types of open space described in Table 5.5.4-1.
- B. Except for Natural Area, Cultural Resource Protection Area, Agricultural Area, and LID Features, open space must be improved for use as passive or active open space as described in Table 5.5.4-1.

**Table 5.5.4-1: Types of Open Space**

Type of Open Space	Description	Size
<b>Natural Area</b>	An area of undisturbed or minimally disturbed vegetation. Examples include forests and wetlands.	2,500 sf (min)
<b>Cultural Resource Protection Area</b>	An area of historical, cultural, or archaeological significance, including cemeteries.	No min
<b>Agricultural Area</b>	An area actively used for farming. May include crop lands, orchards, grazing lands, and pastures. Often contains structures such as barns, stables, fences, and silos.	5 ac (min)
<b>Low Impact Development (LID) Feature</b>	Vegetated LID features, such as bioretention cells and stormwater wetlands, that are part of an approved stormwater management plan.	500 sf (min)
<b>Community Park</b>	An open space available for civic and recreational purposes. Serves multiple neighborhoods or developments.	10 ac (min)
<b>Neighborhood Park</b>	An open space available for civic purposes, unstructured recreation, and limited amounts of structured recreation. Typically serves a single neighborhood.	1 ac (min) to 10 ac (max)
<b>Pocket Park</b>	An open space available for informal activities in close proximity to dwellings and/or workplaces. Often contains benches or other seating areas.	1,000 sf (min) to 1 ac (max)

<sup>49</sup> These open space types are consistent with and expand upon the types listed in the Town’s [Parks & Recreation Comprehensive Plan](#) (p. 28).

Type of Open Space	Description	Size
<b>Linear Park</b>	A linear open space available for civic purposes and unstructured recreation. Dwelling units and neighborhood amenity buildings typically front a linear park. Serves a single neighborhood.	20 ft (min width)
<b>Greenway</b>	A linear open space that links multiple neighborhoods, developments, or open spaces. May follow natural corridors, such as rivers and creeks. Greenways contain multi-use paths to accommodate pedestrians and bicyclists.	10 ft (min width)
<b>Active Recreation Area</b>	An open space designed for specific active recreational uses such as sports courts, ballfields, playgrounds, and swimming pools. May be a component of a community or neighborhood park.	5,000 sf (min)
<b>Square/Green</b>	An open space available for civic purposes, unstructured recreation, and limited amounts of structured recreation. Typically serves a single neighborhood in a prominent location. Includes landscaped areas and lawns with or without trees and shrubs. May include limited hardscaping.	0.25 ac (min)

**Key:** min = minimum required | max = maximum allowed | ac = acres | sf = square feet | ft = feet

### 5.5.5. Criteria for Selection of Proposed Open Space<sup>50</sup>

- A. **Consultation with Parks & Recreation Advisory Board.** The Planning Board must consult with the Town’s Parks & Recreation Advisory Board before making its recommendation pursuant to this Subsection.
- B. **Selection Criteria.** The criteria for evaluating the suitability of proposed open space include, but are not limited to, the following, as determined by the Board of Commissioners after recommendation of the Planning Board:<sup>51</sup>
  - 1. *Contiguity.* The open space comprises a single parcel of land or, if multiple parcels, is thoughtfully and strategically interspersed throughout the

<sup>50</sup> Carries forward LDO Section 34.I.1.04 with revisions as noted.

<sup>51</sup> Removes the “usability” criteria since it is not needed due to the new open space framework.

subdivision and connected to the other open space via a sidewalk or multi-use path.<sup>52</sup>

2. *Shape, topography, and subsoils.* The shape, topography, and subsoils of the Recreation Area allow use for active recreation;
  3. *Location.* The open space is located to reasonably serve the recreation needs of the subdivision;
  4. *Water Access.* For developments with frontage of at least 200 feet on a public trust water body, the open space must include at least 50 feet of frontage on the water body. Refer to Section 5.2.3: *Boat Ramps & Docks* for more information on location requirements;
  5. *Accessibility.* Public access to the open space must be provided either by an abutting street or public easement. Such easement must be at least 30 feet wide;
  6. *Plans.* Municipal and county comprehensive and recreation plans must be taken into consideration when evaluating land proposals for dedication;
  7. *Vegetative cover.* The vegetative cover must be sufficient to lend attractiveness to the land parcel, provide protection from the sun's rays, and be suitable for a variety of nature-related recreation opportunities; and
  8. *Size.* The amount of open space conforms with Section 5.5.3, Minimum Amount of Open Space Required.
- C. **Areas Not Counted as Open Space.** The following areas do not count towards the minimum required open space:
1. Streets and parking areas, unless associated with recreational structures or facilities;
  2. Boat and RV storage areas;
  3. Private lots and yards;
  4. Required building setback areas;
  5. Stormwater detention or retention ponds, unless they have amenities such as docks, piers, benches, or perimeter trails;
  6. Ditches; and

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<sup>52</sup> Revises the “unity” provision to allow for open space throughout a subdivision.

7. Utility line rights-of-way unless the utility is located underground and the aboveground portion is used for active or passive recreation.

### 5.5.6. Cultural Resource Areas<sup>53</sup>

- A. **Purpose.** The purpose of this Section is to preserve the Town’s heritage.
- B. **Applicability.** This Section applies to all subdivisions that contain or immediately abut an archaeological site or other area that embodies important elements of the Town’s cultural, social, economic, political, or architectural history.
- C. **Standards.**
  1. All due consideration should be given to promoting the use and conservation of such property for the education, pleasure, and enrichment of the residents of the Town and the State of North Carolina as a whole.
  2. All cultural resource areas within the subdivision must be:
    - (a) Platted as a lot; and
    - (b) Maintained as a cultural resource area in perpetuity in accordance with Section 5.5.7, Long-Term Preservation & Maintenance.
  3. When the cultural resource area is located on a lot adjacent to the parcel proposed for development, the subdivision must provide a buffer at least 30 feet in depth along the shared lot line(s). This area counts towards the minimum required open space area.
- D. **Identification on Plans & Plats.** The name and location of all cultural resource areas located within the proposed subdivision or on any contiguous property, must be clearly identified on the Sketch Plan, Preliminary Plat, and Final Plat, as applicable.
- E. **Coordination with OAH.** The Planning Board may provide the N.C. Department of Natural & Cultural Resources, Office of Archives and History, an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved if the cultural resource area:
  1. Is listed on the U.S. Department of Interior's National Register of Historic Places;

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<sup>53</sup> Carries forward and reorganizes LDO Section 34.H.5, Historic Properties and Natural Assets. Renames as “Cultural Resource Areas” since the regulations do not address natural assets. Adds preservation and buffer standards. Simplifies language for clarity.

2. Has been designated by local ordinance as an "historic property," pursuant to [N.C.G.S. Chapter 160D, Article 9, Part 4, Historic Preservation](#); or
3. Has been designated by local ordinance as an "historic district," pursuant to [N.C.G.S. Chapter 160D, Article 9, Part 4, Historic Preservation](#).

### 5.5.7. Long-Term Preservation & Maintenance

- A. **Purpose.** This Section sets forth long-term preservation and maintenance requirements to ensure open space is protected in perpetuity and adequately maintained for its intended purpose.
- B. **General Requirements.** Land designated as open space to meet the requirements of this Article must:
  1. Be platted as a lot;
  2. Remain as open space in perpetuity; and
  3. Be maintained so that its use and enjoyment as open space is not diminished or destroyed.
- C. **Reservation for Private Ownership.**
  1. Land reserved for open space may be transferred to a homeowners' or property owners' association or nonprofit organization.
  2. If transferred for ownership by a nonprofit organization:
    - (a) The organization must be capable of and willing to accept responsibility for managing and maintaining the conservation and open space for its intended purpose;
    - (b) The organization must be bona fide and in perpetual existence; and
    - (c) The conveyance instrument must contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions.
  3. The developer must record a declaration of covenants and restrictions that will govern use, operation, and maintenance of the open space of the association or nonprofit organization.
    - (a) The declaration of covenants and restrictions must be submitted with the Preliminary Plat application.
    - (b) Provisions in the declaration must include the following:

- (1) The homeowners' association shall be established before the homes are sold;
- (2) Membership shall be mandatory for each home buyer and all successive buyer(s);
- (3) The association shall be responsible for the liability insurance, local taxes, and the maintenance of recreation and other facilities;
- (4) Any sums levied by this association that remain unpaid shall become a lien on the individual homeowner's property, which shall be subordinate only to tax and mortgage liens; and
- (5) If all or any portion of property held by the association is being disposed of, or if the association is dissolved, the required open space shall be deeded to the Town to satisfy the requirements of this Section.

**D. Dedication to the Town.**

1. *Acceptance Required.* Where open space is proposed for dedication to the Town, the dedication is not effective unless the dedication is accepted and approved by resolution of the Board of Commissioners.
2. *Documentation.* The developer must provide a general warranty deed and obtain a title insurance policy insuring the Town, both in a form satisfactory to the Town Attorney.
3. *Use of Land Restricted.* The land dedicated to the Town under this Section shall be used only for the purpose of providing parks, recreation areas, and open space, and the location of the land shall bear a reasonable relationship to the use of the area by the future inhabitants of the subdivision.

- E. Maintenance Standards.** All open space must be maintained free from hazards, nuisances, and unhealthy conditions; and maintained using standard landscaping practices, including regular mowing, trimming, weeding, and cleaning to ensure neatness. Hardscaped areas must be maintained in good repair.

### 5.5.8. Option for Fee-in-Lieu of Providing Open Space

- A. Purpose.** As an alternative to maintaining a portion of the subdivision site as open space, the developer may pay to the Town a fee in lieu of dedication where the Board of Commissioners determines, after a review and recommendation by the Planning Board, that a dedication of land is not feasible in a given subdivision

or is not compatible with the Town's Comprehensive Plan or Parks & Recreation Comprehensive Plan.

**B. Determination of Eligibility.**

1. If the Board of Commissioners determines, after a review and recommendation by the Planning Board, that maintenance of open space is not feasible for a particular subdivision or is not compatible with the Town's Comprehensive Plan, the developer may pay a fee in lieu of providing open space.
2. The only open space eligible for payment of the fee-in-lieu is the Active Recreation Area required by Section 5.5.3: *Minimum Amount of Open Space Required*. All other open space requirements must be met on the subdivision site.

**C. Amount of Fee.** The required amount of the fee-in-lieu is the assessed tax value of the subdivision parcels as maintained by the Carteret County Tax Administration Office, divided by the total acreage of the subdivision parcels, multiplied by the acreage required for dedication or reservation.

**D. Option for Appraisal.** If the developer does not agree that the assessed tax value is an accurate measure of the value of the land, the developer may seek an appraisal of the fair market value of the land using the procedures of this Paragraph.

1. The developer shall commission an appraisal of the fair market value of the parcels by a licensed property appraiser and provide it to the Planning Director.
2. If the Planning Director agrees that the appraisal is reasonable and accurate based on the available information, including recent sales of the parcel and other comparable parcels, they may accept the appraised value as the measure for the fee.
3. If the Planning Director does not agree that the appraisal is reasonable and accurate, they shall notify the developer of that fact in writing. The Planning Director shall commission an appraisal of the fair market value from a licensed property appraiser and provide a copy to the developer and appraiser for the developer.
4. If the Planning Director commissions an appraisal, the Town's appraiser shall confer with the developer's appraiser and attempt to reach an agreement on the fair market value of the land.
5. If the appraisers are unable to agree on the fair market value, they shall select a mutually agreeable qualified and licensed appraiser to serve as an

umpire. After consultation between the appraisers, the umpire shall issue a decision on the value of the land. The umpire's decision is final in determining the amount of the fee.

- E. **Use of Fees.** All funds received by the Town pursuant to the fee-in-lieu option shall be used only for the acquisition or development of recreation, park, or open space sites.

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## 5.6. Cluster Subdivision Design

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### 5.6.1. Purpose

- A. The purpose of this Section is to establish standards for the design and development of cluster subdivisions as an alternative to the conventional subdivision design. Cluster subdivisions group dwelling units in a dense configuration within a development site, often with a reduction in the subplot size, allowing for the preservation of substantial open space on the remainder of the development site.
- B. Cluster subdivisions may be approved to promote the following purposes:
1. Encouraging the designation and protection of open space in new subdivisions;
  2. Preserving existing, healthy vegetation and wildlife habitat;
  3. Maintaining existing wooded areas along roads;
  4. Protecting water quality;
  5. Reducing infrastructure construction and maintenance costs;
  6. Reducing demand for publicly funded open space;
  7. Providing a wider range of feasible sites to locate stormwater BMPs;
  8. Reducing soil erosion potential by reducing the amount of clearing and grading on the site; and
  9. Reducing the impervious cover in a subdivision.

**5.6.2. Applicability<sup>54</sup>**

The standards contained in this Section must be applied to the design and construction of a proposed subdivision in the RC-5 zoning district.

**5.6.3. Open Space Requirement<sup>55</sup>**

- A. A cluster subdivision must provide the amount of open space as set forth in Table 5.6.3-1: Required Open Space for Cluster Subdivisions.<sup>56</sup>

**Table 5.6.3-1: Required Open Space for Cluster Subdivisions**

Number of Dwelling Units per Gross Acre	Required Percentage of Open Space (min)
3 units or less	20%
4 – 6 units	30%
7 – 8 units	40%

**Key:** min = minimum required

- B. All required open space must meet the standards established in Section 5.5, Open Space.

**5.6.4. Standards**

- A. **Cluster Groups.** Residential lots within cluster subdivisions must be designed within a series of one or more cluster groups in accordance with the following standards:
  - 1. Dwellings shall be located in distinct cluster groups of 15 or fewer dwellings. The maximum number of lots in a cluster group may be increased with the approval of the decision-making body if the applicant can demonstrate that such an alternative plan is more appropriate for the development parcel and will meet both the purpose and standards of this Section.

<sup>54</sup> **DISCUSSION TOPIC:** The UDO Steering Committee should discuss whether to expand this subdivision design to other zoning districts (either as optional or required).

<sup>55</sup> **DISCUSSION TOPIC:** The UDO Steering Committee should discuss the desired incentives for this subdivision design type. Is reduced (or no) minimum lot area sufficient? If the UDO allows cluster subdivisions in all residential districts, we may need to tier the incentives based on district. For example, if the incentive is reduced lot area, the minimum lot area for cluster subdivisions in R-20 might be different than in R-8.

<sup>56</sup> Revises the required open space amount from a range to a set minimum.

2. Cluster groups shall be visually defined and separated by open space, streets, common amenities, or parking areas.
3. A cluster group is defined by the outer perimeter of contiguous lots and abutting streets and open space.
4. All lots in a cluster group shall abut open space to the front or rear. This includes open space located directly across a street from a lot.
5. The overall density of each cluster group shall not exceed eight units per acre regardless of the minimum lot area required per dwelling or unit.<sup>57</sup>

**B. Setbacks.**

1. *Perimeter.* A 10-foot setback is required along all peripheral boundaries of a cluster subdivision. A structure, whether it is a principal or accessory structure, shall not encroach upon this required setback distance. The required perimeter bufferyard may occupy this setback area.
2. *Principal Structure Setbacks.* Except as otherwise allowed in Paragraph B.3, Zero Side Yard Setback, principal structures are subject to the setbacks specified in Section 2.2.5, RC-5 Residential Cluster Development District.
3. *Zero Side Yard Setback.* A zero side yard setback may be permitted on one side of each lot subject to the following provisions:
  - (a) The minimum building separation for the side yard opposite the zero lot line shall be either a separation of 10 feet from the side of the adjacent dwelling when constructed, or a minimum 10 feet setback line from the adjoining side lot line, whichever is greater;
  - (b) A five-foot maintenance easement with a maximum eave encroachment easement of two feet within the maintenance easement must be established in the deed restrictions, recorded plat, and/or covenants of the adjoining lot and shall ensure ready access to the lot line wall at reasonable periods of the day for normal maintenance; and
  - (c) Preliminary and Final Plats must indicate the proposed envelope location of the dwellings, accessory structures, driveways, and parking arrangements for each lot. The Final Plat application shall include a draft of the proposed encroachment and maintenance

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<sup>57</sup> Should there be a minimum density in order to qualify as a Cluster Subdivision? Or possibly change this to a land coverage maximum?

easements within the covenants or on the proposed Final Plat for review and approval by the Town.

4. *Accessory Building Setback Requirements.*

- (a) A detached accessory structure may be located in a rear yard if:
  - (1) It is located at least eight feet from the principal structure;
  - (2) It is located at least three feet from the rear lot line; and
  - (3) It does not cover more than 25% of the total lot area.
- (b) On a reversed corner lot or double frontage lot, an accessory structure shall not extend beyond the front yard line of the lot located to the rear of the lot on which the accessory structure is being proposed.

C. **Parking & Garages.**

- 1. Two off-street parking spaces must be provided per dwelling unit.
- 2. Parking may be provided to individual lots or in common parking areas to better accommodate the high density of a cluster group.

D. **Pedestrian Network.** Cluster subdivisions shall include an interconnected pedestrian network comprised of sidewalks and multi-use paths that meet the following requirements:

- 1. *Sidewalks.* Sidewalks shall be provided:
  - (a) On both sides of roads within a cluster group to connect lots and open space; or
  - (b) As the main connection within the center of a cluster group where a road is not proposed within the cluster group.
- 2. *Multi-Use Paths.* Multi-use paths shall:
  - (a) Be located in open space areas between cluster groups;
  - (b) Connect to the sidewalks located in cluster groups;
  - (c) Have a minimum width of 10 feet; and
  - (d) May be located on one or both sides of the road.

3. **Connectivity.** The pedestrian network within a cluster subdivision must be designed to meet the following standards:
  - (a) Sidewalks and multi-use paths must provide a continuous pedestrian network throughout the cluster subdivision connecting dwellings, open space, amenities, accessory structures, and parking areas.
  - (b) The pedestrian network must connect to all existing sidewalks or multi-use paths that abut the cluster subdivision boundary.
  - (c) At least one sidewalk or multi-use path must extend to the cluster subdivision boundary at each subdivision entrance and connect with the existing sidewalk, if present.
  - (d) Where property adjacent to the cluster subdivision is undeveloped, a sidewalk or multi-use path must extend to the property line to provide at least one connection to each adjacent undeveloped property.
- E. **Perimeter Bufferyards.** Cluster subdivisions must provide a perimeter bufferyard between the development and adjacent properties in accordance with [Section 4.3.3, Buffers & Screening](#).
- F. **Owners' Association Required.** The establishment of an owners' association is required for all cluster subdivisions.
  1. The owners' association must be organized and established as a legal entity prior to the conveyance of any lot or dwelling unit in the residential cluster subdivision.
  2. The owners' association membership is mandatory for each owner of a lot or dwelling unit.
  3. The owners' association must have the authority to assess its members to produce revenues to cover the expenses of the association and such assessments will be secured by a lien.
  4. The association is responsible for the payment of premiums for liability insurance, taxes, maintenance of recreational or other facilities located in common areas, payment of assessment for public and private capital improvements made to or for the benefit of the common areas, maintenance of any private street, and for such other purposes as the organizing documents provide.
  5. The residential cluster subdivision will be subject to the [North Carolina Planned Community Act](#) regardless of the number of lots therein.

## 5.7. Townhouse Subdivision Design

### 5.7.1. Purpose

The purpose of this Section is to establish additional standards for the design and development of townhouse subdivisions.

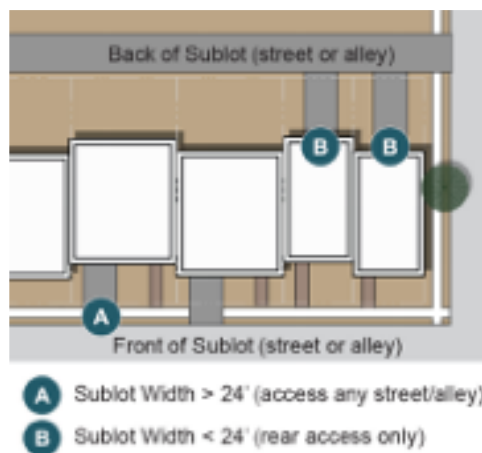
### 5.7.2. Applicability

The standards contained in this Section apply to all proposed townhouse subdivisions.

### 5.7.3. Standards

- A. **Sublot Access.** Each sublot within a townhouse subdivision shall be provided with driveway access from either a public or private street, or an alley. Where a townhome sublot is less than 24 feet wide, access may only be taken from the rear of the sublot.

**Figure 5.7.3-1: Sublot Access**



- B. **Sublot Separation.** The rear property lines of all sublots and exterior side property lines of each individual group of contiguous sublots within a townhouse subdivision shall be separated by a minimum distance of 20 feet.

**Figure 5.7.3-2 - Sublot Separation**

- C. **Building Separation.** A townhouse building or associated accessory structure must be located at least 15 feet from any portion of another townhouse building or an accessory structure associated with the subdivision.
- D. **Sublot Outdoor Living Area.** An outdoor living area shall be provided upon each sublot within a townhouse subdivision in accordance with the following standards:
1. The total outdoor living area size must be at least the product of 12 feet multiplied by the width of the sublot. (For example, a 24-foot-wide lot would require at least a 288-square-foot outdoor living area.)
  2. The minimum depth of any outdoor living area must be six feet.
  3. The required total area must be contiguous, except where the total area is divided between the levels of a two-story front porch.
  4. Where privacy screening or fencing is provided to delineate private open spaces, refer to [Sec. <>, Residential Fencing](#) standards.
  5. Parking areas, sidewalks, walkways, and driveways do not count towards this requirement.
- E. **Relationship to Open Space.** In addition to the open space requirements of Section 5.5, Open Space, at least 10% of the dwelling units of the overall subdivision must front onto open space that is interior to the subdivision.
1. Streets and buildings should be arranged to frame the open space to the maximum extent practicable.

2. Dwelling units that are separated by a street from an open space may be included in the 10% requirement.
  3. Required open space areas must have a minimum width and depth of at least 40 feet, excluding rights-of-way. Areas that are at least 20 feet wide and have hard-surface paths connecting a sidewalk system may also count towards this required open space area if the path is accessible (at least five feet wide) and connects at least two points in a sidewalk system.
- F. **Perimeter Bufferyards.** Townhouse subdivisions must provide a perimeter bufferyard between the subdivision and adjacent properties in accordance with **Sec. <>**. This standard does not apply where public rights-of-way separate the subdivision from adjacent properties.<sup>58</sup>
- G. **Parking & Garages.**
1. *Off-Street Parking Areas.*
    - (a) The subdivision shall provide guest parking areas at a rate of one parking space for every three units.<sup>59</sup>
    - (b) Off-street parking areas must be no more than 500 feet from the entrance of any dwelling unit within the townhouse building that the parking serves.
    - (c) Off-street parking areas must be screened from public rights-of-way. They must also be designed to limit headlight glare into dwelling units or the public way by orientation and/or screening. Screening may include a decorative wall or hedging that is at least three feet tall.
  2. *Recreational Vehicle Parking.*
    - (a) Resident and guest parking areas are intended for personal vehicle parking. Additional parking for recreational vehicles and equipment, boat storage, or trailers may be provided separately as part of the subdivision but do not count towards off-street parking spaces.
    - (b) Recreational vehicle storage areas must be screened from the view of rights-of-way and residences. Screening may include a decorative wall or fence, or hedging that is at least six feet tall.

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<sup>58</sup> This provision should be reviewed once the general bufferyard standards are drafted (UDO Article 4: Development & Design Standards).

<sup>59</sup> An alternative is to base the ratio on number of bedrooms.

3. *Driveways.*
  - (a) Where driveway access is provided to the front of a subplot within a townhouse subdivision, each driveway shall be separated from other driveways by a minimum of eight feet and shall be designed in a manner to provide the maximum practical separation from driveway edge to driveway edge.
  - (b) Driveway widths shall be no more than 18 feet within the right-of-way, and 20 feet maximum within the subplot property.

#### H. **Solid Waste.**

1. Communal solid waste collection points shall be established for townhouse subdivisions that provide front-loaded driveway access.
2. Where such a facility is required or provided, no subplot shall be located more than 500 feet from the most distant solid waste collection point.

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## 5.8. Performance Guarantees<sup>60</sup>

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### 5.8.1. Applicability

- A. This Section applies to major subdivisions.
- B. In lieu of completion of the site improvements required by Section 5.2, Required Improvements, and Section 5.3, Streets, the developer may enter into a contract with the Town providing for the installation of required improvements pursuant to N.C.G.S. [§ 160D-804.1](#), Performance Guarantees, and this Section. Upon provision of a performance guarantee, the Town may issue a temporary Certificate of Occupancy or a temporary Zoning Certificate.<sup>61</sup>
- C. This Section does not apply to performance guarantees associated with erosion control and stormwater control measures.<sup>62</sup>

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<sup>60</sup> Carries forward and reorganizes LDO Section 34.G.4.02.02, Performance Guarantees. Updates where noted for consistency with changes enacted by [Session Law 2024-49](#), Section 1.12(a). Deletes the first sentence authorizing the BOC to approve a final subdivision plat upon posting of a performance guarantee” since it conflicts with the timing provision in Section 5.8.6.

<sup>61</sup> Carries forward a portion of LDO Section 1.U, Improvement Bonds.

<sup>62</sup> Carries forward LDO Section 34.G.4.02.02(j). This exclusion is from N.C.G.S. [§ 160D-804.1\(7\)](#).

### 5.8.2. Initiation<sup>63</sup>

- A. **Requests to Provide a Performance Guarantee.** Upon request by the applicant, the Board of Commissioners may enter into a contract with the applicant under which the applicant agrees to complete all improvements required by Section 5.2, Required Improvements, and Section 5.3, Streets by providing a performance guarantee.
- B. **Timing of Request.** The applicant must submit the request, including a detailed construction cost estimate, at the time of submittal of the Final Plat application.

### 5.8.3. Type & Coverage of Performance Guarantee<sup>64</sup>

- A. **Type of Performance Guarantee.** The type of performance guarantee shall be at the election of the developer. The term "performance guarantee" means any of the following forms of guarantee:
  1. Surety bond issued by any company authorized to do business in this State;
  2. Letter of credit issued by any financial institution licensed to do business in this State; and
  3. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- B. **Multiple Guarantees.** The developer may post one type of a performance guarantee, as provided for in 5.8.3.A above, in lieu of multiple bonds, letters of credit, or other equivalent security for all development matters related to the same project requiring performance guarantees.
- C. **Coverage of Performance Guarantee.**
  1. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.
  2. A performance guarantee shall not be required for maintenance of any improvement once the improvement is completed to the Town's specification or upon receipt of a certification under seal from a

<sup>63</sup> These provisions are new and clarify when and how a developer initiates a request to provide a performance guarantee.

<sup>64</sup> Carries forward LDO Section 34.G.4.02(a), (g), and (i). These provisions are from N.C.G.S. [§ 160D-804.1\(1\)](#), (4), and (6).

professional engineer that the required improvements have been completed to the Town's specification.<sup>65</sup>

#### 5.8.4. Amount of Performance Guarantee<sup>66</sup>

- A. The amount of the performance guarantee shall not exceed 125% of the reasonably estimated cost of completion at the time the performance guarantee is issued.
- B. The Town may determine the amount of the performance guarantee or use a cost estimate determined by the developer.
- C. The reasonably estimated cost of completion shall include 100% of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing.
- D. The additional 25% allowed under this subsection includes inflation and all costs of administration regardless of how such fees or charges are denominated.
- E. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

#### 5.8.5. Duration & Extension of Performance Guarantee<sup>67</sup>

- A. **Duration of Performance Guarantee.**
  - 1. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.
  - 2. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.
- B. **Extension of Performance Guarantee.**
  - 1. A developer must demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension.

<sup>65</sup> [Session Law 2024-49](#), Section 1.12(a), added this sentence to the statute.

<sup>66</sup> Carries forward LDO Section 34.G.4.02.02(e). These provisions are from N.C.G.S. [§ 160D-804.1\(3\)](#).

<sup>67</sup> Carries forward LDO Section 34.G.4.02.02(b) and (c). These provisions are from N.C.G.S. [§ 160D-804.1\(1a\)](#) and (1b).

2. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period.
3. An extension under this subsection shall only be for a duration necessary to complete the required improvements.
4. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in Section 5.8.4, Amount of Performance Guarantee, and shall include the total cost of all incomplete improvements.

### 5.8.6. Timing of Performance Guarantee<sup>68</sup>

A performance guarantee must be posted at the time the Final Plat is recorded.

### 5.8.7. Inspection & Release of Performance Guarantee

#### A. Inspection Required.<sup>69</sup>

1. The Town must conduct an inspection of the improvements subject to a performance guarantee within 30 days of a developer's request developer and advise the developer whether the improvements are completed to the required specifications.
2. In the event the Town and developer disagree whether a required improvement is completed to the Town's specifications, a developer may obtain a certification under seal from a licensed professional engineer that the required improvements have been completed to the Town's specifications.

#### B. Release of Performance Guarantee.<sup>70</sup>

1. The performance guarantee shall be returned or released, as appropriate, within 30 days upon the acknowledgement by the Town that the improvements for which the performance guarantee is required are complete or upon receipt of a certification under seal from a professional

<sup>68</sup> Carries forward LDO Section 34.G.4.02.02(f). These provisions are from N.C.G.S. [§ 160D-804.1\(3a\)](#).

<sup>69</sup> These provisions are new and are from N.C.G.S. [§ 160D-804.1\(1c\)](#). They were added to the statute by [Session Law 2024-49](#), Section 1.12(a).

<sup>70</sup> Carries forward LDO Section 34.G.4.02.02(d) and updates for consistency with N.C.G.S. [§ 160D-804.1\(2\)](#). [Session Law 2024-49](#), Section 1.12(a), added the 30-day time limits and the provision for certification by an engineer (in Paragraph B.1).

engineer that the required improvements have been completed to the Town's specification.

2. The Town shall return letters of credit or escrowed funds within 30 days upon completion of the required improvements to its specifications or upon acceptance of the required improvements if the required improvements are subject to Town acceptance.
3. When required improvements that are secured by a bond are completed to the Town's specifications or are accepted by the Town, if subject to its acceptance, upon request by the developer, the Town shall timely provide written acknowledgement that the required improvements have been completed.

#### 5.8.8. Partial Release of Performance Guarantee<sup>71</sup>

- A. **Eligibility.** A developer who has posted a performance guarantee pursuant to this Section may request a partial reduction in the amount of the guarantee upon completion of a portion of the required improvements secured by the guarantee.
- B. **Request Procedure.** A request for partial release must be submitted in writing to the Planning Director and include all of the following:
  1. Identification of the specific improvements completed;
  2. Documentation of completion, which may include as-built drawings, certifications from a licensed professional engineer, or other evidence acceptable to the Planning Director; and
  3. A cost estimate, prepared by the developer or the developer's licensed professional engineer, of the completed improvements and the remaining incomplete improvements.
- C. **Inspection.** Upon receipt of a complete request, the Planning Director must conduct an inspection of the identified improvements within 30 days. Following inspection, the Planning Director shall advise the developer in writing whether the identified improvements have been completed to the specifications of the applicable development approval and development regulations.
- D. **Calculation of Release Amount.** If the Planning Director confirms the developer has completed the identified improvements to required specifications, the performance guarantee shall be reduced by an amount equal to the lesser of:
  1. The verified cost of the completed improvements, as determined by the Planning Director based on the documentation submitted under

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<sup>71</sup> This Section is new and implements Recommendation 9.1.I in the [Codes Assessment](#).

Paragraph B above and the inspection conducted under Paragraph C above; or

2. The amount by which the current guarantee exceeds 125% of the reasonably estimated cost of completion of all remaining incomplete improvements.
- E. **Retained Amount.** Notwithstanding Paragraph D above, the performance guarantee shall not be reduced below 125% of the reasonably estimated cost of completion of all improvements not yet completed and accepted at the time of the partial release.
- F. **Frequency.** A developer may submit requests for partial release no more than two times per calendar year per project, unless the Planning Director determines that the scope or phasing of the project warrants additional requests.
- G. **Disagreement on Completion Status.**
1. If the Planning Director determines the developer has not completed the identified improvements to required specifications, the Planning Director must provide the developer with a written explanation of the deficiencies.
  2. The developer may obtain a certification under seal from a licensed professional engineer that the improvements have been completed to the Town's specifications.
- H. **Effect on Guarantee Obligations.** A partial release of the performance guarantee does not relieve the developer of the obligation to complete all remaining required improvements or constitute acceptance of the completed improvements by the Town for maintenance purposes.

### 5.8.9. Legal Responsibilities<sup>72</sup>

A person shall not have or may claim any rights under or to any performance guarantee provided pursuant to this Section or in the proceeds of any such performance guarantee other than the following:

- A. The Town;
- B. The developer at whose request or for whose benefit the performance guarantee is given; and
- C. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.

<sup>72</sup> Carries forward LDO Section 34.G.4.02.02(h). These provisions are from N.C.G.S. [§ 160D-804.1\(5\)](#).